

GOING AROUND THE CONTACT LINE



INFORMATION ON MOVEMENTS OF NGCA RESIDENTS THROUGH THE RUSSIAN FEDERATION

INTRODUCTION

This note provides an update to [R2P's protection note of June 2021](#) about the situation at the international border crossing points (IBCPs) at Milove in Luhansk oblast and Hoptivka in Kharkiv oblast. Right to Protection (R2P) continues protection 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. Often the only way for NGCA residents to access government services or visit their friends and relatives in the GCA is to enter it via the Russian Federation through the IBCPs in Milove or Hoptivka. But by doing so they have incurred fines for leaving Ukraine in an irregular manner (through the uncontrolled part of the state border with Russia). These fines were waived on certain categories of humanitarian grounds by decree at the end of July 2021.

Since the middle of August, R2P monitors have observed that very few NGCA residents are now being fined and R2P lawyers have received no more requests for legal advice and court representation from Ukrainian NGCA residents who crossed the IBCPs.

CONDITIONS OF CROSSINGS

There is no change since June 2021, with NGCA residents still only able to enter GCA via two of the seven EECPs along the contact line. The NGCA de facto authorities are still keeping the other five closed as a preventative measure against COVID-19 and NGCA residents are continuing to cross the ICBP.

NGCA residents are a population of concern to UNHCR with one of the highest proportions of elderly people globally, and many depend on their pension entitlements from the Ukrainian government. While their situations vary, typical pensions for many elderly NGCA residents range from 2000 UAH to 5000 UAH per month. Official public transport in the GCA side of eastern Ukraine for a journey of about 170 km is about 180–190 UAH, but a private taxi fare over the same distance can be as much as 1,500 UAH. NGCA residents who wish to travel from the EECP to Mariupol would pay for similar rates for transport, and similar fares on the NGCA side. For instance, residents of Donetsk and Luhansk travelling to Mariupol via the EECP could expect the journey to cost an estimated 300 UAH. However, NGCA residents who travel from Donetsk or Luhansk to Mariupol via the ICBP, a journey of more than 1000 km, can cost more than 3,000 UAH the equivalent for some of one or two monthly pensions.

It remains unknown to which extent pensioners are entering the GCA via the IBCPs. Although fines have been waived for many NGCA residents leaving Ukraine in an irregular manner (traveling to the GCA via Russia) it remains an arduous and costly journey compared with crossing the EECP. Yet many NGCA residents may still be making it, and face the costs with the pensions accumulated in their accounts over several months.

The monitoring conducted by R2P on the Ukrainian side of the border points showed that there is a need to improve waiting and crossing conditions and identified certain number of missing services or infrastructures at both border points, more particularly in Milove. According to observations and interviews with persons crossing the border, the crossing time has somewhat shortened on the Ukrainian side since the new law #1583-IX dated 29.06.2021 was passed. Since the quarantine began and until August 2021, the time of crossing the border point at Chertkovo – Milove had reportedly often taken up to eight hours or even sometimes 14 hours. Waiting time appears to be a less serious issue at Nehoteyevka – Hoptivka IBCP; informants said a two hour wait was more typical.

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This note is based on information collected by R2P at the two IBCP, SBGS statistic and observation, during monitoring visits from June till August 2021.

R2P OBSERVATIONS

- The most frequently mentioned humanitarian reasons were family reunion, serious illness and death of close relatives. Accompanying documents were reportedly required by SBGS staff in each case.
- If a person states family reunion as a humanitarian cause, SBGS staff may request a marriage certificate document and check the previous crossing of spouses at the database. Also, a certificate of the birth of a child could be a confirmation document for family reunion.
- An important change also occurred on 5 August 2021 with the entry into force of the resolution 787 dated 28 July 2021. The resolution introduces changes applicable to the 10-day self-isolation, by specifying exceptions for particular categories. The installation of the smart phone GEO-tracing app Vdoma has become a mandatory requirement again (for the first time since May 2020). Those who cannot install the Vdoma app are obliged to stay in a state-run observation facility. The observation or self-isolation can be terminated by undergoing negative PCR or antigen test for COVID-19. It became possible to do rapid tests at both IBCPs. At Milove, the price was 750 UAH, while at Hoptivka – 650 UAH. There is still the possibility to make a paid PCR test at both IBCPs.



LEGAL ISSUES

In response to the issue with fines for illegal crossing (Administrative code, article 204-2), 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 EECPs.

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;

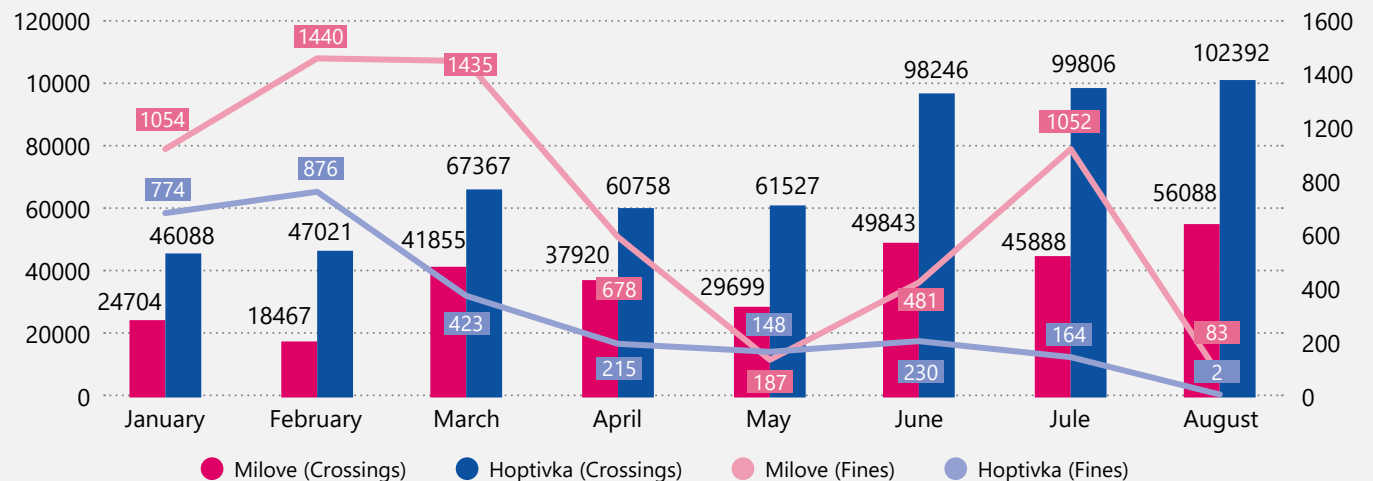
- Crossing the IBCPs by a child under the age of 16, accompanied by one of the parents (adoptive parents) or other legal representatives for the purpose of obtaining documents that identify the child and certify him/her citizenship of Ukraine;
- The need to accept the inheritance.


[The full list can be found in CMU decree #815 dated 17-07-2019, article #222.](#)

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 (see the Diagram below).

Number of crossings at IBCP (citizens of Ukraine only) and fines



 Maria Ivanivna*, a pensioner aged about 90 who lives in NGCA, crossed Milove IBCP to Ukraine through Russian Federation with her 16 years old granddaughter Anya to obtain a Ukrainian passport for her. They submitted the documents and decided to go back to NGCA because it takes almost a month for the passport to be issued. On the way back to NGCA, the border guards did not allow them to cross, based on the fact that Maria Ivanivna did not have a document confirming her guardianship. The woman showed an NGCA document certifying that she was Anya's caretaker but that kind of document has no legal force in Ukraine. IBCP staff patiently explained the law, R2P lawyer consulted Maria Ivanivna how to resolve the issue. However, this case is complicated and time-consuming, and the family had to stay in GCA with no permanent housing there.

* Person's names were changed.




RECOMMENDATIONS

- Monitoring activities at IBCPs should continue;
- Raise the awareness of people crossing the state border about current legislation;
- Advocate for applying the list of humanitarian grounds as non-exhaustive by the SBGS;
- Improve waiting and crossing conditions at Milove.

ABBREVIATION

| | |
|---------------|-------------------------------------|
| (N)GCA | (non-)government-controlled areas |
| EECP | entry-exit checkpoint |
| IBCP | International border crossing point |
| NGO | non-government organization |
| PCR | Polymerase chain reaction |

 While for many residents of NGCA crossing to GCA across the NGCA-Russian federation border is the only option (crossing the contact line since March 2020 is critically restricted), it is prohibited according to Art 204-2 of the Ukrainian Administrative Code.

Olena lives with her husband and children on NGCA. She needs medical assistance in the GCA and often has to travel across the contact line. In 2020, the Border Guards Service at Stanytsia Luhanska charged Olena for administrative penalty of UAH 1700.

Despite receiving a positive court decision in May, Olena was repeatedly charged of three administrative penalties of UAH 6800 each, 20400 UAH in total.

Olena's case is one of 65 cases that R2P is representing in the court now. It has taken up 142 cases in 2021 and successfully defended 77 of them.

UNHCR PLANS FOR IBCP 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 sides.

