



COALITION POSITION

ON REVERSAL OF QUARANTINE RESTRICTIONS
ENTERING AND EXITING THE TEMPORARILY
OCCUPIED TERRITORIES

The recommendations were developed by experts from non-governmental organizations that are members of the informal Coalition of Organizations Dealing with the Protection of the Rights of Victims of Conflict.

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CONTEXT

Starting from March 22, 2020, quarantine restrictive measures have been introduced in Ukraine to combat the spread of coronavirus disease (COVID-19). These restrictions, in particular, provided for the partial suspension for the people to cross through the checkpoints on the contact line and the administrative border with the temporarily occupied territories. The first restrictions on passing came into force on March 7 for the checkpoints located on the contact line with the temporarily occupied territories of Donetsk and Luhansk regions. However, on March 16, in accordance with the order of the Commander of the Joint Forces, new restrictions on crossing the contact line were imposed on the checkpoints with the temporarily occupied territories of Donetsk and Luhansk oblasts, and on March 22 the crossing of the contact line was stopped in both directions. The JFC order 'on completely halting the crossing for an indefinite period' came into effect. This being said, the possibility to cross in case of 'vital life circumstances' and for representatives of the international organizations was kept. On March 14, 2020, the Government adopted decree No. 291r that imposed restrictions on crossing the administrative border with the temporarily occupied territory of the AR of Crimea and Sevastopol City.

Later in March 'tit-for-tat' measures were introduced by the de facto authorities in the temporarily occupied territories of Ukraine.

It should be noted that, unlike Decree No. 291r of 14 March 2020, the document that banned crossing at the contact line with the temporarily occupied territories of Donetsk and Luhansk regions was never published. No amendments were made to the procedure for entry or departure of persons, or the movement of goods to or from the temporarily occupied territories in Donetsk and Luhansk regions by the Cabinet of Ministers of Ukraine according to the Law¹.

Exceptions to the restrictions or bans on crossing were the so-called "humanitarian grounds" providing good reasons to cross the entry-exit crossing points (EECPs). According to information obtained from open sources, on March 18, 2020, recommendations on what grounds could be considered humanitarian were sent to the Ministry of Defense and the State Border Guard Service by Mr. Oleksiy Reznikov, Vice Prime Minister of Ukraine - Minister for Reintegration of the Temporarily Occupied Territories of Ukraine. On May 11, the SBGS published information that starting from March 22 the JFC had issued 283 such personal permissions including 236 for crossing the contact line at the STANYTSIA LUHANS'KA Checkpoint. This being said, only DONBAS SOS hotline had received over 2,200 such requests – most of which referred to crossing the EECPs for the same period.

The imposed restrictions on crossing the EECPs in Donetsk and Luhansk regions as well as the administrative border with the Autonomous Republic of Crimea and the city of Sevastopol resulted in a significant reduction in the number of crossings. Thus, according to the SBGS, in

¹ Article 12 of Law of Ukraine 'On peculiarities of the state policy to ensure the state sovereignty of Ukraine on temporarily occupied territories of Donetsk and Luhansk regions'

March 2020, 593 thousand people crossed the contact line, and 84 thousand people crossed the administrative border with the occupied territory of Crimea (for comparison, in March 2019 these figures were 1,149 thousand and 145 thousand people, respectively). Data on the number of crossings in April 2020 is not currently available.

Since May 11, a gradual lifting of quarantine measures has started in Ukraine. However, according to the plan announced by the Prime Minister of Ukraine in April, there is no information about opening the EECs. This situation makes one think that the temporarily occupied territories of Ukraine are beyond the scope and attention of the Government of Ukraine. The quarantine measures are not communicated to the people living in the temporarily occupied territories who are unable to visit relatives, receive medical care, administrative services, etc.. This does not help build confidence in the Government and the further reintegration process. In fact, they receive information about the restrictive measures only from the occupation administrations. It should be noted that a lot of people who actually reside in governmentally controlled territory have found themselves on the other side of the contact line, and they can't go to work and / or reunite with their families. So, in fact, one might argue that disintegration processes rather than reintegration processes have been in place in the country since mid-March.

EFFECTS OF RESTRICTIONS

Existing restrictions or bans on crossing the contact line / the administrative border have significantly and adversely affected the lives of people living in the temporarily occupied territories or those having permanent registration there.

According to Donbass-SOS, Right to Protection, and Vostok SOS, since the beginning of the quarantine measures, 3,581 information requests have been recorded at the checkpoints regarding grounds for crossing the contact line, and clarifications on humanitarian grounds for crossing the EECs. 225 information requests were received by CRIMEA SOS's hotline during the same period.

Applicants indicated the following reasons as a need to cross:

- **family reunification.** People mentioned in their appeals that due to the closure of EECs, they could not get to seriously ill family members, kids (in many cases sick or disabled), and the elderly who need constant care;
- **medical aid** (surgery, chemotherapy and radiotherapy, joint replacement, eye surgery) and / or receiving of drugs for the treatment of chronic diseases (cancer, cardiovascular, ART therapy to support HIV-infected people);
- **receiving and registration of pension and all types of social benefits;**
- **obtaining of documents** (passports, birth certificates, medical commissions for disability groups);
- **access to monetary funds;**
- other reasons (work, care of low mobility or sick relatives, etc.).

This list of reasons to exit the occupied territory is expected to increase with the public authorities in government controlled areas (GCA) restarting their work in full, the enterprises and institutions resuming business, as well as the start of academic process in educational institutions, and the start of the admission campaign, etc. In addition, we would like to attract attention to the fact that the longer people are unable to return to their actual places of residence, the more people of Ukraine may find themselves in difficult life circumstances, without means of subsistence, or without the care of loved ones.

RISKS AND ADVERSE EFFECT MITIGATION

Quarantine restrictions in Ukraine, as in many other countries around the world, adversely affect the economy and public life. In some countries, the quarantine has led to significant restrictions on human rights and freedoms. However, it is thanks to these measures that we might control the spread of COVID-19 in Ukraine.

At the same time, when developing decisions on extending the quarantine restrictions or lifting them gradually, it is necessary to take into account the interests of different groups, who may have been disproportionately and adversely affected by these restrictions. In particular, the group of people living permanently or temporarily in the occupied territories of Ukraine as well as internally displaced persons have been acutely affected. Therefore, when developing the national plan for the quarantine roll-back, it is necessary to consider potential risks for residents of the occupied territories caused by long-term restrictions on freedom of movement, and to find ways to minimize these risks. In this context, *the governmental plan on lifting the quarantine restrictions should be revised in order to support a stage-by-stage opening of the checkpoints on the contact line and the administrative border with the temporarily occupied territories of Ukraine.*

Irrespective of the decisions themselves, the plan suggests that *all its components should be communicated at the largest possible scale, in particular via NGOs and international organizations for those living under the occupation.*

The Ministry of Reintegration should consider specifically introducing restrictions on movement under the Law of Ukraine ‘On peculiarities of the state policy to ensure the state sovereignty of Ukraine on temporarily occupied territories of Donetsk and Luhansk regions’ by the JF Commander. Indeed, such powers of the JF Commander are stipulated by law in case of a real threat to life and health of persons crossing the line of contact. However, the background idea was to grant such exclusive powers to the JF Commander during combat operations. It is insufficiently justified today to grant the JF Commander the right to make individual decisions on the issues related to COVID-19 pandemic since the restrictions should be aligned with the threat and correlated to the potential damage due to their implementation.

Moreover, there is a difference between the procedure for implementing restrictive measures to cross the checkpoints (freedom of movement) for the temporarily occupied territories of Donbass and Crimea (restrictions on crossing the administrative border were introduced by CMU Ordinance of 14 March 2020 no 291-r). So, if in the conditions intensified, a single operational restriction on freedom of movement by the JF Commander is justified. Then, in case of long-term restriction on human rights – with gradual removal of such restrictions – *it is logical to implement such actions through Government decision as specified by Article 12.3 of the abovementioned law. In addition, it is necessary to make a procedure for crossing the contact line / administrative border on the basis of humanitarian needs transparent for people, and to specify these reasons in a regulation, leaving the decisions for non-regulated cases at the discretion of the SBGS staff.*

As the occupation authorities themselves are currently imposing restrictions on crossing the contact line², it is advisable *to bring the issue of opening the checkpoints to a meeting of the Tripartite Contact Group since allowing people to move through the EECPs should be approved on both sides of the contact line.*

In addition to the general recommendations for minimizing the quarantine roll-back risks, it is worth specifying some issues in detail.

1. Opening checkpoints for crossing.

- 1.1.** A simultaneous opening of all EECPs can dramatically increase the load on them. The situation at checkpoint STANYTSIA LUHANS'KA may be particularly difficult, as it is the only checkpoint in the Luhansk region, and it is exclusively for pedestrian crossings and excludes movement by private vehicles.

▼ POSSIBLE SOLUTION:

- to put on the agenda of the next meeting for the TCG the option of opening a new checkpoint in Luhansk region (Checkpoint "ZOLOTE") and to consider the possibility of moving the checkpoint a short distance so that residents of the Ukrainian government-controlled settlements Zolote-4 and Katerynivka don't not cross the checkpoint daily.

- 1.2.** When opening the EECPs, there may be a risk of a lot of congestion due to people who need to cross the line of contact in both directions, which in turn will increase the risk of COVID-19 infection. The checkpoints are not equipped properly to ensure safe working conditions for the staff due to the epidemic: there are no special modules to minimize contact with persons potentially infected with COVID-19, no protective suits, respirators, etc.

▼ POSSIBLE SOLUTION:

- to support the EECPs operation, using all resources (all stations open to reduce crowds, and in particular with appropriate markings to indicate social distancing requirements);
- to ensure the availability of public medical care at the EECPs in accordance with the number of those wishing to cross, in particular, the elderly and other persons of high risk groups;
- to ensure proper conditions for transporting people from the EECPs to the contact line and vice versa;
- to ensure a limited number of people crossing the EECPs;
- to equip all EECPs with screening and disinfection posts, personal protection equipment, and rapid tests.

- 1.3.** Many elderly people (pensioners) have remained in the occupied territories of Donetsk and Luhansk regions. Some of them receive pension money in GCA and, since pensions are usually the only source of their income, these pensioners will have a natural desire to receive their pension benefits. They will be able to do this only in GCA, so they need to cross the checkpoints. Large congestion of the elderly can lead to an increase in the number of situations in which emergency medical care is required.

² The occupation authorities have also introduced a ban on crossing the administrative border from the Crimean side, but now there are no platforms of negotiations to raise the point.

▼ POSSIBLE SOLUTION:

- gradual opening of EECPs with age restrictions. In particular, to exclude high risk groups (elderly people (60+), people with signs of SARS, etc.) from the list of those allowed to cross the checkpoints at the first stage of opening (this stage can last up to 14 days). However, it is necessary to keep the possibility of crossing the checkpoints on humanitarian grounds;
- in order to ease the tension among the elderly regarding the timing of receiving pension benefits, OSCHADBANK and PFU should deliver an explanatory campaign on the timing of verification, payments, etc. (send SMS from OSCHADBANK, publish information on official websites and in social networks, disseminate information in the media with an explanation of the reasons for these measures);
- to delink payment of pensions to citizens who reside on TOT from their obligation to obtain IDPs' certificate to receive their pension.

1.4. The opening of the checkpoints and the sharp increase in the number of people crossing the contact line / the administrative border, when no legal transport connection is still available to plan the trip from the checkpoint to other settlements) may lead to re-congestion of people on the territory adjacent to the checkpoint.

▼ POSSIBLE SOLUTION:

- with almost complete stoppage of people moving through the EECPs in the Luhansk and Donetsk regions, and at the administrative border between Kherson regions and the Autonomous Republic of Crimea, the Government, the regional administration, and local self-government bodies may introduce legal transport connections between the checkpoints and the settlements where the public services may be obtained and trips across Ukraine may be continued through tendering the routes and introducing online ticket sales (while retaining the possible purchase of tickets offline at the box office) to plan a trip and prevent people from queueing and congesting when waiting for the bus. This would also allow monitoring of the operators in terms of restrictions on the number of the people in a vehicle at one time.

1.5. The existing requirement of observation (self-isolation) for 14 days for persons crossing the checkpoint will not be effective when opening the checkpoints for the flow of persons. Hospitals identified by the regional administrations for observation do not have the appropriate conditions. The only alternative is to install the "Act at Home" application. But not everyone crossing the checkpoint is able to install and use it, and those who have installed it have complained about a large number of application programming errors.

▼ POSSIBLE SOLUTION:

- to define clearly the conditions when people crossing the EECPs may be put under observation or self-isolation (e.g. when showing signs of illness, family members of such person crossing the checkpoint together with him/her, etc.);
- to exempt the people crossing the contact demarcation line / administrative border for a short time (one day) from the observation requirement;
- to provide high quality conditions for observation within Luhansk, Donetsk and Kherson regions for persons who may need it;
- to provide the staff of checkpoints and observation locations with increased protective equipment;
- to ensure a high quality of testing for the people staying at points of observation (at the moment there are poor quality rapid tests at some rudimentary establishments in the Luhansk region).

- 1.6.** Due to the significant burden on the infrastructure of settlements located close to the contact demarcation line / administrative border as well as on the public authorities, there is a risk that residents of the occupied territories who intend to leave in order to reach administrative or other services will be short of time to return before the checkpoint closes, and will have to stay in the vicinity due to a lack of sufficient places in the heating station (tent) of the SSE, a lack of proper living conditions for such a stay, a lack of funds and a shortage of offers on the market for daily rent accommodation.

▼ **POSSIBLE SOLUTION:**

- if there is a space available in the region of the checkpoint to equip an additional SSES tent where people may stay until the checkpoint re-opens the next day, in compliance with the norms of social distancing. If possible, to take also all possible measures to allow all persons who are in the region of the checkpoint to pass before its operating hours end, notifying in advance of the impossibility to process all requests, in case of congestion at the end of the working day, and – in exceptional cases – to apply to the JF Commander for permission to cross during non-working hours.

- 1.7.** With the beginning of the tourist season and the closing of state borders, the number of Ukrainians who will want to enter the territory of the occupied Crimea for tourist purposes may increase.

▼ **POSSIBLE SOLUTION:**

- Maintain restrictions on the movement of people to the temporarily occupied territory of the Autonomous Republic of Crimea for tourist purposes until October 1, 2020, providing for movement on the basis of TOT registration, property or close relatives, or humanitarian grounds to visit the Autonomous Republic of Crimea and Sevastopol.

2. Exercising the social care right

- 2.1.** A potentially major problem would be with pensioners who are residents of the temporarily occupied territories of Donetsk and Luhansk regions, and who will try to get into the GCA territory controlled by the Government of Ukraine to receive their pensions. This can lead, in particular, to a significant burden on the social care bodies (PFU bodies), where individuals may apply for identification. In addition, there is a risk of a cash shortage at ATMs located in settlements close to the contact demarcation line.

▼ **POSSIBLE SOLUTION:**

- to extend for 90 days from the date of lifting the quarantine or restrictive measures related to the spread of coronavirus disease (COVID-19), the positive measures that have facilitated access to the right to social care for IDPs and residents of the occupied territories (in particular, to enact appropriate Amendments to Clause 3 of Section II “Final Provisions” of the Law of Ukraine “On Amending Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19)” and to Resolutions of the Cabinet of Ministers of Ukraine no 264 and 266 of 08 April 2020);
- to ensure the operation of additional OSCHADBANK mobile branches for identification and cash withdrawal at the stage when pension aged people are allowed to cross the checkpoints;
- to inform the local population about the days, and working hours, when the department bodies of the pension fund, social case and OSCHADBANK will receive only persons living on TOT (to be determined locally depending on the experience of peak loads and the logistics of approaching the checkpoints);
- to recommend PJSC OSCHADBANK to extend the validity of payment cards that expire during quarantine for 90 days from the date of cancellation of quarantine or restrictive measures related to the spread of the coronavirus disease (COVID-19).

2.2. The Department of Labor and Social Care across the country will also face a heavy workload. Recipients of social benefits will have to pass a verification within a month after the end of quarantine. Due to the workload of staff, the term for processing applications is expected to increase and the practice of checking recipients of social services would come back that would lead to a temporary suspension of payments. In addition, a lot of people who were unable to do this during quarantine will apply for IDP certificates and targeted aid. There is a risk of queueing, violations of the recipients' rights due to the overload of the social care bodies' staff, suspension of the payments with further complaints and potential litigation cases that may also cause a burden on the judicial system, first of all, along the contact demarcation line that is already suffering due to a lack of judges and court officials.

▼ **POSSIBLE SOLUTION:**

- to introduce a moratorium on verifying the place of actual residence of IDPs for a period of 3 months from the moment of lifting the quarantine movement restrictions;
- to apply a systematic approach in order to regulate the practice of providing public services in the area adjacent to the contact demarcation line. The examples of Mariupol City – seeking for donor's and other types of co-financing for restarting the public authorities operations (e.g., priority facilities as court buildings, SMS, and ASC in Stanytsia Luhans'ka) as well as the construction of up-to-date ASCs and hubs along the contact demarcation line in the settlements that are beyond active combat – should be taken into account and associate such projects with decentralization reform to provide high quality services in each individual territorial community.
- to extend a verification period after the quarantine is lifted for up to 90 days since the day of cancelling the quarantine or restrictive measures related to the spread of coronavirus disease (COVID-19).
- to assign, if the current six-month period of paying the monetary aid ended during the validity of quarantine or restrictive measures related to the spread of coronavirus disease (COVID-19), and within 90 days from the date of cancellation of quarantine, a monetary aid for the next six months automatically, in the same amount it is paid within the current six-month period; if the composition of the family has changed during this period, this should be notified to the authorized body within ten days from the date of such circumstances occurring, including by phone or electronically.

3. Access to administrative services and obtaining documents by individuals

3.1. With the quarantine lifted, the number of people who will apply for administrative services to the authorities in the settlements close to the contact line / administrative border will increase. For example, pasting a photo in a passport at the age of 25 and 45. Due to quarantine, some people have not managed to do this in time. However, in accordance with subparagraph 6 of paragraph 6 of the Procedure for registration, issuance, interchange, transfer, withdrawal, return to the state, invalidation and destruction of a Ukrainian national passport³, a passport shall be interchanged when a person has reached 25 or 45 years of age and has failed to apply for pasting new photos in the 1994 year passport within a month of reaching the relevant age, as established by laws. It is therefore very likely that these people will be advised by the SMS bodies to obtain an ID passport immediately, while on the occupied territories the people with ID-passports will be subject to the additional procedure of validating a document (about RUR5,000).

³ Resolution of the Cabinet of Ministers of Ukraine № 302 from March 25, 2015.

▼ POSSIBLE SOLUTION:

- to extend the working hours and to increase the number of employees at the reception in the territorial offices / departments of the SMS, SCD, PFU and other governmental bodies in the settlements near the line of contact demarcation (the number of staff can be increased through business trips from other regions);
- to create additional jobs in the territorial offices / departments of the SMS, SCD, PFU, with the relevant financial calculations of such proposals prepared;
- to increase the number of applicants in the electronic queue for registration for the residents of the temporarily occupied territories;
- the governmental bodies should provide explanations on applying Clause 3.2 of Section II “Final Provisions” of the Law of Ukraine no 530-IX of 17 March 2020 “On Amending Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19)” in terms of cancelling the expiry periods for administrative services applications.

3.2. During the quarantine, residents of the occupied territories were not able to apply to the civil registry offices and courts to register births and deaths. Currently, there is a judicial procedure to establish these legal facts, and therefore, after the opening of checkpoints, the burden on the civil registry offices and the courts will increase. For example, in the first and second quarters of 2019, the courts documented 14,476 births and deaths that took place in the temporarily occupied territories of Ukraine (3,585 births and 10,891 deaths).

▼ POSSIBLE SOLUTION:

- to introduce an administrative out-of-court procedure for establishing the facts of births and deaths that occurred in the temporarily occupied territories of Ukraine.

4. Access to education

4.1. Though the dates of the admission process in 2020 have been changed (all dates are postponed by a month (August) taking into account the forecast of the epidemiological situation), entrants from the occupied territories are at risk of not being able to attend an admission test or to collect the necessary documents in June-July.

▼ POSSIBLE SOLUTION:

- to include the admission campaign onto a list of humanitarian grounds for crossing the contact demarcation line / administrative border;
- to allow children and accompanying adults to cross the checkpoints at the first stage after their partial opening.

4.2. Eviction of final year students from dormitories after the formal end of the academic year. The particularly vulnerable will be vocational college graduate students (18-19 years) with permanent residence at the TOT. The expected opening of the checkpoints would be much later than the end of the academic year.

▼ POSSIBLE SOLUTION:

- to extend for the graduates whose permanent place of residence is on the TOT, to allow them to stay in the dormitories until the end of quarantine measures and the opening of checkpoints.



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