July 1, 2019

Re: Protection of Rights of Older Ukrainians in Donetsk and Luhansk

Dear President Zelenskiy,

I am writing on behalf of Human Rights Watch to ask that the Ukrainian government urgently intensify efforts to protect the rights of older Ukrainians living in nongovernment-controlled areas of Donetsk and Luhansk regions, specifically by ending discriminatory policies and practices with regard to their access to their pensions. Human Rights Watch (HRW) is a nonprofit, nongovernmental human rights organization working in over 90 countries around the world. Established in 1978, HRW investigates and reports on human rights violations and abuses, often in partnership with local groups.

Human Rights Watch fully recognizes and acknowledges the challenges the government faces in disbursing social entitlements to Ukrainians living in areas under the control of Russian-backed armed groups, as well as Ukraine’s objective of preventing the acquisition of such resources by said groups. However, current Ukrainian policies do not take adequate account of the rights, including property rights, of Ukrainians living in nongovernment-controlled areas, and interfere with those rights in ways that are not strictly justified and proportionate in this context. This has particular impact on older people.

Current policies require pension-eligible Ukrainians living in the affected parts of Donetsk and Luhansk regions to register as internally displaced persons in government-controlled areas, and to physically cross into those areas at least once every 60 days. These crossings, particularly in Luhansk region, which lacks a motorized vehicle crossing point, are difficult for older people, many of whom have physical disabilities that impede their ability to walk easily. Those who cannot leave their homes due to health or mobility issues cannot access their pensions at all. These policies, which make people vulnerable to losing their pensions and pose real risks to the health of older people making these crossings, are discriminatory because they impose unnecessary and unjustified hardship and burden on this class of persons.
The United Nations (UN), the Organization for Security and Co-operation in Europe (OSCE), and others, including Human Rights Watch, have extensively documented the impact of the above policies on older people and have repeatedly urged the government to enhance efforts to protect the rights of pensioners. While the government has taken some steps to improve conditions at crossing points, it has not adopted legislation or other measures that would address the discriminatory requirements for pension eligibility. Under Ukrainian law, and in accordance with international standards, Ukrainians have the right to access their pension without discrimination or excessive and disproportionate burden.

In May 2019, a Human Rights Watch researcher interviewed 17 pensioners between the ages of 65 and 91. Most of them were traveling across checkpoints at Stanytsia Luhanska, the only crossing point in Luhansk region. We chose this location because it is accessible only by walking almost four kilometers on foot and is a particularly treacherous crossing for older people, and because we conducted research there in 2018. We also met with the staff of civil society and humanitarian groups in Sieverodonetsk, to update our understanding of the situation.

This letter summarizes the experiences of the older people we spoke to, most of whom endure difficult, unnecessarily frequent journeys across the line of contact, as well as multiple bureaucratic hurdles in order to collect their pensions. It identifies arbitrary obstacles created by the policies noted above, which create risks to their health and safety. This letter also proposes steps we hope the government will take to solve these problems.

**Summary: The Link Between Arduous Crossings and Flawed Pension Rules**

Each month, around one million people cross through checkpoints along the line of contact, more than half of them older people. A recent survey found that in April 2019, more than 80 percent of people over the age of 60 making these crossings did so for reasons connected to pensions or other benefit payments.

Pensioners face numerous difficulties while crossing the line of contact, particularly at Stanytsia Luhanska. While there are four crossing points in the Donetsk region, all of which can be traveled through by vehicle, as noted above, Stanytsia Luhanska is the only crossing point in the Luhansk region and must be traversed by foot. Government workers are not readily or regularly available to provide mobility aid assistance, despite the fact that some wheelchairs are stationed at the crossing.

The journey through the crossing point at Stanytsia Luhanska is almost four kilometers in one direction. From the first checkpoint controlled by Russian-backed armed groups, a person must
walk until they reach steep wooden ramps, which link two parts of a broken bridge. After descending and ascending the ramps, they must walk another 1.8 kilometers until they reach the final Ukrainian checkpoint. Often, they wait in long lines at bank machines there in order to withdraw their pension before making the same journey back.

These trips may exacerbate preexisting health problems. According to the OSCE Special Monitoring Mission, there have been at least 19 documented deaths, mostly among older people who died from heart-related conditions, at all crossing points this year. Ambulances are not stationed at the crossing point itself but at a primary care center two kilometers away. Conditions at the crossing point predictably put older people with chronic health conditions at much greater risk.

Despite the peril these journeys present for older people, they undertake it frequently because of the aforementioned 60-day rule, which was introduced along with address verification measures in 2016. The UN estimates that 400,000 people have lost access to their pensions since those 2016 rules were implemented. In December 2018, the Supreme Court upheld a lower court’s ruling that some of these rules indirectly discriminate on territorial and displacement grounds, violating the constitutional principle of equality and freedom of movement.

I would like to share the story of one pensioner that illustrates the impact of these policies on people’s lives. Our researcher interviewed Galina, 78, in Stanitsia Luhanska in May 2019. Galina lives in Holubivka (formerly known as Kirovsk), which as you know is still regularly shelled by both parties to the conflict. Since her husband died in 2014, she lives alone and relies on her pension of 2,600 hryvnia more than ever. To get her pension, every two months she makes a 10-hour journey that involves taking two buses, in addition to walking the nearly four kilometers described above.

In November 2018, she fainted in line at the crossing and now carries a cane in case she gets lightheaded. In January 2019, her legs became so cold while waiting in line that she lost control of her bladder: “It makes me so ashamed... Thank God there was snow and rain, and I was warmly dressed and so nobody saw. But I still knew I stank,” she said. In May 2019, she was crossing with a neighbor when they both slipped and fell on the ramp. When we spoke to her on an afternoon in May, it was too late in the day to cross back. It had taken all day to compete the crossing and collect her pension payment. There would be no more buses to take her home from the crossing that evening. Instead, she had to pay 150 hryvnia for a place to sleep in Stanitsia Luhanska.

Galina, like the thousands of others whom the Pension Fund struck from its rolls in recent years, was denied her pension for 16 months from April 2017 to August 2018 after a routine address verification. She struggled to navigate the bureaucratic labyrinth required to restore it, and to pay
for the travel that process required. Neighbors helped her during those months, but it wasn’t enough to cover medication or other basic needs. “Money slipped through my fingers like water,” she said. “I had to save up just to have enough to eat.”

The annex attached to this letter describes the interviews conducted by Human Rights Watch in Stanytsia Luhanska and Sieverodonetsk in more detail. It summarizes the problems faced by 17 pensioners who, like Galina, have to make this frequent crossing or who have been denied pension payments. We have included more detailed recommendations for your government at the end of the annex, but the four main steps we ask you to undertake to improve the lives of older people in the conflict area are as follows:

- Support existing legislation such as Draft Law #6692 and any other measures that would delink pension eligibility from displaced person status, thereby ending the requirement for pensioners to register at addresses in government-controlled territory and having to travel to government-held territory every 60 days;
- Improve conditions at the crossing points, including by increasing the number of accessible toilets, access to potable water, mobility assistance, and health services;
- Expand the number of crossing points, particularly in the Luhansk region, including crossings passable by motorized vehicles;
- Enforce court decisions, in particular by paying arrears to those pensioners denied their pensions because of these and other rules.

Our Detailed Findings

Crossing Issues
We interviewed a total of 17 pensioners, 15 of whom were making the crossing to collect pension payments in Stanytsia Luhanska. Like Galina, most of the 15 people we interviewed had to spend an entire day in order to travel from their homes, complete the crossing, and collect their pension payment or resolve any other pension issues. Several people said they had left their homes as early as 4 or 5 a.m. in an effort to make it across and back in one day.

Nine of the 15 used wheelchairs, crutches, or canes to walk the nearly four kilometers. Without a relative to carry them, pensioners who cannot walk have few other options. There are five wheelchairs on the government side of the crossing, but there are only two State Emergency Service workers who are allowed to operate them from the Ukrainian passport control until the last Ukrainian checkpoint. However, their job responsibilities do not include transporting people across the line of contact and so most wheelchairs were sitting, unused, near Ukrainian passport control, at the time of our visit. According to humanitarian aid groups and pensioners interviewed,
somebody crossing must either endure the journey on foot or pay 100-200 hryvnia each way to be ferried across by so-called “tachechniki”. One 72-year-old man, whose leg had been amputated and who was in a wheelchair, said that he had had to pay 300 hryvnia round trip for someone to carry him across. A 70-year-old woman who relied on a cane to walk, when asked whether she paid one of the “tachechniki” for assistance crossing said, “It’s too expensive. I’ll crawl myself.”

Health issues were also a major concern. Eleven people said they had had some kind of health emergency, often fainting or spikes in blood pressure, during previous crossings. Most experienced spikes in blood pressure, which they said was then measured by emergency medics on-site and found to be over 180/120 (a level which medical authorities say indicates a hypertensive crisis and therefore potential heart attack or stroke). Others said they had fainted. International aid groups provide basic emergency services on-site. Yet despite the fact that thousands of older people complete these crossings every day and are likely to have health crises while there, the nearest ambulance is stationed at a primary care center two kilometers away from the Ukrainian passport control area, and takes 10 to 20 minutes to arrive. One 62-year-old woman said, “Crossing is very difficult physically—after each crossing it takes me two or three days to recover.” Another 69-year-old woman said, “I start thinking about how I need to go a month in advance—I mentally prepare myself.”

Humanitarian aid workers told Human Rights Watch these health conditions may be exacerbated by the fact that most people do not eat or drink the day of their crossing, in order to avoid needing to use the toilet. At the main waiting area in Stanytsia Luhanska, where people have to stand in long lines to withdraw money from one of two ATMs or to cross back into nongovernment-controlled areas, there are only squat toilets which are relatively common in rural parts of Ukraine but difficult for some older people to use. Humanitarian aid groups say that potable water is not readily available there.

Even without health or mobility issues that make walking difficult, people making these journeys endure long hours on their feet in lines. Ten people interviewed by Human Rights Watch said that they had managed to complete the crossing within three or four hours, an improvement on previous wait times, they said. But once they finish with passport control and checkpoints, there are more lines: a line for bank identification, a process in which a bank employee confirms the identity of a pensioner (a requirement to collect payments), and another line for one of two ATMs nearby. When Human Rights Watch visited, one of the ATMs had run out of money early in the day, and the other was working slowly due to technical issues. As a result, several people said they were not able to take out money from the ATM and would return home empty-handed, or would have to spend the night in Stanytsia Luhanska and try again the next day. One 74-year-old woman said, “I crawled here to do the identification, but there’s no money in the ATM, so I’ll have to crawl back in a week’s time.”
Those who make it through the checkpoints and finish their banking business too late to catch a bus back to their homes in nongovernment-controlled territory had to stay the night in Stanystsia Luhanska. In addition to Galina, whose story is mentioned above, one 74-year-old woman said she paid 150 hryvnia for a space in a room that was typically shared by five to six people.

**Pension Issues**

Thirteen people told Human Rights Watch they had been denied pension payments for periods ranging from two to 17 months, either for not making a crossing within 60 days or for failing to appear at their stated address. Their pensions ranged roughly from 1500 hryvnia to 3000 hryvnia. One person’s pension was five thousand hryvnia.

Many pensioners in nongovernment-controlled areas rely on these payments to survive, and have no other source of income. The pensioners we spoke to struggled to get by in the months they were denied payment. One woman said she lost 10 kilograms during the year when she lost access to her pension because she could not afford enough food, while another said she had not been able to spend money on even simple non-essentials, such as candy for her grandson. One 69-year-old woman said, “Without my garden, I wouldn’t have survived.” Another woman said she had to live with relatives during that time.

Most people expressed a deep frustration, emphasizing that they are Ukrainian, had worked in Ukraine for decades, and have a right to the Ukrainian pension they earned. One 79-year-old woman summed it up by saying, “I consider myself Ukrainian, I have a Ukrainian passport, I have lived here 60 years. What have I done wrong? The insult really hits hard. I worked for 47 years.” Another 84-year-old woman said, “It’s hurtful—I worked 46 years for Ukraine.”

One 64-year-old man who now lives in Sieverodonetsk had gone through particular hardship that prevented him from accessing his pension. In March 2017, he was detained by Russian-backed armed forces in the city of Luhansk for resisting when they asked him to open a small garage which he rented out to several car-owners. They then took him to a security services building, where he was kept in a basement for nearly 14 months, at least six months of which he spent in solitary confinement tortured with electric shocks, and given a drug that made him hallucinate. In May 2018, his captors released him at the line of contact, and told him he could never return. He had to leave his property, his vehicle, and all of his money behind.

After being hospitalized in Sieverodonetsk, where his daughter lives, he learned that his pension had been suspended while he was held in detention. While his pension has been restored, the government has still not paid him arrears from the time he was in detention, leaving him financially vulnerable and unable to pay for basic food and accommodation. A lawyer from Right to
Protection, a group which provides legal assistance and other services to displaced persons in the east, is working on his case, which they won in March 2019 but which the Pension Fund then appealed to the appellate court. The case is pending.

In several landmark cases, Ukrainian courts have ruled in favor of pensioners on grounds that they were unjustly denied pension payments. In May 2018, the Supreme Court ruled that the authorities had to restore a woman’s pension after it had been suspended due to incorrect information about her whereabouts. The court found that the government’s pension requirements put additional burdens on access to pensions for people who have registered as displaced. As noted above, another Supreme Court ruling from December 2018 upheld a lower court’s finding that address verifications were unconstitutional. While the practice of conducting spontaneous address verifications stopped, the government continues to deny pensioners payment for a wide range of reasons, including for not residing at their stated address or for spending more than 60 days consecutively in nongovernment-controlled areas. And under the current system, those who cannot leave their homes due to health or mobility issues cannot get their pensions at all.

Ukraine has implemented court decisions restoring pension rights to older people, but has not been paying out accumulated pension arrears. According to the UN, figures released by the Pension Fund in November 2018 showed arrears to pensioners in the conflict zone at 53 billion hryvnia. The figure has likely increased since then, but the Pension Fund did not respond to our repeated requests for information on this issue.

Conclusions and Detailed Recommendations

The government has taken some steps to improve the situation at crossing points. Pensioners and humanitarian workers at Stanytsia Luhanska said that lines were considerably shorter than in the past, and that overall availability of toilets and medical facilities had improved. According to humanitarian workers, conditions at other crossing points had also improved significantly.

But the very requirements for people to physically be present in government-controlled areas every 60 days to collect pensions cause them to undergo a difficult journey with excessive frequency, creating unnecessary hardship for older people living in nongovernment-controlled areas. These requirements also create risks that people can lose access to their pension. The government has proven flexible in allowing other groups of pensioners to access payments in irregular circumstances. For example, pensioners living abroad remain eligible to receive benefits, and can even collect bulk payments in advance. Pensioners who are not displaced persons can appoint a representative with power of attorney to collect pensions for them. While the conflict in eastern Ukraine clearly poses unique challenges which are not of the Ukraine government’s
creation, there are options the government could support to end the discrimination these pensioners face. We urge the Ukrainian government to:

- Support existing legislation, such as Draft Law #6692, and any other measures that would delink pension eligibility from displaced person status, thereby eliminating the need for pensioners to register at addresses in government-controlled territory and having to travel to government-held territory every 60 days;
- Consider mechanisms that would allow pensioners to minimize travel across the line of contact, including advanced payment (such as exists for those living abroad), or work with humanitarian groups to facilitate the movement of non-mobile pensioners to government-controlled territory to retrieve their pension;
- Improve conditions at the crossing points, including by increasing the number and location of accessible toilets, potable water, mobility assistance, and health services. Expand the number of crossing points, particularly in the Luhansk region, including crossings passable by motorized vehicles. Enforce court decisions, in particular by paying arrears to those pensioners denied their pensions because of these and other rules.

Sincerely,

Hugh Williamson
Director, Europe and Central Asia Division
Human Rights Watch