



THE PROBLEM OF STATELESSNESS IN UKRAINE AND THE WAYS OF ADDRESSING IT

The project is funded by UNHCR in Ukraine



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Kyiv 2014

This review of the statelessness problem in Ukraine has been prepared by the Representative Office of HIAS in Ukraine, an international nongovernmental organization, on the basis of a wide-ranging study carried out by Valentyna Subotenko, a national expert on statelessness, and with direct support from the United Nations High Commissioner for Refugees (UNHCR) Representation for Belarus, Moldova and Ukraine in Kyiv, Ukraine.

Kyiv 2014

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I. Introduction

In 2014, UNHCR marked the 60th anniversary of the 1954 Convention relating to the status of stateless persons. The Convention came about as a result of the Second World War and its aftermath, which left so many persons displaced and without identity papers, and which also transformed the map of the European continent. Borders shifted and entire populations were on the move. In this massive upheaval, it was inevitable that some persons were left without a country, without a home, and even without a piece of paper to prove their identity. The Convention was adopted with their plight in mind, and together with the 1961 Convention on the reduction of statelessness, states committed themselves to preventing statelessness and to mitigating its impact by ensuring that stateless persons could enjoy their basic rights.

The dissolution of the Soviet Union could have left large populations stateless, but fortunately Ukraine—as many of the other newly independent states—adopted citizenship laws in the spirit of international law, including the Statelessness Conventions. . Most persons living in Ukraine were able to seamlessly acquire the citizenship of Ukraine, and a major crisis of statelessness could be averted.

However, it was not until 2013 that Ukraine acceded to the two Statelessness Conventions. This step has given an occasion for reflection on statelessness in Ukraine, and was the impetus for the report that lies before you. As you will see from this report, though the overall legal framework for preventing statelessness and protecting stateless persons is favorable, some groups remain stateless or at risk of statelessness in Ukraine, particularly persons affected in various ways by state succession in the region and persons who lack identity documentation or are unable to obtain birth certification for their children, such as Roma, homeless persons, and some groups of migrants. The case studies included here show how this situation impacts their daily lives: adults may face detention, or be unable to obtain legal employment; children are not issued with school certificates etc. Though most of them have lived in Ukraine for their entire lives, they remain on the margins of society.

The report guides us towards a proper response to the problem of statelessness in Ukraine. This would require amendment to laws and other legislative acts, so that the procedures for documenting these individuals and for the confirmation or acquisition of nationality can be made clearer, more accessible, and more efficient. There will need to be outreach to stateless persons, persons who may be stateless and the persons at risk of statelessness, encouraging them to come forward. We need to continually remember that the small technicalities often

define the difference between a person having access to a personal and national identity, or having none. Given the utmost importance of the issue to those who are affected and the relatively minor changes necessary to assist them, UNHCR hopes that this report will guide the state authorities and their civil society partners in comprehensively addressing the problem of statelessness in Ukraine.

Oldrich Andrysek

UNHCR Regional Representative

II. Statelessness in Ukraine: general situation review

The problem of statelessness is serious both on a global scale and within any given country, Ukraine being no exception. As estimated by the Office of the UN High Commissioner for Refugees (UNHCR) ¹, 10 million people all over the world have currently no nationality and, hence, cannot expect protection from any country in the world and are not able to take full-fledged part in society and exercise the whole spectrum of human rights.

Citizenship is described as a legal bond between a State and an individual whereas statelessness refers to the status of a person who is not considered as a national by any State under the operation of its law ². Article 15 of the Universal Declaration of Human Rights states that “everyone has the right to a nationality”. Within the mentioned context it is clear, that statelessness may be a problem resulting from the state policy as well as a subject to a person’s free will. So is statelessness a problem for Ukraine? And, if it is, what is its extent?

Statistical data

It should be noted that an exact scale of this problem in Ukraine is currently not known. Reasons for that will be given below. According to the All-Ukrainian Population Census of 2001, **83 thousand** persons called themselves stateless. Another **40 thousand** persons did not specify their citizenship at all during the same census. One can assume that those 40 thousand individuals could include both stateless persons and persons having ex-USSR citizen passports who could not identify their citizenship by themselves. On the other hand, some of those who identified themselves as Ukrainian citizens could actually be stateless persons. As this figure is based on self-identification as stateless and cannot be verified, it fails to illustrate the actual state of affairs.

The lack of statistical data within studying the problem of statelessness in Ukraine is illustrated by the following statistics on acquisition of Ukrainian citizenship based on territorial origin by stateless persons. According to the Ministry of Internal Affairs of Ukraine, only **1,802** stateless persons were registered with the bodies of the Ministry of internal affairs as of 1 January 2005. **3,033** stateless persons were admitted to citizenship of Ukraine by territorial origin, and **5,249** acquired citizenship of Ukraine by territorial origin in 2004. During 2005, **4,658**

1 UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2013: War’s Human Cost, 20 June 2014, available at: <http://www.refworld.org/docid/53a3df694.html>

2 See article 1 of the 1954 Convention relating to the status of stateless persons

stateless persons acquired citizenship of Ukraine by territorial origin (that is, 2.5 times more than the number of the stateless persons registered with the bodies of the Ministry of internal affairs). Between 2002 and 2013, **23,114** stateless persons acquired citizenship of Ukraine by territorial origin. This figure, however, is not precise as well because there was no separate registration of the stateless persons acquiring citizenship of Ukraine by territorial origin in 2002 and 2006-2009.

As to the present situation, according to the State Migration Service of Ukraine, **6,561** stateless persons had permanent or temporary residence permits in Ukraine as of 30 June 2013. At the same time, UNHCR estimates that **33,271** stateless persons or persons with undetermined nationality were residing in Ukraine at the end of 2013³. In the mentioned research it is pointed out, that the data were generally provided by Governments, based on their own definitions and methods of data collection.

The substantial differences in figures can be explained by the fact that a great number of stateless persons in Ukraine did not receive any document certifying their identity and confirming their statelessness because of imperfections of the laws existing in this field and their implementation.

To obtain more exact data, even if not absolute, a special survey could be conducted involving experts on keeping statistical records, lawyers, interpreters and social workers who, by means of using detailed questionnaires, checklists and direct conversations and interviews with individuals predefined as potential stateless persons (and in close cooperation with executive authorities on the ground), would collect quantitative data on this category of persons, determine their geographical location in the territory of Ukraine, and categorize them by indicators such as age, sex, country of origin, etc.

Causes of statelessness in Ukraine

The problem of statelessness is faced by almost every country of the world, regardless of its state structure and political regime, Ukraine being no exception. Why does statelessness emerge in this country? Emergence of this problem can be caused by a number of reasons including discrimination of minority groups, gaps in citizenship laws, failure to include all residents in an initial population of the country that benefited from citizenship after the dissolution of the USSR, processes of breakup of existing states and establishment of new ones (state

3 UN High Commissioner for Refugees (UNHCR), UNHCR Global Trends 2013: War's Human Cost, 20 June 2014, available at: <http://www.refworld.org/docid/53a3df694.html>

succession), migration, conflicts between laws of various states, etc. As regards the situation in Ukraine, statelessness here results from the non-acquisition of citizenship of one of the newly formed states after the dissolution of the Soviet Union, lack of any government program for the documentation of population of the occupied territories of Ukraine, discrimination against the Roma and national minorities, an absence or imperfect procedure and administrative barriers for the acquisition or confirmation of citizenship by persons who have no identity documents. The current reality is as follows: instead of adopting assistance programs for stateless persons to help them determine their status or acquire citizenship of the country of their permanent residence, Ukrainian laws impose penalties on them for the uncertain legal situation they are trapped in, often through no fault of their own.

Consequences

What is it like living in Ukraine as a stateless person? Stateless persons, just like persons at risk of statelessness, are one of the most vulnerable categories of Ukraine's population, especially when undocumented. Living in a country with complicated administrative procedures and being unable to receive identity documents, they are actually deprived of any opportunity of exercising their civil, economic and political rights and freedoms. For example, adults without a passport, even if they were born and lived in Ukraine all their lives, can be administratively detained at any time for violation of the established legislation dictating stay in Ukraine only because they live without documents that they are just not able to obtain. Absence of documents makes it difficult or even impossible for such persons to get official employment or access medical services, education, ownership rights, the right to protect their rights and freedoms in courts, and even the parental right. For example, when one or both the parents of a child have no documents, it can result in the so-called "bureaucratic orphanage" when the child's birth certificate has a dash in the field "mother". Another example is when the field "father" is filled in according to the mother if she has an identity document but the father does not. In this case, the child is regarded as being brought up by a single mother. The situation is aggravated by the fact that Ukraine still has no procedure for identification of stateless persons, which deprives them of any opportunity of confirming their statelessness and regularizing their stay in a legal way. Stateless persons are in a legal vacuum, consigned to be invisible people, just non-existent from a legal point of view. Unfortunately, this list of difficulties that stateless persons in Ukraine encounter every day is not exhaustive.

Problems of the current legislation on citizenship and the implementation of the UN Statelessness Conventions

Despite the fact that Ukraine acceded to the two UN Statelessness Conventions in 2013, the country's regulatory framework on this subject has still not been brought into conformity with their provisions. This prevents stateless persons and those with uncertain citizenship from accessing their rights and freedoms.

At present, matters of citizenship and statelessness in Ukraine are governed by the UN Convention relating to the Status of Stateless Persons of 28 September 1954, the UN Convention on the Reduction of Statelessness of 30 August 1961, the UN Convention relating to the Status of Refugees of 28 June 1951 (it was previously mentioned, that one of the causes of statelessness in Ukraine is the imperfection of legislation on refugee status), the European Convention on Nationality of 6 November 1997, and national laws. To assist the Contracting States with proper compliance of the standards set forth in the UN Statelessness Conventions, UNHCR published a Handbook on Protection of Stateless Persons⁴. UNHCR explains in its Handbook that the 1954 Convention assumes a responsibility for States to take measures to identify stateless persons in their territory and to accord them access to at least a minimum set of rights under the Convention.

It is worth mentioning that now, more than a year since the accession to the Conventions, their provisions have not yet been properly incorporated in the national legislation. In particular, no procedure for determination of a stateless person's status or instruments that would make it possible for such persons to exercise their basic human rights have been adopted. Article 26, part 1 of the Constitution of Ukraine states that "foreigners and stateless persons staying in Ukraine on legal grounds shall enjoy the same rights and freedoms and bear the same duties as citizens of Ukraine, except as restricted by the Constitution, laws, or international treaties of Ukraine". It is worth mentioning here that the Law of Ukraine on the Legal Status of Foreigners and Stateless Persons contains no special section on the rights and freedoms of foreigners and stateless persons⁵.

4 UN High Commissioner for Refugees (UNHCR), Handbook on Protection of Stateless Persons, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>

5 The Law of Ukraine "On the Legal Status of Foreigners and Stateless Persons of 4 February 1994 had the section "Basic rights, freedoms and duties of foreigners and stateless persons". The draft Law of Ukraine on the Legal Status of Foreigners and Stateless Persons, submitted by the Cabinet of Ministers of Ukraine in May 2011 to the Verkhovna Rada of Ukraine, included a section on the rights and freedoms of foreigners and stateless persons. However, the section was deleted during the preparation of the draft law for the second reading. Thus, the Law of Ukraine "On the Legal Status of Foreigners and Stateless Persons" of 22.09.11 that is currently in force does not contain it. See <http://zakon4.rada.gov>.

Hence, foreigners' rights and freedoms are currently not consolidated in one legislative act. Such persons' rights in Ukraine are restricted by subordinate regulations, which is in conflict with the Constitution of Ukraine, which states that all people are free and have equal rights. Although the mechanism to secure that those stateless persons, who were documented, have access to their rights and freedoms is still not provided by the law of Ukraine, those persons who were not documented at all are in an even worse situation. The question for the latter is not just about the access to the same rights and freedoms granted to Ukrainian citizens, but to the basic rights, including those which should be available according to the Constitution of Ukraine to all persons, regardless of their citizenship.

Special attention should be paid to the definition of the very notion of a "stateless person" in Article 1 of the Law of Ukraine on Citizenship of Ukraine and Article 1 of the Law on Legal Status of Foreigners and Stateless Persons. Their conformity with the term "stateless person" defined in Article 1(1) of the Convention relating to the Status of Stateless Persons⁶ is questionable. Why? The key element in the definition enshrined in the 1954 Convention is a component that was, unfortunately, missed out from the translation of the definition into Ukrainian and Russian. In particular, in the English version a stateless person is defined by the Convention as follows: "1. For the purpose of this Convention, the term "stateless person" means a person who is not considered as a national by any State under the operation of its law". However, the words "the operation of..." were not given proper attention in the translation into Ukrainian and Russian. The current Ukrainian text in both Laws referred to above is as follows: "1. For the purpose of this Convention, the term "stateless person" means a person who is not considered as a national by any State under its law".

As a consequence of such incorrect translation, some public authorities of the Contracting States use a specific categorization of stateless persons into those *de facto* and those *de jure*, opposing them to each other and thereby exposing the so-called *de facto* stateless persons to the threat of being excluded from the scope of the 1954 Convention. It is such an approach to interpretation of the Convention that made the modern doctrine abandon the use of the terms "*de facto* stateless person" and "*de jure* stateless person" at all. Instead, the doctrine suggests using the terms "stateless person" and "person at risk of statelessness" (The Concept of Stateless Persons under International Law. Summary Conclusions by the Expert meeting organized by the Office of the United Nations High Commissioner for Refugees, Prato, Italy, 27-28 May 2010). This is

ua/laws/show/3773-17

⁶ See http://zakon2.rada.gov.ua/laws/show/995_232

why the UNHCR-drafted Handbook describe the indirect responsibility for States to take measures to identify stateless persons, including among those at risk of stateless, in their territory and to accord them access to at least a minimum set of rights under the Convention.

Implementation of international law on stateless persons' status

Improper implementation of the Conventions in the national legislation negates positive consequences of Ukraine's accessions. There are still a number of problems on the legislative level, which lead to the impossibility of efficient exercise of rights by stateless persons. For example, the national legislation still does not reflect the 1954 Convention requirement to simplify naturalization proceedings for stateless persons. It also does not accord stateless persons, inter alia, the right to obtain identity papers under article 27 of the Convention. It should also be stressed that, under the definition of a "stateless person" and not only after recognition of their status by the Contracting States and issuance of the necessary documents. In practice, only documented stateless persons who reside lawfully in the country are granted even the basic rights.

Particular complications within the access of the stateless to realizations of general human rights

It results in an absolute "absence of rights" of unrecognized and undocumented stateless persons, a legal vacuum, as they don't even have access to the basic human rights enshrined by the Constitution of Ukraine. An ordinary undocumented stateless person is a person who does not exist: he/she will not be able even to rent a room at the cheapest hotel because they will simply not be able to register him/her (bribery is not considered); if such a person falls ill or suffers an injury, he/she may not count on qualified medical aid, moreover, if the person is lucky enough to have relatives or friends who can assist with money for treatment, it's hopeless to think about receiving the remittances through financial institutions as undocumented persons cannot carry out financial transactions. No official employment is possible; no formalization of relations is possible; it is not possible to apply to law-enforcement bodies for the protection of the person's infringed rights and freedoms, moreover such a person is at permanent risk of unfair and groundless detention by law-enforcement bodies for staying in the country's territory without documents, with a high probability of subsequent placement into detention centers for foreigners and stateless persons in preparation of removal (that may not be realized a priori). We should also mention the impossibility to

receive social benefits, disability benefits, or pensions, or the impossibility of registering newborn children of a stateless person, etc.

Contradictions between the national and international legislation on statelessness

In addition to the above-mentioned fact that the national legislation fails to reflect the stateless persons' rights provided for by the 1954 Convention, some regulatory legal acts substantially limit even the existing small scope of rights. Among such regulations, it is worth mentioning the Family Code of Ukraine that contains a discriminatory provision (Article 212)⁷ depriving stateless persons of the right to adopt children, and the Criminal Code that allows foreigners and stateless persons having committed crimes outside Ukraine and staying in its territory to be extradited to a foreign state for criminal prosecution and committal for trial (Article 10, part 2)⁸. The above-mentioned provision deprives the stateless persons permanently residing in Ukraine of the right to be protected from expulsion under article 31 of the 1954 Convention. The Code of Administrative Offences of Ukraine imposes administrative liability for living in the territory of Ukraine without a passport, with an invalid passport, or without registration of the place of residence or stay, thereby punishing such persons for the fact that they cannot obtain documents through no fault of their own, exposing them to possible abuse on the part of law-enforcement bodies, and making them victims of corruption. The legislation on foreigners and stateless persons⁹ provides for a procedure of administrative detention for persons who stay unlawfully in the country, which in turn creates risks for undocumented stateless persons, putting them at risk of detention for subsequent removal. Undocumented persons can include stateless persons and those at risk of statelessness who cannot obtain identity papers not through their negligence but because of: 1) legislative gaps that prevent such persons from obtaining documents; 2) lack of a statelessness status determination procedure, which also denies them the opportunity to be documented.

Access to rights of stateless under 1951 Refugee Convention: by-law implementation

By-laws include some requirements that complicate access to Ukrainian citizenship and sometimes make acquisition impossible. For example, when a person granted refugee status in Ukraine lodges an application for naturalization, the "Procedure for proceedings on applications and claims concerning citizenship

7 <http://zakon2.rada.gov.ua/laws/show/2947-14>

8 <http://zakon2.rada.gov.ua/laws/show/2341-14>

9 <http://zakon2.rada.gov.ua/laws/show/80731-10>

of Ukraine and for execution of decisions made¹⁰” requires the person to confirm continuous residence in the territory of Ukraine for 3 years, but does not indicate which bodies are responsible for issuance of such confirmations. Lack of a designated body responsible on this issue substantially slows down and complicates access to Ukrainian citizenship. If the refugee is stateless, the lengthy procedure will perpetuate his or her statelessness. Unfortunately, these examples are not isolated, and a considerable number of both laws and by-laws require immediate reform and effective implementation.

The lack of implementation of the facilitated naturalization provision of the 1951 Convention into Ukraine’s national legislation, adversely affects Ukraine’s compliance with the commitments under the 1954 Convention relating to the Status of Stateless Persons, and infringes upon stateless persons’ human rights. The national law provisions on the regulation of the legal status of stateless persons, given as examples above, indicate the need for a more thorough comparative analysis of the provisions of the 1954 Convention and Ukraine’s national legislation on human rights.

Practical problems within access to citizenship

In addition to existing gaps in the legislation in relation to the protection of stateless persons, there are also practical problems that cause statelessness in Ukraine.

When a person with an ex-USSR citizen passport lodges an application for admission to citizenship of Ukraine, he/she is often made obtain a national passport from the embassy of the state of previous residence even though, pursuant to article 1 of the Law of Ukraine on Immigration, the procedure to acquire Ukrainian citizenship must be conducted on the basis of the ex-USSR citizen passport. As to the persons with refugee status granted in Ukraine, when their application for admission to citizenship of Ukraine is examined, the legality of granting such status is often verified and sometimes challenged. Access to naturalization procedure by family members of Ukrainian citizens is also in practice constrained by extra-legal additional requirements of the authorities. When filing an application for admission to citizenship of Ukraine, a couple must prove the fact of cohabitation, which violates the provision of article 3 of the Family Code of Ukraine on free choice of the place of residence by the husband and wife. Another procedure not envisaged by the law, but widely used in practice is the examination by district police inspectors of social behavior of the applicants, who filed applications for admission to citizenship of Ukraine, at their place of

10 <http://zakon2.rada.gov.ua/laws/show/196/92>

residence. The persons who underwent such kind of examination emphasized that they were extremely humiliating. In particular, some police inspectors visited some applicants' neighbors and interviewed them about the behavior of the applicants in front of the applicant's families, including their children.

Another practical problem consists of frequent non-compliance with the deadlines of processing of the applications for admission to citizenship of Ukraine specified by the law¹¹. This, at a minimum, may perpetuate a person's statelessness and deprives him/her of any opportunity of enjoying full spectrum of his/her rights and freedoms in the specified period. Unfortunately, this list of problems is selective and non-exhaustive, considering the scope of this review.

¹¹ Presidential Decree No. 215/2001 "Issues concerning implementation of the Law of Ukraine "On Citizenship of Ukraine" of 05.06.2001. Available at <http://zakon4.rada.gov.ua/laws/show/215/2001>

III. Categories of stateless persons in Ukraine

III. 1 Persons who entered Ukraine with the 1974 standard ex-USSR citizen passports or with birth certificates, and persons born in the territory of Ukraine after 13 November 1991 who did not acquire effective citizenship

After the declaration of independence on 24 August 1991, the question on the legislative regulation of immigration processes became acute for Ukraine due to the desire of a large number of the former USSR citizens, identifying themselves as Ukrainians, but residing outside Ukraine, to receive access to Ukrainian citizenship. The situation was aggravated by the fact that Ukraine had no immigration laws of its own. To solve the issue, it was established that, until the adoption of relevant Ukrainian legislative acts, the USSR legislative acts on the matters not regulated by Ukrainian legislation would be applied in the territory of Ukraine provided that they were not in conflict with the Constitution and laws of Ukraine. In particular, the matters of entry and exit of foreigners into/from Ukraine and issuance of permanent permissions to stay and residence permits in Ukraine were regulated by the Rules of Stay of Foreign Nationals in the USSR ¹². Therewith, it is worth noting that the above-mentioned Rules applied to foreigners and stateless persons except for former USSR citizens, which made the procedure of obtaining the citizenship of Ukraine by former USSR citizens legally unregulated before the relevant Ukrainian legislation came into force.

The story of Svitlana



Svitlana was born in Uzbekistan in 1982. Her father was working in Ukraine at that time and at the age of 15 she finally came to Ukraine to visit him. She planned to go back home after a few months, but due to some circumstances the family found itself in financial straits, which made her stay in Ukraine. Having no other choice, she moved to Crimea where her grandmother lived. She was told in the Embassy of Uzbekistan that even though she was a citizen of that country by law, she would be able to receive a passport only at the place of her registration

¹² Available at <http://zakon4.rada.gov.ua/laws/show/v5152400-81>

directly in Uzbekistan, rather than through the Embassy in Ukraine. Clearly, she could not go to Uzbekistan to obtain the passport because crossing the border required the passport as well. Therefore, after turning 18, Svitlana was left with no documents at all. In 1999, she graduated from a Ukrainian school. However, she was not issued a certificate of general secondary education because she had no valid identity papers. Without a passport, she could neither obtain a permission to stay in the territory of Ukraine, nor exercise her right to acquire Ukrainian citizenship by territorial origin. Thus, a person who, pursuant to Ukrainian laws, had the right to acquire Ukrainian citizenship not only was deprived of the opportunity to exercise that right, but also found herself in an irregular situation. Later, in 2002, Svitlana met a man with whom she planned to start a family but unfortunately, they could not officially register their marriage – again because Svitlana had no documents. The couple lived in a common law marriage. After two years, in 2004, Svitlana gave birth to a baby. And again, Svitlana felt helpless in the face of the complex bureaucratic system: she was denied registration of her baby because of the absence of any identity papers.

At present, Svitlana is being helped by a nongovernmental organization, one of UNHCR's implementing partners in Ukraine, - Spryiannia (Assistance) Human Rights Foundation. With the aid of the organization's lawyers, some steps have already been taken to establish her identity, obtain a permit for the registration of her child, and establish maternity. Further measures are to be taken. These steps will bring her closer to receiving an identity document and let her live a normal and full-fledged life enjoying all her rights and freedoms.

To regulate immigration processes, Ukraine signed in the first years of its independence a number of agreements with such countries as the Republic of Belarus, the Russian Federation, Georgia, Kyrgyzstan, Tajikistan, and Kazakhstan. Pursuant to the Agreements, the parties mutually simplified their procedures of border crossing by citizens of the signatory states. In particular, citizens of the parties had the right to enter into, exit from, and transit the territory of the parties without visas, subject to having documents certifying their identity or confirming their citizenship, including the persons who did not acquire citizenship of other republics generally until 2002. Apart from regulating visa-free travel, the Agreements paid great attention to the matter of statelessness. For example, they simplified the procedure for acquiring, terminating and changing citizenship by citizens of the signatory states. Key principles of the Agreements included prevention of statelessness and of dual citizenship. Similar to the Agreements and based on the principle of reciprocity, there was visa-free border crossing with other post-Soviet countries as well.

Consequences of the above-mentioned Agreements, which offered a visa-free regime for crossing the borders of the states that had emerged after the USSR breakup, were generally positive, as many individuals of Ukrainian origin used the chance to return home after 1991 and many reunited with their families in Ukraine.

The story of the Muntian sisters



Aliona, Liudmyla and Tetiana, who were born in 1971, 1974 and 1987 respectively, came to Ukraine from the Moldovan Soviet Socialist Republic on the basis of their birth certificates in 1989. However, since the girls were living in the Ukrainian SSR territory during the breakup of the USSR with no registration, their birth certificates

still remain the only documents the women possess. Due to the complicated administrative procedures and lack of money, they have never obtained any other papers proving nationality thereby having actually become stateless. As time went by, and children were born to the sisters. When the children were young, there were almost no problems; they even received birth certificates though all the papers had a dash in the “mother” field. The situation got worse when the eldest of the children graduated from a secondary school – they realized the children could not obtain certificates of general secondary education because he they no passport. As a result, despite their high academic performance, they were not allowed to take part in school graduation exams and lost any chance of entering a higher educational institution. They became victims of their mothers’ legal situation and their only prospect was unofficial low-paid employment in their village as it is impossible to move to another town, let alone abroad, without identity papers. At present, the women and their children are cared for by lawyers of the All-Ukrainian Election Committee’s Odessa branch who help them unravel the tangle of problems, which arose due to their statelessness and the related lack of identity papers.

The story of Tamerlan



Tamerlan was born in Baku in 1965. He eagerly recalls his childhood: he was the only child in the family, his parents loved and respected him, and his school performance was excellent. However, due to the Karabakh conflict in 1994, after the dissolution of the Soviet Union, he had to leave Azerbaijan and came to Ukraine where he took up temporary residence in

Odessa on the basis of his Soviet passport. Shortly afterwards, the flat where Tamerlan lived was ransacked by unknown persons. Together with other valuable belongings, his documents disappeared, including his 1974 template Soviet passport, driving license and birth certificate, and were never found again. Tamerlan's attempts of having the documents renewed through the Embassy of Azerbaijan gave no result. Thus, Tamerlan became an invisible man while Ukraine turned from a refuge into a trap for him. Feeling helpless in this situation, Tamerlan repeatedly tried to cross the Ukrainian-Moldovan border but every time was stopped by border guards. Detaining him, they also took steps for his identification, but the Embassy of Azerbaijan saw no need to respond not only to Tamerlan's requests but also to the repeated requests between 1997 and 2004 by the State Border Guard Service of Ukraine. Later in 2004, Tamerlan met Tetiana . They fell in love and started living in a common law marriage, and gave birth to their baby, Maksym, in 2006. However, along with the joy of having a baby, the family was seized by quarrels and misunderstanding: Tamerlan's common law wife wanted him to work, provide for the family properly, and give their child all the things they needed... He tried his best – working the night shifts, doing heavy manual work – but that money was not enough. And he could not get employed officially because of his uncertain legal status. Despite the excellent relations between the father and the son, Maksym's birth certificate has a dash in the “father” field... In the long run, the atmosphere in Tamerlan's family became so tense that Tetiana left Tamerlan and married another man who, according to her, “will be able to secure a good future for the child”...

At present, Tamerlan's case is managed by lawyers of the Pravo na Zakhyst (Right to Protection) non-governmental organization, UNHCR's implementing partner in Ukraine. In 2013, Tamerlan finally received a long-awaited reply from the Embassy of Azerbaijan. However, the reply did not help solve his problems:

instead of a passport, the Embassy informed Tamerlan that he does not have that country's citizenship because the nationality law adopted after Tamerlan's forced departure did not include him in the initial body of Azerbaijan's citizens, as he had no real estate in Azerbaijan and no family members there. A procedure to regularize his stay in the territory of Ukraine is only beginning...

The story of Anastasia Suvorova



Anastasia (Nastia) was born in the Russian Federation in 1992. When she was 13, her parents moved to Ukraine and took her along. In Ukraine, the family took up residence in a small Crimean town. Nastia did not live with her parents for long, because caring for a minor child seemed not in their plans at all. Her grandmother, also living in Crimea, committed to raise

the girl, and soon Nastia moved to live with grandmother and lost any contact with the parents. In 2002, Anastasia graduated from a general secondary school in Yalta with a silver medal and was going to enter a state higher educational institution to study pedagogics. However, her plans were ruined when she was denied a certificate of general secondary education because she was 16 by the time of graduation and she could not obtain a passport which was required in order to obtain the certificate¹³. Since he had come to Ukraine with a Russian Federation birth certificate and having consulted her grandmother, Nastia approached the Russian Federation's Consulate in Ukraine, but was denied issuance of the Russian Federation national passport. To establish Anastasia's Russian citizenship, a request was sent to the competent authorities at her place of birth. Their reply was stunning: Anastasia was not recognized as a Russian Federation citizen despite the annex to her birth certificate stating her Russian citizenship. Another request brought no result. As a Consulate worker explained later, Nastia's situation was not uncommon – "... such cases are not rare owing to a complete disorder in archives", the worker said. However, it by no means solved Nastia's problem. Meanwhile, her grandmother died and Nastia moved to Kyiv. Fortunately, some support emerged for her through Kyrylo whom she's been dating for over three years. Kyrylo, a Ukrainian citizen, has intentions of starting a family with Nastia; they want to register their marriage officially and then get

13 Order № 811 of the ministry of Education and Science of Ukraine of 12 December 2003 available at <http://zakon4.rada.gov.ua/laws/show/z0201-04/page> The form for order of the certificates of general secondary provided in Annex 6 requires the student's passport data

married in a church. However, since Nastia has no passport, it is currently impossible: all civil registration offices refuse marriage registration to the couple. Nastia is quite distressed about that. Besides, she wants to study very much and does not stop cherishing the dream that she will be able to enter the department of pedagogics one day. As a matter of fact, she is currently a non-matriculated student at one of the Ukrainian universities, studying diligently, attending lectures, and being friends with other students there. One can by no means tell her apart from a usual student – if it weren't for her status... At present, Nastia's situation is addressed by lawyers of the Pravo na Zakhyst (Right to Protection) non-governmental organization, UNHCR's implementing partner in Ukraine. Time will show whether Nastia manages to overcome difficulties of the bureaucratic system and finally regularize her stay and obtain nationality and identity documents.

The story of Anna Valeriivna and Oleksii



Anna Valeriivna was born in Dushanbe in 1970. At the age of 21, she gave birth to her son, Oleksii. Although she had to bring her son up by herself, Anna Valeriivna thought her family was happy and planned a lot for the future. However, soon after Oleksii turned 2, a civil war began in Tajikistan. Concerned about her son's future, Anna started looking for a safe place

to wait out the difficult times. The family moved to Belarus where Anna and her son lived until 1997, and then to Ukraine where they took up residence in Crimea and lived on the basis of a temporary permission to stay in Ukraine. In the same year, an unexpected thing happened – Anna lost her 1974 template Soviet passport. She filed a complaint with the police immediately, but the document was never found. The young woman even attempted to renew the passport through the Consulate but the procedure stalled, perhaps due to the civil war in Tajikistan, still underway in 1997, and she never managed to renew the document. Besides, her son was growing up, and the single woman had to apply exceptional efforts to care for him – work unofficially, sometimes at several jobs, pay for housing, buy food... She did not return to Tajikistan, first of all because she had no documents and, secondly, because Ukraine became her home, her second Motherland where she found friends and where her son grew up. In 2012, when Oleksii already reached adulthood, Anna found out about the Spryiannia Human

Rights Foundation, UNHCR's implementing partner in Ukraine, and applied to the Foundation's lawyers for help. Now she receives free legal assistance in trying to establish ties with Tajikistan. Undergoing this stage is necessary to ascertain Anna's affiliation with that country and to build a further strategy in the process of regularizing her stay in Ukraine and acquiring a citizenship.

III. 2 Stateless persons who immigrated to Ukraine

After the dissolution of the USSR, its ex-nationals kept travelling around newly formed republics. The newly formed states tried to establish legislative frameworks to the issue of crossing of their borders and crossing of other states' borders by their citizens as soon as possible. For example, upon declaration of its independence, as mentioned previously, Ukraine entered into agreements with a number of post-Soviet republics. The agreements established a visa-free regime or a simplified procedure of border crossing by citizens of the Parties. Therewith, stateless persons, even those permanently residing in the signatory countries, were left unnoticed, i.e. they could enter other post-Soviet republics only with visas, which made their already difficult legal situation even worse. However, the problem consisted not only of the visa-free border crossing, but also of the legislation that determined the initial body of citizens of the newly formed republics. Besides, different states started issuing their passports at different times, hence the ex-USSR citizens could cross borders with the USSR citizen passports well until the state of their previous residence stopped recognizing such passports. Therefore, if the state of previous residence of the persons who have left for another state with their USSR passports adopted a new citizenship law during their absence, such persons often fell out of the initial body of citizens of the state and could not return on the basis of their USSR passports. There were also cases when such persons, entitled to citizenship of the states they had left, could not obtain new travel or identity documents at the embassies in the host countries as their ex-USSR passports became invalid. They could therefore not return to their countries of origin.

So, how many stateless persons have entered Ukraine during the period of transition after the dissolution of the USSR and how many of them have stayed in the territory of Ukraine for permanent residence? Available statistics of the State Border Guard Service and the State Migration Service of Ukraine provide us with that information. According to them, **235,000** stateless persons entered Ukraine over the period from 1995 to 2013. During 2006-2012, **135,642** stateless persons have entered Ukraine ¹⁴. Of them, **76,700** persons entered

¹⁴ www.ukrstat.gov.ua

for private business; **1,171** persons for study; **407** persons for employment; and **1,757** persons for permanent residence. The figure seems to be large but, if compared with the total number of persons having entered Ukraine during that period, it becomes clear that the statistics on stateless persons crossing the Ukrainian border are not high. Many stateless persons are currently refused entry. For example, according to the statistics provided by the Administration of the State Border Guard Service of Ukraine for seven months of 2013, officials at Zhuliany and Boryspil air communication crossing points refused entry to 749 persons overall, including 37 stateless persons and 17 Syrians among which there could also be stateless persons with Syrian refugee cards. As of October 2014 **6,561** stateless persons live in the territory of Ukraine with permanent residence permits or temporary residence permits.

It is worth emphasizing that the above-stated figures fail to reflect a real picture concerning the number of stateless persons in Ukraine because of a number of reasons – both practical, such as absence of automated systems at checkpoints on the state border of Ukraine in the first years of independence, and procedural ones, for example, during the above-mentioned period there was no census of the stateless persons leaving Ukraine. This figure is not precise also, because if the relevant bodies did hold the mentioned census, it was only for the persons recognized as stateless persons, whereas the stateless persons who were not documented as such, the persons with uncertain nationality and the persons at risk of statelessness were not taken into account. Besides, one should assume that a certain number of persons could cross the border outside the official checkpoints, which made including them in general statistics impossible.

A specific category of stateless persons who immigrated to Ukraine consists of stateless persons of Palestinian origin. Migrants of Palestinian origin enter the territory of Ukraine both from the Occupied Palestinian Territories and from the states issuing Palestinian refugee travel documents – Lebanon, Syria, and Egypt. The governmental bodies of the Palestinian Authority issue travel documents specifying Palestinian citizenship. Thus, the stateless persons of Palestinian origin can be categorized in the following groups:

1) Persons arriving from the Occupied Palestinian Territories;

2) Palestinian refugees, i.e. persons and their descendants whose normal place of residence was Palestine during the period between June 1946 and May 1948 or in June 1967, and who, after flight from war to other states, lost their right to return and live in the Occupied Palestinian Territories as a result of the 1948 Arab-Israeli conflict, according to the legislative restrictions imposed by the Israeli

government that gained control over those territories ¹⁵.

It should be noted that the question on the stateless persons of Palestinian origin is not entirely clear to some Ukrainian authorities responsible for maintaining statistics. For example, according to the State Border Guard Service of Ukraine, 12,000 “Palestinian citizens” have entered Ukraine during 1995-2013. It should be remembered that the so-called “Palestinian citizens” include a high percentage of stateless persons. Unfortunately, available statistics do not allow ascertaining an exact number of individuals who are stateless among the total number of “Palestinian citizens” mentioned above.

There are currently in Ukraine stateless persons who entered the country either with Palestinian refugee travel documents or with the Palestinian Authority passports. It should be pointed out that if they lodge an application for Ukrainian citizenship, they need to meet the requirement of continuous lawful residence in the territory of Ukraine during three years after their entry into Ukraine, as per Article 9(3) of the nationality legislation. In addition, they need to submit a declaration on absence of foreign citizenship under its Article 9(2).

III. 3 Formerly deported people and their descendants who returned to Ukraine

The reason for emergence of this category consisted of mass violations of fundamental human rights that occurred in the Soviet history. By now, the repressive acts against the peoples subjected to forced resettlement have been recognized as grave crimes and are publicly condemned. In practice, however, elimination of adverse consequences of the above-mentioned events is still going on today.

After Ukraine’s independence, the issue of citizenship of former deportees was not immediately solved. Until 1997, the Law on Citizenship of Ukraine contained no provision on citizenship of such persons, therefore deportees and their descendants who returned to Ukraine were considered foreigners or stateless persons. They could acquire Ukrainian citizenship only via the procedure of admission to citizenship of Ukraine that required meeting certain conditions. Not surprisingly, only a small number of deportees and their descendants used

¹⁵ <http://www.statelessness.eu/blog/protecting-stateless-palestinian-refugees-%E2%80%93-eu-court-justice-opens-new-chapter>
<http://www.fmreview.org/en/FMRpdfs/FMR26/FMR2603.pdf>
<http://www.economist.com/news/middle-east-and-africa/21566708-syrias-palestinian-refugees-are-being-both-thumped-and-cold-shouldered-stateless>
<http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=53859cda4&skip=0&query=stateless%20palest>

the procedure of admission to citizenship of Ukraine during that period: only **1** person in 1992; **31** in 1993; **22** in 1994; **38** in 1995; **241** in 1996¹⁶. In 1997, acquisition of Ukrainian citizenship by returnees and their descendants increased to **1,758** individuals having acquired Ukrainian citizenship. Since 2001, with adoption of the new Law of Ukraine on Citizenship of Ukraine, which established a simplified procedure for acquiring Ukrainian citizenship by territorial origin for persons of Ukrainian origin, the numbers of Ukrainian citizenship acquisition by this category of individuals has remained high: **14,028** in 2001; **1,308** in 2002; **687** in 2003; **2,031** in 2004; **3,300** in 2005; **1,108** in 2006; **1,868** in 2007; **1,514** in 2008; **926** in 2009.

Currently, the question on citizenship of deportees and their descendants is governed by Article 9 of the Law of Ukraine on Legal Succession of Ukraine¹⁷, under which all USSR citizens who permanently resided in the territory of Ukraine at the moment of the declaration of its independence became citizens of Ukraine. This provision also applies to this category of individuals¹⁸. Pursuant to this article and to Article 2(1) of the Law of Ukraine on Citizenship of Ukraine as reworded on 8 October 1991, **146,574** deportees and their family members acquired Ukrainian citizenship between 1991 and 2001.

From the above, we can assert that the question of citizenship of this category of persons is regulated by the current Ukrainian legislation perhaps in the best way compared to other categories of persons who are stateless or at risk of statelessness in Ukraine. Thus, after the new Law “On citizenship of Ukraine” adopted on 18 January 2001 established the simplified procedure for acquisition of the Ukrainian citizenship for individuals of Ukrainian origin, Ukrainian citizenship has been acquired by more than 106,000 representatives of formerly deported people who returned to Ukraine pursuant to Article 8. However, the naturalization procedure remains a rather complicated and lengthy process and it is impossible to ensure equal opportunities for the realization of social and economic rights for this category of persons during the process.

III. 4 Persons granted refugee status in Ukraine

There may be stateless persons among persons granted refugee status in Ukraine. Currently, the question on admitting to the citizenship of Ukraine persons granted refugee status is regulated by the Law of Ukraine on Citizenship of Ukraine as amended on 6.12.2012. In particular, for persons granted refugee status

¹⁶ Statistics provided by the State Migration Service of Ukraine

¹⁷ See <http://zakon4.rada.gov.ua/laws/show/1543-12>

¹⁸ See <http://zakon2.rada.gov.ua/laws/show/1223-18>

in Ukraine, Article 9(3) of this Law requires a three-year period of continuous residence. Besides, Article 7 of the amended law grants automatic citizenship of Ukraine to children who were born in the country to persons granted refugee status in Ukraine, irrespective of whether the child acquired the nationality of one of the parents or not. Prior to that, the legislation on refugees underwent several reforms, and numerous reforms were going on in the field of migration by means of dissolving, restructuring or establishment of new bodies with competence in migration matters. Documents confirming the refugee status were issued for different terms (at different times, the refugee status and the refugee card were granted for 3 months, 1 year, or 5 years). Permanent changes in the validity terms of refugee documents made the procedure of prolonging such documents more complicated for the refugees and resulted in growth of persons, staying in Ukraine with no legal basis and decrease of the number of refugees who have been naturalized in Ukraine in recent years. For comparison: **253** foreigners and stateless persons granted refugee status in Ukraine were admitted to citizenship of Ukraine in 2004 alone, whereas the figure for 2008-2012 was **270**. It confirms a negative trend in acquisition of Ukrainian citizenship by refugees.

In the opinion of Valentyna Subotenko, national expert on statelessness, enforcement of the citizenship legislation is another reason of statelessness. In particular, when an application lodged by a person granted refugee status in Ukraine is examined, legality of granting refugee status is verified, though such verification is not provided for by the “Procedure for proceedings on applications and claims concerning citizenship of Ukraine and for execution of decisions made”. This verification considerably complicates and slows down the procedure of admitting refugees to citizenship of Ukraine, thereby narrowing the range of rights and freedoms of the already vulnerable category of the Ukrainian population.

III. 5 Representatives of Roma community in Ukraine

The situation of the Roma minority is specific: an overwhelming majority of the Roma, even having lived all their life on the territory of Ukraine, have found themselves in circumstances where the fact of their citizenship is not properly documented, i.e. they are at risk of statelessness. It means that these people have a right to be citizens of Ukraine by law, but for various reasons could not or cannot receive documents to confirm their citizenship which results in their being unable to enjoy most rights and freedoms related to citizenship. Besides, such persons are deprived of access to registration of civil status (birth, marriage, etc.), which in turn puts their children at risk of statelessness, thereby putting

them in the continuous circle of endless powerless existence.

It is worth noting that considerable attention has been recently paid to the problem of statelessness among Roma. For example, a number of regulatory legal acts was adopted, aiming to address the problems of the Roma national minority¹⁹. They raise the question on integration of the Roma national minority in society, namely promoting receipt by the Roma of documents certifying their identity and confirming their citizenship, certificates of registration of civil status, birth certificates, and Ukrainian citizen passports. Along with obvious positive trends, namely the State being interested in addressing the Roma's problems, these problems have not yet been examined and addressed in full.

According to the All-Ukrainian Population Census 2001²⁰, **47,600** persons defined their affiliation to the Roma, and **40,000** did not specify their citizenship. The Census data allowed determination of the geographic location of the Roma population in Ukraine: most compactly, the Roma live in Zakarpatya oblast (**14,000** persons), Donetsk oblast (**4,100** persons), Dnipropetrovsk oblast (**4,000** persons), Odessa oblast (**4,000** persons), Kharkiv oblast (**2,300** persons), and Luhansk oblast (**2,200** persons). Sometimes Roma live in their settlements in an isolated way and, by virtue of their traditions, often solve their existing problems according to traditional community rules, usually avoiding any interference from, or even contact with, public authorities. As practice shows, such problems are most often related to the right to land or housing, whereas the statelessness problem receives much less attention. In this aspect, the initiative has been taken by non-governmental organizations that carry out awareness-raising activities among Roma community members concerning their rights and freedoms.

The story of Ruslan



Ruslan was born in 1974 in Odessa oblast. He is a member of the Roma national minority. Due to a difficult financial situation and because his mother had no identity document, Ruslan was born at home, not in a maternity hospital. Accordingly, Ruslan's mother did not get any medical document on her child's birth, and never tried to register

his birth later at all. His mother died in 1996, and he does not know his father.

19 See for example <http://zakon4.rada.gov.ua/laws/show/201/2013>

20 Results of the 2001 Census are available at <http://2001.ukrcensus.gov.ua>

Ruslan has never applied for any documents because he thought that this requires money that he did not have.

Later on, he formed his own family but the couple's relationship remains officially not registered because both Ruslan and his common law wife have no documents. Ruslan's child, just like once he himself, was born outside a maternity hospital, and the son's birth was also not registered. After their son was born, the family's need for money has almost doubled – the child needed proper feeding, clothes, and medicines. Ruslan found two more jobs but they are temporary. The impossibility of official employment puts him at risk of being deceived and getting no money for the work done at all, which has already happened twice. Lawyers of the Desyate Kvitnya organization learned about Ruslan's problems as a result of a survey held among the settlement's residents. Ruslan responded to the offer of help immediately, because he could not bear the powerless situation, especially as now he was afraid for his child as well. He did not want his son to suffer from all the hardship he has to undergo himself. At present, Ruslan receives legal aid from the organization's lawyers.

Within the framework of this study, a survey was held among non-governmental organizations, such as Narodna Dovira Cherkashchyny, the Romani Cherhen Zakarpatya oblast Roma youth association, Desyate Kvitnya, and Chirikli Roma women's foundation, which provide legal and social assistance to Roma in various regions of Ukraine. The survey addressed such questions as trends in approaches of Roma community members to legal aid, registration of newborns by their parents, problems faced by Roma, for example in obtaining a residence permit, etc. According to the above-mentioned organizations, between 45 and 90% of their clients apply to competent bodies for receiving Ukrainian citizen passports upon reaching of 16 years of age. Lawyers note that boys try to obtain passports only in case they want to get a driving license, at the age of 18. Girls receive passports in case they are going to give birth to a baby and get aid from the government. Unmarried girls do not receive passports until they are offered marriage. Almost all the organizations informed that in most cases Roma register their newborns in order to receive social benefits. Registration of older children is more difficult because in practice it may only be done via lawsuits. Besides, when trying to have their elder children registered, the clients encounter the problem of mothers having no document and the difficulty of obtaining a birth certificate for a baby who is already 3-6 months of age or more. The organizations are also aware of some cases of acquisition of Ukrainian citizenship pursuant to Article 3 of the Law of Ukraine on Citizenship of Ukraine, for example, cases of acquisition of citizenship on the basis of the USSR passport by citizens of the Republic of Belarus or the Russian Federation. Besides, one organization found 10 persons

with USSR passports who showed no desire to receive Ukrainian citizenship and passports.

The story of Ilona



Ilona was born in 1992 in a small Roma settlement in Odessa oblast. Unfortunately, neither she, nor the community knows her parents. She was raised by the Roma community she lived in. When she was 15 years old she did not apply for a Ukrainian citizen passport²¹. Later on Ilona also lost her only document – her birth certificate. Realizing the legal consequences of this loss, she girl applied for a renewed certificate but the authorities did not even accept her application arguing that she had no identity document. After a few more attempts, Ilona lost any hope of receiving the document. Meanwhile, she met a man with whom she wants to form a family.

Hryhorii is a citizen of Ukraine and wants to officially register his relationship with Ilona, but they cannot do that she has no identity document. Currently, she expects a baby. Ilona's problems came to the knowledge of the lawyers of Desyate Kvitnya organization, UNHCR's implementing partner in Ukraine, after a survey among residents of the settlement she lives in. Like most Roma, Ilona cannot prove having a citizenship; hence she is at risk of statelessness. Now, she is undergoing a procedure to establish her identity, and, if successful, she will be entitled to obtain a Ukrainian passport.

Among the problems faced by Roma when lodging citizenship applications, the surveyed organizations mention difficulties in the work with the Russian Federation Embassy and with the visa and registration department services. Among other, difficulties arise when applicants have no birth certificate and no proof of residence registration, and, strange as it may appear, the clients' lack of reading and writing skills. Answering the question about the problems encountered by the clients when undergoing the citizenship acquisition procedure, the organizations also mention disregard of both oral and written requests from the applicants by relevant services, unwillingness to provide explanations by phone, demanding documents absent from the list, lengthy judicial procedures, increase of the

21. Ilona is a citizen of Ukraine pursuant to Article 16, Law of Ukraine on Citizenship of Ukraine as reworded on 8 October 1991 and valid as of 1992: a child staying in the territory of Ukraine, both parents whereof are unknown, shall be a citizen of Ukraine.

official fee for issuance of some certificates, etc. In addition to administrative obstacles, the Roma's problem, in the opinion of the representatives of surveyed organizations, also lies in Roma's own negligent attitude to the matter of personal identity documents.

According to statistical data provided by the State Migration Service Department in Zakarpatya oblast, the total number of Roma living in the oblast is more than 23,000, of which 2,051 live with no residence registration. Of them, 795 adults and 832 children have no documents.



It should be pointed out that, despite the existence of numerous shortcomings in the current legislation, the practice of implementation can vary. The work of Siurte village mayor in Zakarpatya oblast is an excellent example of the way that stateless problems, in particular problems related to identity documents and civil registration, of some communities should be addressed.

The population of Siurte village, according to the most recent census, is 1,898 persons including 385 persons belonging to the Roma minority.

According to the mayor, he paid attention to the fact that Roma national minority members are excluded from the village's social life and are in a vulnerable situation compared to other villagers. In 1998, Ukraine had a regular election of the Parliament and local councils. When the election process began and constituencies in Siurte were arranged, it was decided to establish a separate constituency covering the streets where Roma national minority electors lived compactly. It was done for Roma national minority members to be able to have their own nominee represent the community's interests in the local council. Hence, Roma community members of Siurte have been represented in the local council since 1998, which allows them to uphold their interests and address the community's urgent problems.

According to Mr. Arpad, as of 1998, most of the village residents had received Ukrainian passports. However, Roma community members had no access to Ukrainian passports, because they had no residence registration. Roma lived in spontaneously built houses with no proper authorizations. Realizing the scale

of the problem, the village mayor first of all decided to undertake an inventory of the local Roma's houses and land plots. For that purpose, he established a working group including local council members. The working group undertook an inventory of the houses where Roma lived and held a census of the Roma in a very short time.

It was found as a result of the census that most Roma had no Ukrainian passports or other identity papers. In view of the situation, it was decided to take measures aimed at facilitating the Roma's access to passport issuance procedures. For that purpose, they invited a photographer to the village who photographed all the member of the Roma community and made their photos for Ukrainian passports in less than a week. Due to the assistance granted, 99% members of Roma national minority in Siurte received Ukrainian citizen passports in less than a year.

According to the village mayor, only one member of Roma community in the village has no Ukrainian passport now. However, this person moved to the village recently. He has only one document – a Soviet-standard birth certificate.

Arpad Ivanovych says he knows of a case of establishing citizenship of Ukraine through a court decision. For example, one woman, born in 1972, with three children, had to ascertain facts of their birth by judicial procedure, because the children had no birth certificates. Following that case, according to the village mayor, there were 5 more similar cases. As a result, all the cases on establishing Ukrainian citizenship succeeded.

Addressing the problem of establishing citizenship of Ukraine of the Roma national minority members in Siurte village is a good practice example on the local level.

III. 6 Homeless and stray persons

Lack of identity documents and statelessness can also be found among homeless and stray persons. Stray persons are adult individuals living in the streets, parks, basements, house entrance halls, attics, unfinished buildings, in other places not designed and not suitable for living, including residential premises in disrepair²².

The matter of connection between stray persons and the State are regulated by the Law of Ukraine on the Fundamentals of Social Protection of Homeless

22 Article 2 of the Law of Ukraine on the Fundamentals of Social Protection of Homeless Citizens and Stray Children, as reworded on 21 December 2010.

Citizens and Stray Children as amended on 21 December 2010²³. In particular, the Law states that registration of homeless persons at their place of residence or stay is carried out by relevant institutions for homeless persons – recording centers established by local governments or executive authorities. To obtain a passport, such persons should apply to recording centers for homeless persons, with a number of documents a listed in Article 1.2 of the Procedure of execution and issuance of a Ukrainian citizen passport²⁴: 1) application for a passport; 2) birth certificate; 3) two photos; 4) document on payment of a state fee; 5) certificate of registration of the person as a citizen of Ukraine or of acquisition of citizenship of Ukraine, and, if required, other documents specified in Article 5 of the Law of Ukraine on Nationality of Ukraine; 6) certificate of a homeless person registration issued by a relevant recording center for homeless persons. Reality shows, however, that such persons quite often don't have, and are not able to obtain, all the documents due to long-standing homelessness or absence of social ties. It should be noted that homeless persons can include persons with undetermined citizenship and stateless persons.

The story of Dmytro Shygun



Dima was born in 1985 in a reindeer herding village in the Republic of Sakha, the Russian Federation. He had no birth certificate. He was left alone without parents very early. When asked if he tried to obtain documents at the place of his residence, he replies: “I could speak only Sakha then. Yes, I heard that some people from the village had documents, but I

didn't know I also needed them. I lived a homeless child's adventurous life...”. He only started thinking about obtaining documents in 2002, when he seriously decided to study.

Realizing his vulnerable situation as a person having no identity papers, Dima started looking for people like him, namely Asians. He did that to feel somewhat protected and avoid ethnicity-based discrimination. For example, in 2002-2005 he travelled around the states that had emerged in the post-Soviet territory. Since Shygun crossed their borders illegally he was repeatedly detained for having no documents, but released every time because on paper he simply did not exist

²³ See <http://zakon1.rada.gov.ua/laws/show/2623-15>

²⁴ See <http://zakon1.rada.gov.ua/laws/show/z1089-12>

in this world. In 2007, he found himself in Ukraine for the first time. Then he went back to the Russian Federation without obstacles, then to Belarus. It is there that he was detained again and transferred to the migration service in Minsk. The Migration Service of the Republic of Belarus sent an official inquiry to relevant bodies of the Russian Federation as to Shygun's Russian citizenship. The reply did not confirm his Russian citizenship. During his second visit to Ukraine in 2011, Dima was detained by officers of the State Border Guard Service and sent to the temporary detention center for foreigners and stateless persons in Chernihiv oblast (TDC). There, he managed to obtain qualified legal aid for the first time from a lawyer of Pravo na Zakhyst²⁵, a non-governmental organization and UNHCR's implementing partner for refugees. Since UNHCR's mandate also covers stateless persons, Pravo na Zakhyst lawyers continued to deal with Shygun's case. First of all, they sent an inquiry to the Consulate of the Russian Federation about Dima's Russian citizenship. The Consulate's reply did not confirm his citizenship. After staying at the TDC for 1 year, Shygun received a temporary residence permit in Ukraine pursuant to Article 4(17) of the Law of Ukraine on the Legal Status of Foreigners and Stateless Persons which provides that foreigners and stateless persons, .

It is his first-ever document certifying his identity. The "citizenship" field of the document reads "SP", meaning a stateless person. Hence, the first steps in documenting Dima Shygun have been made. However, they are far from being the last ones, since a temporary residence permit is issued to this category of persons for one year only.

²⁵ Prior to 2014 - HIAS.

III. 7 Convicts and children born in places of confinement

This category is poorly studied. Among convicts there can be both stateless persons and those at risk of statelessness. Detainees' identity papers are taken from them upon entering the detention center and only given back upon release from detention²⁶. If, at the time of release, there is no passport in the convict's personal file, the penitentiary institution's administration must take timely measures to assist the person in obtaining a passport. In practice, however, the institutions pay no proper attention to citizenship issues. The lack of a mechanism for documentation of persons who, at the moment of their detention, had no passports or had ex-USSR citizen passports, complicates or even totally prevents their access to newly issued or renewed identity papers. This puts them at risk of statelessness, restricts rights and freedoms of convicts, and thereby violates articles 3 and 21 of the Constitution of Ukraine.

A specific category worth paying attention to is children born in places of confinement, who are at risk of statelessness due to certain contradictions in the laws governing the matters of their birth registration. For example, pursuant to Section III(1)(7) of the Rules of State Registration of Civil Status Acts in Ukraine²⁷, if a woman in a penitentiary institution or a pretrial detention center gives birth to a baby, registration of birth is effected at an official civil status registration body at the location of the institution, upon the mother's application. The registration is requested by an authorized representative of the institution's administration, who receives the birth certificate, and the document is kept in the woman's personal file. In such a case, the mother's passport is submitted for the purpose of birth registration only if there is one that is kept in her personal file. The mentioned provision is not compatible with Articles 17-22 of the "Procedure for proceedings on applications and claims concerning citizenship of Ukraine and for execution of decisions made" that prescribe a list of documents for acquisition of Ukrainian citizenship by birth and producing a passport is mandatory. Although the authorities of the places of confinement are responsible for registration of the newborn children with the city registries, practically, women kept in such places have no access to legalization of acquisition of Ukrainian citizenship by their children born during the mother's detention. Therefore, children of such women are at risk of statelessness despite the fact that they acquired citizenship of Ukraine by birth pursuant to Article 7 of the Law of Ukraine on Citizenship of Ukraine.

²⁶ Article 22. Regulations on the Ukrainian Citizen passport approved by the Resolution of the Verkhovna Rada of Ukraine of 26 June 1992 as amended. Available at <http://zakon2.rada.gov.ua/laws/show/2503-12>

²⁷ Available at <http://zakon4.rada.gov.ua/laws/show/z0719-00>

Foreigners and stateless persons covered by the Law of Ukraine on Social Adaptation of Persons Who Served their Term of Custodial Restraint or Determined Confinement of 17.03.11²⁸ are in a vulnerable legal situation. According to Article 12(2) of the Law of Ukraine on Immigration, an immigration permit can be cancelled if the immigrant has been convicted in Ukraine for more than one year of confinement and the sentence has become final. Hence, after such a decision has been made, the foreigner or stateless person will be deemed as having no legal ground to stay in the territory of Ukraine though serving their term of confinement in Ukraine.

According to Article 13(1) of the Law of Ukraine on Immigration, if an immigration permit is cancelled, the central executive authority implementing the state policy on immigration withdraws the permanent residence permit from the person concerned within one week. Article 13(2) establishes that the person whose immigration permit was cancelled must leave Ukraine within one month of the receipt of the decision. Article 13(3) envisages that, if the person has not left Ukraine within one month of the receipt of the decision, he/she is subject to be removed according to the procedure established by Ukrainian laws²⁹. Clearly, stateless persons, whose country of permanent residence is Ukraine, just have no country to turn to, which puts them at risk of being detained and placed in temporary detention centers for foreigners and stateless persons in order to prepare their removal, which will a priori be impossible.

Besides, access of these persons to Ukrainian citizenship is substantially delayed and restricted by Article 14 of the Law of Ukraine on Immigration, according to which a person can re-lodge an application for an immigration permit no earlier than a year after the decision on cancellation of such a permit was made.

Immigration permits are not granted to persons convicted of having committed a crime and sentenced to more than one year of confinement, except for persons who are married to Ukrainian citizens for more than two years, persons who are children or parents of Ukrainian citizens, or persons who have the right to acquire citizenship of Ukraine by territorial origin under Article 8 of the Law on Citizenship of Ukraine³⁰. Persons not belonging to the above-mentioned categories have no right to re-apply for an immigration permit until their conviction is cancelled or they are released. If such a person had an established private life or family life in Ukraine, then the impossibility of obtaining an immigration permit and the need to leave Ukraine can constitute a breach of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), according

28 Available at <http://2001.ukrcensus.gov.ua>

29 See <http://zakon2.rada.gov.ua/laws/show/z0806-12>

30 Available at <http://zakon2.rada.gov.ua/laws/show/2491-14>

to which everyone has the right to respect for his or her private and family life. Case law of the European Court of Human Rights includes some cases where the Court found a breach of Article 8 of the ECHR.

One example is the judgment in the case *Liu v. Russia* (No. 42086/05 of 06.12.2007)³¹. The applicants included Liu Jingcai, a Chinese national, his wife, a national of the Russian Federation, and their two children born in the territory of the Russian Federation. At the moment of marriage and birth of their first child, Liu stayed in the Russian Federation pursuant to a work permit. He then applied for a residence permit but was refused, which put Liu at threat of removal. While the refusal decision was under a judicial appeal procedure, Liu was living in the country without a proper permit, for which he had to pay administrative fines many times. Later, a decision to deport Liu from Russia was made by judicial means but was not implemented. The applicants complained about a breach of, inter alia, Article 8 of the ECHR that consisted of destruction of family ties in case of Liu's deportation from the Russian Federation. The Court found that relations between the applicants had constituted family life, and the refusal to issue Liu Jingcai a residence permit as well as the deportation order against him had been an interference with the applicants' right to respect for their family life. Besides, the Court awarded both applicants EUR 6,000 for non-pecuniary damage.

IV. The proposed ways of addressing the problem of statelessness in Ukraine

Over the years of Ukraine's independence, the problem of statelessness in its territory has acquired a serious scale and therefore requires an integrated approach to addressing it and coordinated actions from both governmental bodies and non-governmental organizations, the latter in many instances being the first institution that stateless persons apply to.

The first and necessary step of this integrated approach should consist of amending the current laws and subordinate regulations³² related to the matters of citizenship and statelessness. In addition, some regulatory acts in related fields that regulate or must regulate certain rights of stateless persons on an equal footing with Ukrainian citizens or with other foreigners, may require amendments. Another obvious need is to bring the Law of Ukraine on the Legal Status of Foreigners and Stateless Persons into conformity with the requirements of the 1954 Statelessness Convention, as interpreted by UNHCR in its Handbook on Protection of Stateless Persons. However, despite doubtless importance of

³¹ See the full text of the judgment at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83824>

³² To be described in detail further

legislative amendments, they will not be able to change the general situation without the development of relevant strategies that would combine both practical and legislative approaches.

Considering the fact that the real scale of statelessness in Ukraine is currently unknown, while the statistics provided by the State Border Guard Service and the State Migration Service of Ukraine give clearly an incomplete idea of the scope of statelessness, there is a need to determine the extent of the problem more precisely. This could take place through a study, first of all on the regional level, in such oblasts as Odessa oblast, where preliminary data show a great number of persons with Soviet-era passports, and Zakarpatya oblast, where Ukraine's largest group of the Roma lives, among them possibly stateless persons and persons at risk of statelessness. The study could provide for dissemination of questionnaires with the mediation of the State Migration Service bodies on the ground and of non-governmental organizations that provide legal aid to stateless persons, asylum-seekers, refugees and persons in need of complementary protection. Based on the results of such a survey, one will be able to make a conclusion on the profile of stateless persons, on their age and gender, typical causes of statelessness, problems they faced trying to obtain documents, levels of awareness on their legal status, and an estimate of the number of such persons in that particular oblast. Depending on the efficiency of the regional study, it will be possible to plan a larger-scale campaign that would cover all oblasts of Ukraine and also enable determining the geographical location of stateless persons and persons at risk of stateless in combination with breakdown by category.

More specific goals can also be set for the campaign, such as determination of the numbers of persons having only the ex-USSR passports, persons who lost their ex-USSR passports, those who entered Ukraine prior to their majority based on a birth certificate and who have no identity papers, and children living in children's homes at penal institutions whose birth has not been registered.

In the Ukrainian reality, the most efficient lobby would be to combine the efforts of the UNHCR office in Ukraine and a number of non-governmental organizations that render legal aid to stateless persons, asylum-seekers, refugees and persons in need of complementary protection in Ukraine.

Amendments are recommended for the following laws:

The Law of Ukraine on the Legal Status of Foreigners and Stateless Persons.

First of all, the current wording of this Law does not provide a minimum package of rights to stateless persons, contrary to requirements of the 1954

Convention. The 1954 Convention requires that States provide its beneficiaries with treatment along the following scale: treatment which is to be afforded to stateless persons irrespective of the treatment afforded to citizens or other aliens; the same treatment as nationals; treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances; and the same treatment accorded to aliens generally. States have discretion to facilitate greater parity between the status of stateless persons and that of nationals and indeed may also have an obligation to do so under international human rights treaties³³. Hence, the Law on the Legal Status of Foreigners and Stateless Persons should be supplemented with a special section “Rights, freedoms and duties of foreigners and stateless persons”, which is currently absent. Besides, a provision on non-discrimination on the basis of their statelessness status should be enshrined in the law.

Also, the Law should incorporate a definition of a stateless person that is in line with the definition found in article 1 of the 1954 Convention.

In addition, in order to introduce a procedure for the determination of statelessness status, the Law should envisage a provision on authorizing the Cabinet of Ministers of Ukraine to establish such a procedure. Introduction of such a procedure by a subordinate regulatory legal act would provide an opportunity to make amendments in a more prompt manner, as required, taking into account the practice of the application of the procedure.

The Law of Ukraine on Citizenship of Ukraine. This law should include a definition of a stateless person that is in line with Article 1 of the 1954 Convention. It should also be amended to regulate and facilitate the acquisition of citizenship of Ukraine by persons who 1) entered Ukraine on Soviet passports between 13 November 1991 and 1 January 2002³⁴, or 2) entered Ukraine on a birth certificate before the age of majority, whether with one or both parents or separately from their parents, during the period from 13 November 1991 through 1 September 2002.

Another category of persons consists of adult great-grandchildren of individuals of Ukrainian origin. At present, only children and grand-children of persons of Ukrainian origin can acquire citizenship by territorial origin based on Article 8(1) of the Law. Hence, it would be reasonable to extend the scope of Article 8(1) of the Law to adult great-grandchildren of persons who were born or permanently resided before August 24, 1991, on the territory that became the territory of

33 UN High Commissioner for Refugees (UNHCR), Handbook on Protection of Stateless Persons, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>, paragraphs 130 and 131

34 The date until which entry was allowed with ex-USSR citizen passport.

Ukraine.

In addition, it is reasonable to reduce the requirement under Article 9(3) of permanent lawful residence in the territory of Ukraine as a condition for acquisition of citizenship of Ukraine by stateless persons, regardless of whether they entered Ukraine as stateless persons or their citizenship was terminated after their entry into Ukraine.

Similarly to persons granted refugee status in Ukraine under Article 9(6), it is reasonable to cancel the requirement for stateless persons to meet the condition of availability of lawful means of subsistence, abolish the requirement that obtaining an immigration permit be a prerequisite for their access to naturalization and to provide them with a right to naturalization following a shorter period of residence in Ukraine.

The legislation in force needs to be amended to provide adequate procedural guarantees for those stripped of Ukrainian citizenship and regulate the legal status of individuals who are challenging such decisions in courts.

The provisions on restoration of Ukrainian citizenship make the restoration impossible for persons concerning whom the decisions on acquisition of citizenship under Articles 8 (by territorial origin) and 10 (through restoration) were cancelled, which may entail a permanent statelessness situation. Therefore, a possibility of restoring Ukrainian citizenship for such persons should be envisaged. Besides, it is necessary to provide for a possibility of restoring Ukrainian citizenship for persons who lost Ukrainian citizenship because of its acquisition through a fraud, deliberate submission of untrue information or false documents.

As to restoration of Ukrainian citizenship for children, it is reasonable to introduce a simplified procedure for restoration of Ukrainian citizenship for children whose Ukrainian citizenship was terminated, without conditioning such restoration on submission of an obligation to renounce foreign citizenship.

Considering that the Law does not authorize the State Migration Service of Ukraine to verify Ukrainian citizenship of persons residing in the territory of Ukraine, this complicates the situation with verification of Ukrainian citizenship of persons with uncertain citizenship, for example persons belonging to the Roma national minority. To fill this gap, such competence should be granted to the State Migration Service and should be enshrined in the Law or the relevant by-laws.

Last but not least, the Law of Ukraine on Citizenship of Ukraine does not include

a full safeguard against statelessness for children born in the country who are otherwise stateless. Article 7 of the Law grants automatic citizenship to children born in the country to stateless parents who lawfully reside in the country. It does not however provide a safeguard for those children born to stateless parents who do not reside lawfully in the country or to children who cannot acquire the nationality of their parents. It is recommended, the Law should be amended to grant automatic citizenship to all children born in the country who would otherwise be stateless, in line with Article 1(1)(a) of the 1961 Convention.

The Law of Ukraine on Immigration. In order to address the predicament of former Soviet citizens who entered Ukraine for residence based on a birth certificate together with their parents, before they reached the age of majority, it is necessary recognize them as having a permit for immigration to Ukraine, which would allow regulating their legal status as well as securing them access to acquisition of citizenship of Ukraine.

Same treatment should be accorded to individuals who have arrived to Ukraine on the basis of USSR passports and are not recognized as citizens by other states-successors of the USSR, regardless of the time of their arrival to Ukraine and residence status.

This Law does not distinguish the notions of immigration and repatriation; hence persons of Ukrainian origin are regarded as immigrants rather than repatriates, which complicates their access to acquisition of Ukrainian citizenship. To fill this gap, the persons entitled to acquire Ukrainian citizenship by territorial origin as well as their spouses and minor children (in order to adhere to the family unity principle) arriving in Ukraine after 7 August 2001 should be recognized as having a permit for immigration to Ukraine immediately upon their entry into the territory of Ukraine. Since the provisions of the Law of Ukraine on Immigration concerning the grounds to deny issuance of an immigration permit are not concerted with the provisions of the Law of Ukraine on Citizenship of Ukraine concerning the grounds that make admission of a person to citizenship of Ukraine impossible, it is necessary to conciliate these provisions with each other.

The Law of Ukraine on the Legal Status of Foreigners and Stateless Persons uses the notions of forced return and forced removal, however, the Law of Ukraine on Immigration does not take this into consideration, which by no means promotes proper protection of the foreigners and stateless persons having an immigration permit from deportation. Therefore, the provisions of both Laws concerning forced return and forced removal should be conciliated with each other.

The Law of Ukraine on Refugees and Persons in Need of Complementary

or Temporary Protection. The Law on Refugees and Persons in Need of Complementary or Temporary Protection does not recognize the persons granted refugee status in Ukraine before the entry into force of the Law as permanently residing in Ukraine. To overcome this gap, it is necessary to amend the Law to recognize such refugees as already permanently residing in Ukraine at the moment the Law took effect.

The Law of Ukraine on Registration of Civil Status Acts. Since every child must be registered upon birth, the Law must provide for a possibility of registering a child's birth even if his/her parents are irregular migrants or if the parents have no identity documents. Currently, the Law does not provide for the right to registration of civil status acts for foreigners and stateless persons under the jurisdiction of Ukraine. Besides, the Law does not regulate birth registration of children whose parents have no passports.

According to the law, only a Ukrainian passport or a passport document is valid for registration of civil status acts. Other identity documents issued in Ukraine are not listed as documents giving the right to registration of civil status acts (e.g. a certificate on application for protection in Ukraine cannot be used to register such acts). To secure access of asylum-seekers and other migrant categories to registration of civil status acts, it is necessary to extend the list of the documents based on which civil status acts are registered on basis of the documents issued by Ukraine to foreigners and stateless persons and certifying their identity, certificates on application for protection in Ukraine, and certificates stating that a person's identity has been established, but citizenship of any state has not).

There is some collision in the Ukrainian legislation: a person may not obtain a passport without a birth certificate, but upon attainment of 16 years of age may not obtain a birth certificate without a passport³⁵. To settle this issue, provisions of the Law concerning state birth registration of persons having attained 16 years of age must be conciliated with provisions of the Ukrainian legislation that regulates the procedure of issuance of Ukrainian citizen passport and other identity documents³⁶.

The Law of Ukraine on the Uniform State Demographic Register and on the Documents Confirming the Citizenship of Ukraine, Certifying Identity, or Confirming the Person's Special Status. First and foremost, in this Law the matters on execution and issuance of a Ukrainian citizen passport should be regulated taking into account the provisions of the Law of Ukraine on Citizenship of Ukraine.

³⁵ See <http://zakon2.rada.gov.ua/laws/show/z0719-00>

³⁶ See <http://zakon4.rada.gov.ua/laws/show/z1089-12>

The Family Code of Ukraine. It is necessary to establish the stateless persons' right to be adopters, guardians or tutors, foster parents, or caregiving parents by means of making appropriate amendments to the Family Code of Ukraine, and to eliminate the provisions according to which adopted children may only maintain citizenship of Ukraine until attainment of majority.

The Criminal Code of Ukraine. It is reasonable to renew the provision of Article 10 concerning the prohibition on extradition of the stateless persons permanently residing in Ukraine.

Amendments are recommended for the following subordinate regulatory legal acts:

The Procedure for proceedings on applications and claims concerning citizenship of Ukraine and for execution of decisions made. The current version of the Procedure fails to regulate the access to the procedure of legalization of Ukrainian citizenship for the children born in places of confinement. In this view, it is necessary to make appropriate amendments aimed at promoting the documentation as citizens by such children.

It is also reasonable to eliminate the provisions establishing the requirements on a minimum amount of a legal livelihood as a condition for admitting to citizenship of Ukraine. These provisions considerably complicate access of foreigners and stateless persons to the procedure of admission to citizenship of Ukraine or even make the access impossible. Besides, it is worth deleting the provisions laying on foreigners and stateless persons the burden to prove the absence of circumstances that make their admission to citizenship of Ukraine impossible.

The Rules of State Registration of Civil Status Acts in Ukraine. In pursuance of the provisions to be amended in the Law of Ukraine on Registration of Civil Status Acts, it will be necessary to regulate the procedure of birth registration of a child whose mother is not married and has no passport, of a child whose parents have no passport documents or legitimate grounds to stay in the territory of Ukraine, of children who have attained 16 years of age and the procedure of establishing the fact of a person's birth.

The Procedure for execution, production and issuance of a permanent residence permit and a temporary residence permit. The procedure should incorporate provisions for issuance of residence permits to stateless individuals who are not able to get documented by another country, including former USSR citizens who lost their ex-USSR citizen passports. It should also provide for an effective opportunity for issuance of residence permits to foreigners and stateless

persons without residence registration, as required by EU Visa Liberalization Action Plan for Ukraine³⁷.

The Procedure for execution and issuance of a Ukrainian citizen passport. In this Procedure, it is necessary to make the following amendments: 1) regulate the possibility to issue a Ukrainian citizen passport without a birth certificate if such a certificate is absent but when identity has been established; 2) provide for a possibility to exchange a USSR citizen passport for a Ukrainian citizen passport; 3) delete the provision on withdrawal of Ukrainian citizen passports from convicts.

After the legislative reform, it would be reasonable to carry out an information campaign with outreach activities on the amendments both for all groups of stateless persons and persons at risk of statelessness and for migration service staff on the ground. To maintain a high level of awareness on the provisions of the legislation on statelessness, it would be worth organizing systematic training and methodological workshops on implementation of the Ukrainian legislation relevant to address statelessness. In providing such workshops and trainings, it is reasonable to rely upon the non-governmental sector.

V. Conclusions

The analysis of the situation of stateless persons and persons at risk of statelessness in Ukraine showed that the real scale of this problem is known neither to governmental bodies nor to members of non-governmental organizations who are often the only ones providing legal aid to them. As a first step towards solving the problem of statelessness, it would be recommended to determine its scale and, at the same time, categorize the stateless persons and persons at risk of statelessness residing in the territory of Ukraine and determine their location. An efficient approach could consist of a campaign involving experts from the State Migration Service and the State Border Guard Service of Ukraine, sociologists, lawyers and social workers of human rights organizations who will work with the above-mentioned categories on the ground, carrying out necessary interviews and surveys.

At the same time, it is necessary to initiate, as soon as possible, both adoption of a number of new regulations and amendments to existing ones in order to harmonize the existing legislation with international standards and to properly implement the UN Statelessness Conventions that Ukraine acceded to in early 2013. A responsibility consists of adopting a procedure for the determination

³⁷ The text if available at <http://novisa.com.ua/upload/file/EU-Ukraine-Action-Plan.pdf>

of statelessness that would allow stateless persons to confirm their status, to regularize their stay with documents and to obtain access to the rights and freedoms guaranteed by Ukraine's laws and international treaties.

A mandatory stage in overcoming the problem of statelessness in Ukraine consists of information workshops and trainings both for the staff of the bodies directly working with stateless persons and for stateless persons themselves to overcome a legal limbo among these groups in Ukraine and to explain the procedures of access to Ukrainian citizenship.. A key role in this process should be assigned to non-governmental organizations that have invaluable experience of work with the above-mentioned population categories. A specific task should include establishing cooperation between the non-governmental sector and the public authorities to identify common goals and divide strategy implementation roles. It is the level of understanding between UNHCR, non-governmental and governmental sectors that will greatly determine success of the entire campaign.