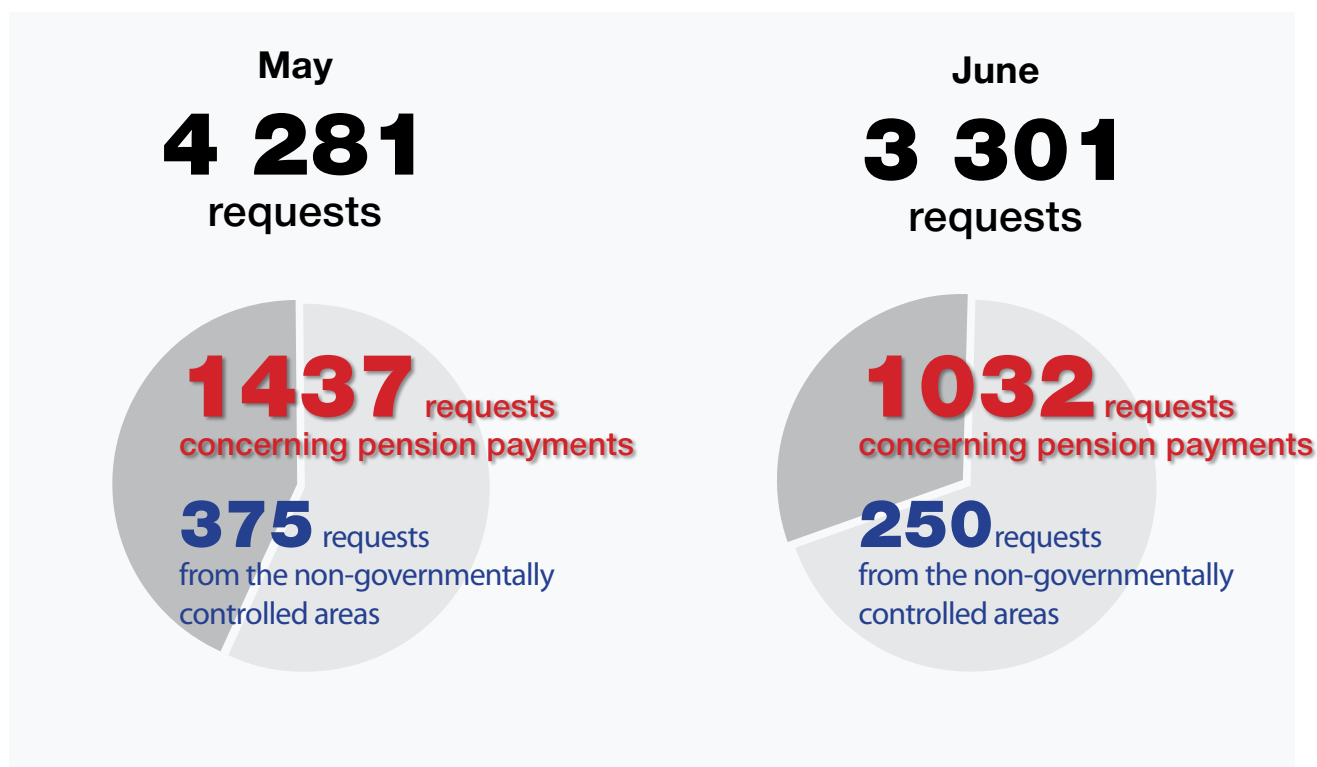


PROBLEMS WITH PENSIONS PAYMENTS TO INTERNALLY DISPLACED PERSONS IN MAY-JUNE 2018

Analysis of complaints to the Donbas SOS hotline¹

From May 4th, the DonbasSOS hotline started receiving (hereinafter-Organization) messages from internally displaced persons (hereinafter-IDPs) residing in different regions regarding the **suspension of pension payments** that were supposed to be paid in May. At the same time, when requesting an information from the Department of Pension Fund, IDPs receive the following answer “pensions to IDPs will not be paid until the special order is issued”. Some Departments of the Pension Fund state that ‘Pensions were suspended to all IDPs. It is a government order’ and “pensions will not be paid as long as amendments to the Resolution No 365 are being prepared.” (Resolution No 365 is the Resolution of the Cabinet of Ministers of Ukraine issued on June 8th, 2016 “On some issues of social benefits for internally displaced persons”).



¹ – This data is received based on the analysis of requests received by hotline in the framework of the project “Supporting Recovery and Sustainable Solutions for Internally Displaced Persons and the Conflict-Affected Population in Ukraine” implemented by the IOM Mission in Ukraine with the support of the European Union

CONTRADICTIONARY RESPONSES FROM GOVERNMENT AUTHORITIES

On May 5th in response to the appeal of pensioners-IDPs, the Pension Fund of Ukraine on its official site informs that **as a result of technological changes in the process of verification** of recipients of pension payments, the terms of issuance of payment documents for pensioners IDPs have been changed in May. At the same time, the Pension Fund of Ukraine states that all pensions to which individuals are entitled will be paid in full amount in May.

According to the monthly results, indeed, some of the citizens who contacted the Organization, confirmed that they received a pension with a delay. However, some of them have not received a pension at all and were required to submit either an application for the restoration of pension payments or a full set of documents for the issuance of pension payments.

In the official response to the Organization's request, the Pension Fund of Ukraine does not report changes to the procedures in the process of verification of IDPs but refers to the procedures within the scope of the Regulation No. 365. However, in the response to the pensioner, one of the Departments of the Pension Fund of Ukraine indicates that «the pension has been partially suspended as a result of technological changes in the process of verification.»

At the press conference on June 12th, the director of the Main Department of the Pension Fund in Donetsk region informs that in Donetsk region there are now 1.1 million pensioners, including 485 thousand IDPs. Of these, the pension in May was received by less than half of those registered IDPs - only 204 thousand.

According to official data of the Ministry of Finance, in April-May 2018, according to the results of the verification of information related to the payment for IDPs, 23,519 recommendations to stop (terminate) state payments under the criterion «»Long-term absence»» (more than 60 days) by the person at the place of residence (according to Arcan system).

IS IT LEGAL?

In accordance with the Procedure on control over the issuance of social payments to internally displaced persons at the place of their actual residence/stay, which was approved by the Resolution No. 365, paragraph 4 provides a list of grounds for conduction of an additional verification of a recipient of a social payment. Additionally, the verification is carried out in case an IDP has returned to the temporarily occupied territory of Ukraine, or to settlements on the territory of which the state authorities temporarily do not exercise their powers, or in case of travelling abroad, or when such information is obtained from the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine, the State Border

Guard Service of Ukraine, the National Police of Ukraine, the State Migration Service of Ukraine, other bodies of executive power and bodies of local self-government, public associations, volunteer and charitable organizations, other legal entities and individuals who provide assistance to IDPs.

Among citizens whose pensions were suspended in May and June, there are persons who traveled abroad or to the temporarily occupied territory, without exceeding the 60 days period, or did not leave at all. At the same time, these citizens have not received notification regarding the inspection but learned about the termination of pension payments on a post facto basis.

Among the citizens for whom pension payments were stopped in May and June, there are persons who traveled for a short period abroad or temporarily occupied territory, not exceeding the term of 60 days, or did not leave the place of residence at all. At the same time, such citizens did not receive notification of the inspection, but learned about the termination of pension payment ex post facto. Among this citizens was also Igor Kozlovsky, a Ukrainian scientist, a former hostage on TOT of Donbas who traveled abroad to testify to the crimes committed by Russia in the temporarily occupied territory.

UNEXPECTED LEGISLATIVE CHANGES

Later it became known that on April 25th, 2018, the Cabinet of Ministers of Ukraine adopted the Resolution No. 335 «On Amendments to the Resolution of the Cabinet of Ministers of Ukraine No. 365 as of June 8, 2016 ». It significantly violates the rights of IDPs and has not been publicly debated. However, the mentioned resolution enters into force from the date of its official publication.

Changes are the following:

1. Departments of the Pension Fund of Ukraine must forward an electronic case within five working days of receipt of such request.
2. The body that makes social payments, on the basis of a decision of the commission, allocates (restores) such social payment starting from the month in which the application was received from an IDP. Sums of social payments that have not been paid for the past period will now be paid on the terms of a separate procedure, determined by the Cabinet of Ministers of Ukraine. However, the procedure has not been approved and, accordingly, in practice it can be expected that when applying for the restoration of IDP payments, such requests on payment of uncollected pension and social payments will be refused, referring to the lack of a new order.

3. Social payments provided by the procedure of the Resolution No. 365 can be terminated by the decision of commissions or bodies that carry out social payments.

Mentioned above changes, as well as Regulation No. 365 itself, are contradictory to the Constitution of Ukraine and the main relevant laws that establish the procedure for the issuance of pensions and social aid to all Ukrainian citizens, since the pension cannot be equated with social payments and its non-payment cannot be regulated through by-laws as long as it is inconsistent with the relevant legislation and discriminates a certain category of citizens.

RECOMMENDATIONS:

1. The Pension Fund of Ukraine should restore payment of pensions illegally terminated in May 2018 to those persons who have not received it.
2. The Pension Fund of Ukraine should provide explanations on the technological changes in the process of verification, as well as the reasons for non-payment of pensions to citizens who stayed on the governmentally controlled areas of Ukraine and neither travelled abroad nor to the temporarily occupied territory for more than 60 days.
3. The Cabinet of Ministers of Ukraine and the Ministry of Social Policy of Ukraine in the nearest future should adopt the Procedure for the obtainment of the amount of pension and social payments that have not been paid in the past period. This procedure should comply with the current legislation of Ukraine and be non-discriminatory.
4. The Cabinet of Ministers of Ukraine and the Ministry of Social Policy of Ukraine – to adopt an alternative system of appointment and control of social benefits, delinking the need to register the IDP to obtain pension payments.



TRANSITION
Ministry of Foreign Affairs of the Czech Republic