

"INVISIBLE" STATELESSNESS IN UKRAINE

THE EXPERIENCE OF IDENTIFICATION AND OVERCOMING



OVERCOMING
STATELESSNESS

“INVISIBLE” STATELESSNESS IN UKRAINE: THE EXPERIENCE OF IDENTIFICATION AND OVERCOMING. Brynosh Igor, Odessa regional organization of All-Ukrainian NGO “Committee of Voters of Ukraine”. — Odessa, 2015. — 132 p.

The edition contains description of experience in implementation of the initiative aimed at reduction of statelessness in the pilot regions of Ukraine during 2014-2015. Here one may find both theoretical issues — general review of the statelessness problems in the world and in Ukraine, problems of the national maintenance in the sphere of statelessness — and a large scope of practical matters. In particular, presentation of the approach and activity scheme as a part of the initiative; methodology and results of identification of statelessness problem in the pilot regions; selected stories-cases of the detected undocumented stateless persons (persons with undefined citizenship); prospects of strategic protection in the area of statelessness. The publication is finalized with recommendations for overcoming statelessness in Ukraine, prepared on the grounding of the initiative’s results.

The book is written for representatives of the executive and representative authorities of different levels, lawyers, experts, scientists, teachers, employees of the international organizations.

For wider use of the publication in international organizations and foreign countries, complete translation of the text into English is also provided.

Edited by Igor Brynosh.

The edition is prepared as a part of the project aimed at reduction of statelessness, caused by the collapse of the Soviet Union, implemented by the Odessa Regional Organization of the All-Ukrainian Non-Governmental Organization “Committee of Voters of Ukraine” and the All-Ukrainian Community Partnership “Initiative for Overcoming Statelessness in Ukraine”, funded by the European Union. The contents of publication do not manifest the official position of the European Union.



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INTRODUCTION

More than twenty years have passed since the collapse of the Soviet Union and the emergence of armed conflicts in the post-Soviet territory and the consequences of these events reflect upon the rights of people to the present times. During 2014-2015 the Odessa Regional Organization of the All-Ukrainian Non-Governmental Organization “Committee of Voters of Ukraine” and the All-Ukrainian Community Partnership “Initiative for Overcoming Statelessness in Ukraine”, funded by the European Union, identified on the example of the certain pilot regions the significant statelessness problems, caused by the collapse of the USSR.

Sometimes hundreds of people, even several generations live in Ukraine without due documents and a determined (registered) legal status. After the collapse of the USSR they moved to Ukraine due to different reasons (armed conflicts, labour migration etc.). Part of them has the passport of the former Soviet Union invalid in Ukraine or only Soviet birth certificates, others have documents of the unrecognized states, such as the Pridnestrovian Moldavian Republic, some have no documents at all.

It is typical that such people are never listed in the official statistics and remain absolutely invisible for the state. An undefined status and unavailability of documents makes these people “legal phantoms” deprived of any rights. In most cases they live on the verge of starvation, but, despite everything, they associate their own future and future of their children only with Ukraine.

The aim of this publication is to describe and to draw attention to the identified statelessness problems in Ukraine, and also prompting the state authorities of Ukraine to their non-discriminatory solving. The described experience should become grounding, a reason and a launch pad for further activity of all interested parties in the sphere of overcoming the statelessness in Ukraine.

GENERAL SUMMARY OF THE STATELESSNESS ISSUES

Notwithstanding the system of the international obligations, the efforts of the state and nongovernmental structures, the problem of statelessness (apatrism) is still unresolved and the number of the stateless persons increases¹. According to the UNHCR appraisal today there are **over 12 million stateless persons worldwide**.

However, this number is just an approximate appraisal as receiving of the comprehensive information of the number of the stateless persons is considerably limited. The official authorities often discrete the information of the stateless persons reluctantly or have no such data at all (just a few countries have the efficient procedures of the stateless persons' registration).

The problem of the great number of the stateless persons is complicated with the complexity of identification of stateless persons and the cases of the statelessness itself. Moreover, there is a large group of **the undocumented persons or the persons with the undefined nationality** which are in absolute "shadow".

In 2014 there was celebrated the 60th anniversary of the 1954 Convention relating to the Status of Stateless Persons that is jointly with the 1961 Convention on the Reduction of Statelessness makes the international legal ground for the statelessness liquidation. In the same year the Office of the United Nations High Commissioner for Refugees adopted **the Global 2014-2024 Action Plan to End Statelessness**. According to this plan there were determined 10 principal actions to be fulfilled by the states with support of the UNHCR and the other interested parties.

Furthermore, the UNHCR launched the world campaign **"#1BELONG"**, aimed to the statelessness liquidation within the following 10 years².

1 The Office of the United Nations High Commissioner for Refugees provides such definition for the stateless persons. A stateless person means a person who is not considered as a national (stateless de jure); a person not exercising the principal rights exercised by the other nationals of his/her native country (stateless de facto).

2 The additional multimedia materials (video and report in English) are at the address: unhcr.org/stateless2014

Global Action Plan to End Statelessness: 2014 – 2024, UNHCR,
<http://www.unhcr.org/ibelong/global-action-plan-2014-2024>

Global 2014-24 Action Plan to End Statelessness



#IBELONG

Join us in our campaign to end statelessness



UNHCR
The UN Refugee Agency



**10 MILLION PEOPLE IN THE WORLD
HAVE NO NATIONALITY**

Without a nationality, people can remain
invisible from cradle to grave.

UN High Commissioner for Refugees António Guterres:

“Statelessness constrains the people to feel like their existence is a crime. We have a historical chance to liquidate the scourge of the statelessness within 10 years and to return the hope to the millions. We are not entitled to waste such a chance”.

Director of the international organization “European network on Statelessness” Chris Nash:

“For too long Europe has allowed stateless individuals to exist as “legal ghosts”, exposed to human rights abuses and with no recourse to justice. Now is the time to resolve this issue once and for all”. Over 50 citizen organizations invoke Europe to ensure justice and respect to the dignity of the over 600 000 stateless persons living in Europe today — they are the vulnerable target for the rude and almost daily violation of the human rights from privation and to imprisonment in the migration prisons².

Within its campaign on defense of the stateless individuals in Europe, the European Network on Statelessness (ENS) gathered the evidences of the stateless migrants in the 11 countries all over the continent. Whereas this is a small part of the general statelessness view among the population of Europe, these voices unheard for too long powerfully say of the stateless people living in Europe³.

Statelessness appears in the various contexts. A serious reason for statelessness is the ethnic and gender discrimination in the legislation, policy or law-enforcement activity in the sphere of nationality. It can appear in the mass deprivation of nationality of a particular ethnic group or limitation of the women’s right to transfer the nationality to their children.

Besides, statelessness can appear through gaps or deficiency of some guarantees related to avoidance of statelessness in the legislation or some approved political course in the sphere of nationality, at birth or any following life stages or as a result of conflict of laws on nationality of two or few countries.

Specifically availability of a number of such conflicts and gaps in the laws of nationality of the different countries entails the frequent causes of the individual statelessness. More difficult is the situation with the group statelessness when discriminative laws of some countries releases the whole ethnic, race or religious groups from the right for nationality.

1 [http://unhcr.ru/index.php?id=10&tx_ttnews\[tt_news\]=456&cHash=1e3716229508e0a19408a96258c95a5e](http://unhcr.ru/index.php?id=10&tx_ttnews[tt_news]=456&cHash=1e3716229508e0a19408a96258c95a5e)

2 <http://www.reuters.com/article/us-foundation-europe-stateless-idUSKCN0I30IQ20141014>

3 The report can be changed on the ENS site <http://www.statelessness.eu/resources/ens-reports>

The administrative encumbrances, while receiving the identification documents or the documents of nationality, appearing in the migration context also increase the number of the individuals engaging into the statelessness issue.

A lot of those who has no nationality are the victims of the involuntary resettlement. Individuals constrained to leave their houses are the most vulnerable and inclined to the status of statelessness especially if their resettlement has been accompanied by the border crossing. And vice versa, the individuals that have no nationality or have been deprived of it, often have been constrained the leave their usual place of residence.

Large-scale cases of statelessness often arise as a result of a succession of states. For example, according to the UNHCR data, after more than two decades since the collapse of the Soviet Union, more than 600,000 people are still stateless⁴.

Despite the fact that most of these people had direct relevance to the countries — legal successors through birth or permanent residence in their territory, some of them were not able to confirm or obtain citizenship of any state. One of the main reasons for this situation were gaps in the legislation on citizenship and the law enforcement practice, which were adopted in the new independent republics.

For example, in Latvia after its declaration of independence in 1991, the right to nationality was granted only to the persons who were citizens of Latvia as of June 17, 1940 and their descendants. Thus, about 30% of the population was left without nationality⁵. Further, the legislation was changed, but not significantly.

After the national laws regulating the sphere of nationality were adopted, many citizens of the former Soviet Union appeared outside the legal field:

- a person that has not appealed in time to the public authorities with the application for nationality or for permanent or temporary residence in the country (in most cases, we are talking about the procedure of replacement of the Soviet passports into the national ones);
- a person has no legal grounds to obtain nationality of the state in connection with the peculiarities of the legislation adopted (for example, there was no registration in the republic).

Thus, to any extent, over the last 20 years, the problem of statelessness is particularly relevant for the majority of post-Soviet states. In Ukraine the problem of statelessness is pressing too.

There is no accurate information on the quantitative data on statelessness problem in Ukraine yet. According to the 2001 population census, more than 82 thousand individuals lived in Ukraine, considered themselves to be stateless. According to the State Migration Service of Ukraine, as of June 30, 2013 about 6.5 thousand

4 Eradication of statelessness in the future 10 years. Special report. UNHCR, 2014

5 Statelessness and the Benefits of Citizenships: a Comparative Study. Edited by Blitz Brad K., Lynch Maureen. Geneva, 2009

individuals without nationality have permanent or temporary residence permit in Ukraine.

At the same time, UNHCR believes that by mid-2014 in Ukraine there were more than 35 thousand individuals without nationality or individuals with undetermined nationality. These significant differences in numbers can be explained by the fact that a great number of stateless persons in Ukraine has never had any document certifying their identity and confirming statelessness.

Reduction of the number of stateless persons from 2001 to 2013, primarily is most likely connected with the governmental integration program, implemented since 2002, that promoted the return of the formerly deported Crimean Tatars to Ukraine. Secondly — the new law on nationality of Ukraine adopted in 2001, that established more favorable procedure for obtaining nationality for the most categories of individuals without nationality, than provided by the previous law⁶.

Furthermore, a noteworthy detail is that in 1997-2000, due to the assistance of UNHCR there were realized the measures of the legislative, organizational, information and explanatory character with the purpose to resolve the problem of statelessness for the deportees and their descendants in Ukraine. As a result of this campaign, about 106,000 Crimean Tatars obtained Ukrainian nationality. A positive result of the campaign for Ukraine can hardly be overestimated. To confirm the correctness of the strategy chosen there were the events of March 2014, when, during the annexation of the Crimea from the side of the Russian Federation the Crimean Tatars acted in defense of single and united Ukraine.

Specificity of the statelessness problems in Ukraine is also determined by the influence of several waves of the mass external migration.

The first asylum seekers appeared in Ukraine even before independence in 1991. The refugees from the Azerbaijan and Armenian SSR arrived to Ukraine during the so-called "Karabakh" conflict in 1988-1989. The second wave of the refugees were Meskhetian Turks who arrived to Ukraine after the bloody massacre in the Uzbek SSR in summer 1989. The largest number of the refugees arrived to the independent Ukraine in 1992 as a result of the armed conflict in Pridnestrovia — a region of the neighboring Republic of Moldova. Although at that time the Ukrainian state authorities have not purposefully registered the asylum seekers, according to UN data released in 1999, during the Pridnestrovia conflict the Ukrainian-Moldavian border in order to obtain the temporary protection from war was crossed by almost 62 000 persons.

The most vulnerable and most massive category of stateless persons in Ukraine there are people that have not been duly documented for the various reasons. Among

6 Ekaterina Galenko. Statelessness: legal issues in Ukraine. Bulletin EHRAC/WINTER 2013

them — the person with the passport of the former Soviet Union; the persons who immigrated to Ukraine, including with the documents of the unrecognized republics (for example, the Pridnestrovian Moldavian Republic), as well as those whose birth has never been registered and who has not received any documents then.

According to the decree of the Cabinet Council “Passports of the citizens of Ukraine, drafted using the blank passports of the former USSR”, the passports of the citizens of Ukraine, drafted using the blank passports of the former USSR, considered valid until January 1, 2005. Despite these legal requirements, a certain number of persons in Ukraine still reside only with the invalid “Soviet” passports.



People with invalid passports of the former USSR, Odessa region.

For example, in the early 1990s the Kistols moved from the Republic of Moldova to Odessa region. Taking into account the difficult economic and social situation, Galyna and Dmytro Kistol who had three young children (born in 1986, 1988 and 1994), tried to start a new life in Ukraine. Immediately after the move, the parents were trying to legalize their status and obtain Ukrainian citizenship. While moving they had only Soviet passports. Only two elder sons had birth certificates, also issued in the days of the Soviet Union. The younger son — Viktor have no documents. He was born in Moldova, but soon moved to Ukraine with the parents. Due to the lack of any parents' identification documents, he even hadn't a birth certificate. So it was easier for the parents to make the child's birth certificate in Moldova. In 2014, Victor's daughter was born. For more than twenty years, the members of the Kistols have been trying to get the nationality of Ukraine, but to no avail.



Available documents, Kistol Galyna, Odessa region.

Another aspect of the problem of statelessness in Ukraine is the fact that a person bears the documents of the unrecognized states (such as the Pridnestrovian Moldavian Republic). From the point of view of the international law, the documents issued by the unrecognized states, as a rule, are not documents that allow visiting any other countries. Ukraine, for its part, does not recognize the documents (passports, birth certificates, etc.) issued by the de-facto authorities of the Pridnestrovian Moldavian Republic (PMR), considering this territory as an integral part of the Republic of Moldova.

Therefore, any persons born on the territory of the Pridnestrovia and having only the documents issued by the Pridnestrovian Moldavian Republic, are stateless in practice. At the same time, in most cases, such persons are eligible for the nationality of the Republic of Moldova (a noteworthy detail is that the practice to obtain the nationality of a recognized state, Moldova or the Russian Federation, is widespread among the residents of PMR).

For example, Yevgen Moroz was born in the early 1990s on the territory of the unrecognized Pridnestrovian Moldavian Republic. In 1999, he moved with his mother to Odessa region for permanent residence. After graduation, Yevgen encountered the problem of statelessness for the first time. It turned out that having only a birth certificate issued by the actual bodies of the PMR authorities, Yevgen was not entitled to register Ukrainian nationality and could not get the Ukrainian passport. Yevgen has repeatedly appealed to the state authorities to resolve the problem of statelessness and to register

their status, but to no avail. Now Yevgen lives in unregistered marriage and has a wonderful son born in Ukraine in 2014 and received a birth certificate indicating the surname of his mother.

In connection with the events in the eastern regions of Ukraine and in Crimea during the 2014-2015 period, a large number of people living in Donetsk and Lugansk regions today can also encounter the risk of statelessness. The example is the territory temporarily beyond the control of the Government of Ukraine (some areas of Donetsk and Lugansk regions). The children born in this territory and not documented by the state bodies of Ukraine today are de facto stateless, although at birth they are the citizens of Ukraine according to the territorial basis.

Without the formal legal connection — nationality, stateless persons are often marginalized and vulnerable to violations of their basic human rights. Specificity of statelessness is also placed in “invisibility” of the problem because such stateless persons are often unnoticed and unheard.

Most often, the persons that can not prove their legal links with the country, are deprived of even the basic human rights — the right to education, health care, employment... Without nationality, a person is limited to political rights (to vote and to be elected), can not hold any state and municipal offices, can not get any travel documents, can not register his/her marriage, or to adopt.

Especially dangerous the situation is for the statelessness of the children. Moreover, the whole families have no nationality for several generations. According to UNHCR, more than a third part of all persons without nationality — are the children, and the stigma of nationality may pursue their lifetime and even after their death, as if they have their own children, this generation will also inherit the status of stateless persons⁷.

For example, Olena Molkosyan having as an only document a birth certificate issued by the RSFSR as far as back 1977, resides in Tarutino district of Odessa region. In the late 1990s, Olena moved to Ukraine with the passport of the unrecognized Pridnestrovian Moldavian Republic, that was irretrievably lost. She has eight children — Andrey (19 years old), Anastasiya (16 years old), Ivan (12 years old), Yevgen (9 years old), Marina (7 years old), Sofiya (5 years old), Rusalina (3 years old), Yuriy (2 years old). Anna's seven younger children have no birth certificates. Moreover, only five children have the medical certificates of birth.

⁷ Eradication of statelessness in the future 10 years. Special report. UNHCR, 2014

ISSUES OF LEGISLATIVE GUARANTEES

Issue of arrangement of national legal and regulatory base in the sphere of nationality and statelessness in compliance with international norms of law acquired special significance in early 2000s. On November 6, 2006 Verkhovna Rada of Ukraine ratified European Convention on Nationality of 1997 with relevant reservations and statement⁸. Disregarding the fact that almost 10 years passed since the stated Convention, contemporary Ukrainian law in the sphere of statelessness still does not comply with international standards.

On January 11, 2013 Verkhovna Rada of Ukraine ratified UN Convention of 1954 on Status of Stateless Persons as well as UN Convention of 1961 about Reduction of Statelessness.

This time, in contrast to ratification of European Convention about Nationality of 1997 Ukraine ratified UN Conventions without any reservations or statements. Thus, norms and provisions of these conventions are to be integrated to national laws and practice without exclusions.

UNHCR expressed readiness to consider the next steps together with authorities necessary for Ukraine to execute its liabilities in the limits of conventions and provide protection to all stateless persons on its territory. Particularly, it is important to make amendments to national laws that would implement the procedure of defining stateless persons and secure their basic rights⁹.

However, implementation of standards fixed by these conventions has a rather slow progress. This restricts the ability of stateless persons and persons with undefined nationality to exercise their rights and freedoms.

On August 25, 2015 Decree No.501/2015 about Approval of National Strategy in the sphere of human rights was published on the web-site of President of Ukraine. This strategy provides for a complex of measures intended for protection of fundamental human rights and freedoms on the ground of principles of equality and without discrimination as well as solving the system problems¹⁰.

8 More at: http://zakon3.rada.gov.ua/laws/show/994_004

9 More at: <http://unhcr.org.ua/uk/novini/novyny/906-uvkb-oon-vitae-priednannya-ukrajini-do-konventsij-oon-pro-bezgromadyanstvo-i-zobov-yazannya-derzhavi-shchodo-zakhistu-prav-osib-bez-gromadyanstva>

10 More at: <http://zakon5.rada.gov.ua/laws/show/501/2015>

Among strategic directions of National Strategy in the sphere of human rights a lot of attention is also paid to the issue of protection of rights of stateless persons:

- complying with the principle of prohibition of sending foreigners and stateless persons to the state threatening them with improper treatment;
- prevention of cases of self-willed deprivation of freedom through in compliance of national laws with international standards (applying detention of foreigners and stateless persons for the purpose of their banishment outside the borders of Ukraine only as justified by the necessity of last resort measure of ensuring forced banishment, establishment of alternative measures of ensuring the forced banishment);
- settlement of problematic issues of the stay of foreigners and stateless persons in Ukraine;
- integration into Ukrainian society of persons being recognized as refugees or persons requiring additional protection, foreigners and stateless persons staying in Ukraine on legal grounds.

Approval of National Strategy in the sphere of human rights was very positively assessed by international partners of Ukraine¹¹.

For the purpose of implementing provision of National Plan in the sphere of human rights on November 23, 2015 Cabinet Council of Ukraine publicized **Route Plan on implementing National Strategy in the sphere of human rights for the period till 2020**¹². Actions offered by CCU regarding enforcement of rights of stateless persons and settlement of problematic issues of the stay of foreigners and stateless persons in Ukraine can have a very positive effect and actually affect the systematic violation of basic rights of stateless persons in Ukraine.

We should note the most positive moments of Route Plan offered:

- collection of necessary information for the purpose of preparing and entering amendments to Laws of Ukraine “About legal status of foreigners and stateless persons”, “About refugees and persons requiring additional or temporary protection” for the purpose of integration of such categories of persons;
- creation of informational and consultative posts for providing consultative services to migrants considering best world’s practice;
- entering amendments to Laws of Ukraine “About immigration”, “About legal status of foreigners” for the purpose of fixing the assignment of status of stateless person;
- studying of experience regarding recording and identification of stateless persons in the limits of international projects and development of draft decree of Cabinet Council of Ukraine for the purpose of regulating the mechanism of defining (recording) the status of stateless person;
- entering amendments to Law of Ukraine “About free legal support” for the

11 More at: http://www.ua.undp.org/content/ukraine/uk/home/presscenter/articles/2015/09/02/-_.html

12 More at: <http://www.kmu.gov.ua/control/uk/cardnpd?docid=248740679>

purpose of entering stateless persons to the list of subjects of right for free secondary legal support before the moment of judgment about their recognition and in case if the person appeals against judgment regarding status of stateless person (regarding liabilities of Ukraine under UN Conventions regarding stateless persons and considering best practice of EU);

- drafting of legal and regulatory act regarding procedure of registration and issue of identification of stateless person for international trips;
- **execution of identification measures in six pilot regions of Ukraine regarding defining persons not having documents identifying personality and nationality;**
- conducting an informational campaign all over Ukraine for the purpose of motivation of applying of persons not having documents identifying personality and nationality for identification and integration;
- conducting trainings for employees of SMS and Free Legal Support Centers regarding identification and providing legal support to stateless persons.

National Strategy and plan for its implementation became possible only through active cooperation of international organizations, Ukrainian non-governmental organizations and effective government and administration of president. Moreover, it is due to large-scale informational and advocacy campaigns by efforts of Ukrainian public organizations with the support of international partners made it possible to include issues of statelessness into the National Strategy in the sphere of human rights. Besides, campaign on identification of issues of the statelessness regarding persons without identification in pilot areas of Odessa, Vinnytsya and Chernivtsi regions conducted with financing of European Union in 2014-2015 in the limits of project intended for reduction of statelessness caused by the fall of Soviet Union, played a considerable role.

At the same time, disregarding the presence of National Strategy in the sphere of human rights and its Implementation Plan, a lot of problematic issues in the sphere of statelessness are still unsolved.

Special attention is to be paid to adequate defining of the very notion of “stateless person” by Ukrainian laws. Wrong interpretation and implementation of Conventions in national laws levels the positive consequences of joining them. There is a range of problems on the legislative level bringing to impossibility of effective exercise of rights by stateless persons.

For instance, national laws still do not reflect requirement of UN Convention of 1954 regarding simplifying the procedure of naturalization for stateless persons. It also does not provide stateless persons, particularly, with the right for receiving identification documents according to article 27 of Convention. If status of stateless persons is undefined and they do not have relevant documents, this brings to absolute “absence of rights”¹³.

13 STATELESSNESS. DETERMINATION AND THE PROTECTION STATUS OF STATELESS PERSONS. European Network on Statelessness (2013). <http://www.refworld.org/pdfid/53162a2f4.pdf>

Key significance in the aspect of national laws belongs to the very **definition of “stateless person”**. It should be noted that the term “stateless person” suffered essential changes. In Law of Ukraine “About citizenship of Ukraine” in edition of October 8, 1991 stateless persons were defined as persons who resided on the territory of Ukraine and were not citizens of Ukraine as well as did not have proofs of the presence of nationality of other foreign state.

Thus, first “migration” law of Ukraine into the notion of “stateless person” included the notion of persons who were stateless persons de jure as well as de facto (meaning they did not have the relevant effective connection with the state). Such approach to defining the term of stateless person was foremost for Ukraine as well as for other European countries as stateless persons de facto stay outside the regulation of international law in the sphere of statelessness. Unfortunately, further, this definition suffered considerable changes.

According to Law of Ukraine “About legal status of foreigners and stateless persons” in effective edition the stateless person is a person not recognized by any country according to its laws as its citizen. **Meaning, effective laws regulate the legal status only of stateless persons “de jure”¹⁴.**

Article 26 of Constitution of Ukraine defines legal status of stateless persons in Ukraine with the guarantee to stateless persons staying on the territory of Ukraine on legal grounds of same rights and freedoms as well as obligations as to citizens of Ukraine except cases established by law (for instance, in the sphere of electoral law, state and municipal management, etc.)

At the same time status of stateless citizens residing in Ukraine, according to the state, is defined by Law of Ukraine “About legal status of foreigners and stateless citizens”: stateless persons being under the jurisdiction of Ukraine disregarding the legality of their stay are entitled for recognition of their legal capacity and basic human rights and freedoms. Disregarding the above stated provision this law does not contain an explicated section about human rights and freedoms of stateless persons.

Moreover, national laws disregarding the advocacy on the part of United Nations High Commissioner for Refugees and other international and national organizations, **does not provide for special procedure of defining the stateless person**. Apart from that, Ukraine does not issue special identification certificates to stateless persons as provided by Convention relating to the Status of Stateless Persons of 1954. This actually deprives the most part of such persons in Ukraine of the possibility to use basic human rights and even receive identification documents.

In the limits of effective laws the stateless person **can be documented exceptionally with permit for temporary or permanent residence in Ukraine**. Such documents identify personality of a foreigner or stateless person and confirm the right for

¹⁴ More at: <http://zakon3.rada.gov.ua/laws/show/3773-17>

residence (temporary or permanent) in Ukraine. Nevertheless procedure of issuing residence permits makes it almost impossible to receive them for not documented stateless persons. The laws also provide for issue of identification certificate for stateless person for international trips. However, through constant change of by-laws supposed to regulate procedure of its issue, the norm is “dead”.

Special attention is deserved by norms regulating status of citizens of former Soviet Union that immigrated to Ukraine after declaration of independence. First ten years Ukraine, in practice, did not regulate procedure of entering\leaving and residence of citizens of former USSR on the ground of USSR passport of pattern of 1974 or Soviet birth certificate¹⁵.

Thus, disregarding the presence of formal requirements of law owners of Soviet passports and birth certificates freely entered and resided on the territory of Ukraine. Only starting from 2001 after enactment of Law of Ukraine “About immigration” the issue of legal status of persons having documents of former USSR and not having received the nationality of new republics became urgent.

According to Transitional Provisions of this Law stateless persons who arrived to Ukraine for permanent residence before enactment of the Law and have mark about registration in their passport of former USSR citizen of the pattern of 1974 and they received permanent residence permit in Ukraine are recognized as having permit for immigration to Ukraine. That is this provision did not cover two numerous categories of persons: — persons having only Soviet birth certificates; — persons having no mark about registration in the passport of former USSR citizen of the pattern of 1974.

Moreover, on March 28, 2012 Cabinet Council of Ukraine approved Procedure of registration and issue of residence permit and temporary residence permit and technical description of its forms that leveled the above stated Transitional Provisions. This Procedure established the new list of documents for issuing residence permit according to which the persons having mark about registration in the passport of former USSR citizen of the pattern of 1974 have to provide passport document of the foreigner or document certifying the personality of stateless person. The stated norm makes it actually impossible to receive residence permit by such category of persons.

In the limits of issue of access of citizens of former USSR to procedure of defining the status of stateless person the special attention should be paid to issue of citizens of former USSR who lost their documents or their documents are invalid. Existing national procedures do not contain procedure of identification of stateless persons. In practice, some officers of State Migration Service in such cases use the procedure of identifying the person provided by Procedure of registration and issue of passport of citizen. According to provisions of this procedure identity of the person is established on the ground of present documents with photos, in case they are

¹⁵ Issue of statelessness in Ukraine and ways of settling them (2014). Access mode: <http://unhcr.org.ua/attachments/article/35/StatelessResearchUKR.pdf>

absent it is on the ground of questioning of the relatives, neighbours or other persons in the number of not less than three. Upon the results of questioning the officer of law enforcement authority draws up an act about identity of a person. Nevertheless, use of such practice bears the episodic nature and does not significantly influence the fact of absence of the legal and regulatory base in the given sphere¹⁶.

Thus, on the whole, the laws of Ukraine contain legal collisions and gaps making it impossible for stateless persons without documents or persons of undefined nationality use and protect even basic human rights. In the result, many national legal norms establishing the rights and freedoms of stateless persons bear the declarative nature and do not have effective mechanisms of implementation.

Together with that, the question is not only about some specific sphere of law but also about fundamental human rights which according to international and national laws are integral and cannot be limited: right for proper life level, right for education, for medical aid and other basic rights.

Effective laws contain a lot of provisions completely closing the access of stateless persons to full life. Very pressing is the problem of stateless persons de facto who do not have a possibility to provide the list of documents provided by law to legalize their status in Ukraine. Considering this fact SP are more and more often forced to apply to court for protecting their rights and conforming the right for nationality — defining the fact of residing in Ukraine at the moment of declaration of independence, fact of residing in Ukraine for more than five years, defining the fact of family relations, births and other appeals.

It should be stated that most of stateless persons or persons with undefined nationality stay on the edge of need and do not have a possibility to pay for services of legal experts and lawyers. Apart from that, it is very often that uncertainty and incompliance with national standards of Ukrainian laws bring to the deadlock, situation when the person does not have an actual possibility to collect the offered documents. For instance, absence of procedure of identifying stateless persons, who damaged/ lost the documents.

In 2014 the situation considerably worsened through occupation of AR of Crimea and armed conflict at the east of the country. A new vulnerable group of population appeared in Ukraine, being internally displaced persons, which required immediate settlement of a number of vital issues. Against the background of permanent conflict attention of state authorities were completely concentrated on social security of internally transferred persons and population of the territory suffered in the result of armed conflict.

However, due to pressure and advocacy of international and Ukrainian organizations disregarding the above stated problems, at the end of 2015 the State Migration

¹⁶ Issue of statelessness in Ukraine and ways of settling them (2014). Access mode: <http://unhcr.org.ua/attachments/article/35/StatelessResearchUKR.pdf>

Service **activated the work on improvement of normative base in the sphere of statelessness.**

Particularly, as commissioned by Government in cooperation with specialists of such international and national organizations as Representative Office of International Organization on Migration (IOM) in Ukraine and National Institute of Strategic Research, State Migration Service of Ukraine developed Draft Decree of Cabinet Council of Ukraine “About approval of Strategy of State Migration Policy of Ukraine for the period till 2025”¹⁷.

The purpose of project is fostering the efforts of the state and society to forming and implementing of state migration policy which would positively influence the consolidation of Ukrainian nation and safety of the state, speed the social and economic development of the country, assist the stabilization of numerical and quality composition of population, satisfying the needs of economics in the man power, comply with international standards and international liabilities of Ukraine.

The stated Strategy also pays attention to the issue of security of rights for stateless persons and treatment of such persons on the level of international standards. So far the Strategy of State Migration Policy of Ukraine for the period till 2025 has not been approved by the Government.

Besides, State Migration Service developed the Draft Law of Ukraine “**About entering amendments to the Law of Ukraine “About legal status of foreigners and stateless persons”**” for the purpose of creating procedure for defining the status of stateless persons, as on 11.01.2013 Ukraine took the international liabilities regarding the regulation and improvement of the status of stateless persons staying on the territory of our state.

Purpose of project is to create procedure of defining the status of stateless person which will further give the opportunity to such persons to legally stay on the territory of Ukraine, receive temporary residence permit and on condition of residing on the territory of Ukraine in the stated status for more than 3 years, to receive the immigration permit¹⁸.

Experts and NGOs working in the sphere of statelessness, noticed positive changes, offered by the SMS of Ukraine:

- implementation of procedure of identifying the stateless person;
- exclusion of the necessity of “legal” stay in the country for the purpose of defining the status of stateless person;
- paying attention to such vulnerable groups as children and incapable persons;
- defining the 6 month period for making decision on the application.

17 More at: <http://dmsu.gov.ua/component/content/article/40-ukrainska/diialnist/normatyvna-baza/proekty-normatyvnykh-aktiv-hromadske-obhovorennia/3203-pro-zatverdzhennya-strategiji-derzhavnoji-migratsijniji-politiki-ukrajini-na-period-do-2025-roku>

18 More at: <http://dmsu.gov.ua/normatyvna-baza/proekty-normatyvnykh-aktiv-hromadske-obhovorennia/3840-proekt-zakonu-ukrajini-pro-vnesennya-zmin-do-zakonu-ukrajini-pro-pravovij-status-inozemtsiv-ta-osib-bez-gromadyanstva>

The above stated amendments to the laws in the sphere of statelessness in case of their enactment can make our system considerably close to international standards recognized by international community.

At the same time, they found several serious **defects not complying with international standards** (see UNHCR Guidelines on Statelessness, 2012) and, moreover, can considerably worsen the situation of stateless persons or nullify all the positive shifting:

- necessity of bringing the definition of stateless person to international standards;
- exclude the requirement of providing effective passport document as additional encumbrance for implementing the rights of stateless persons;
- fairly distribute the burden of proving the status of stateless person between the state and the applicant;
- right for providing the interpreter for the account of state;
- obligation of conducting an interview with the applicant;
- ensuring the right for appeal in case of absence in providing the status of stateless person;
- spreading of procedure of identifying stateless persons over all the groups of this category of persons.

INITIATIVE “OVERCOMING STATELESSNESS IN UKRAINE”: APPROACH AND ACTIVITY

During 2014-2015 with financial support from the European Union an initiative aimed at overcoming the statelessness in Ukraine has been implemented in the border districts of Odessa, Vinnytsia and Chernivtsi Regions.

The initiative was aimed at reduction of statelessness, caused by the collapse of the USSR and provision of access for the stateless persons to the human rights. The main target group of the initiative consisted of the undocumented stateless persons or persons with undefined citizenship who came to Ukraine from Moldova or the unrecognized state of Pridnestrovian Moldavian Republic. The additional target group was formed from the functionaries, mostly local, who in view of their authority and competence were involved in the migration issues. For implementation of the advocacy component the functionaries and officials of the central authorities and deputy corps, representatives of international organizations, experts, and journalists were also involved.

In the beginning of the activity we managed to create quite an informal partnership called **“Initiative for Overcoming Statelessness in Ukraine”** which united a number of interested organizations during the statutory meeting in August 2014. The purpose of the partnership is prompting of reduction of statelessness in Ukraine, caused by the collapse of the USSR (including the performance of “migration amnesty”), as well as prevention, exclusion and overcoming of all other forms and types of statelessness.



Foundation Meeting of the Partnership “Initiative for overcoming statelessness in Ukraine”, Odessa, August 17, 2014.



Foundation Meeting of the Partnership “Initiative for overcoming statelessness in Ukraine”, Odessa, August 17, 2014.

It was stipulated by the Statutory Cooperation Memorandum that 25 independent and equal non-governmental organizations from different regions of Ukraine, in view of insufficiency of the actions (passivity) of the official authorities of Ukraine in the sphere of reduction of statelessness, caused by the collapse of the Soviet Union, and critical character of vacuum around these persons, and violation and limitation of their rights connected with this, on the grounding of common interests and values decided to establish a partnership as a permanent minimally formalized union of the interested non-governmental organizations, mass media, experts and public activists. During 2015 the partnership was joined by another number of organizations.

During its work, the partnership proved itself as both an efficient instrument for identification of statelessness problems and as a power which is able to affect the positive changes of the correspondent policy, legislation and practice. The activity of the partnership is coordinated by the Odessa Regional Organization of the All-Ukrainian Non-Governmental Organization “Committee of Voters of Ukraine”.

The approach to implementation of the initiative provided for several interconnected elements of activity:

Confirmation and drawing attention to the problem of statelessness, caused by the collapse of the USSR.

As a result of monitoring conducted during 2014-2015 in the pilot regions, we managed to identify the significant statelessness problems, described in the monitoring report “Legal Phantoms: Problems of Statelessness in Ukraine, Caused by the Collapse of the Soviet Union” (spread in printed and electronic versions). Specific public response was induced by the ten descriptive strategic stories-cases of people, feeling first-hand the burden of statelessness every day. The problems raised by the report and tried-and-tested recommendations were presented and discussed during

three regional round-table meetings in Chernivtsi (September 2015), Vinnytsia and Odessa (December 2015).

Monitoring Report “Legal ghosts: problem of statelessness in Ukraine caused by the collapse of the Soviet Union.”



Presentation of the monitoring report during a roundtable in Vinnitsa, December 23, 2015.

Great informational response and effect were caused by two public events, taken into the “Ukrinform” Agency (Kyiv) together with the Information Centre on Human Rights in Kyiv on December 28, 2015 — a press-conference “Invisible people: why have hundreds of families been living in Ukraine without citizenship and without documents since the Soviet times” and a round-table meeting “Statelessness problems in Ukraine: how can we bring the legal phantoms back to life?”. More than 50 participants from all the regions of Ukraine, and also representatives of state bodies, of the All-Ukrainian Charity Organization “Right to Protection”, of the UNHCR, the International Organization for Migration.



Press conference “Invisible people: why have hundreds of families been living in Ukraine without citizenship and without documents since the Soviet times”, Kyiv, 28 December 2015.



Roundtable “Statelessness problems in Ukraine: how can we bring the legal phantoms back to life?”, Kyiv, 28 December 2015.

At the indicated events a bearer of the problem was also present — Timofiy Pleshka, who, despite his undocumented status of a stateless person (has a Soviet passport only), participated in the Anti-terrorist Operation with a call sign “Legionary”. His story attracted extraordinary attention of the journalists — it resulted in more than 30 articles and takes in the leading mass media (namely, the TV channels STB and Pershyi Natsionalnyi, radio Era, newspapers “Facyt ta Comentari”, “Den”).



Timofiy Pleshka (AKA "Legionary").

In total, during the period of the initiative's activity more than 350 articles appeared in the local and national mass media, including a number of journalists' investigations. Thus, the problems of statelessness caused by the collapse of the USSR were not only identified, but also made public, gained significant informational response and public request for efficient solution.

Rendering legal assistance and protection to the stateless persons (persons with undefined citizenship).

For efficient activity in this direction we organized the work of 5 legal aid offices in Odessa, Tatarbunary, Kotovsk, Chernivtsi and Vinnytsia. In the course of the work of legal aid offices different approaches to organization of rendering legal assistance to the stateless persons had been tested. If the offices in Odessa, Vinnytsia and Chernivtsi worked according to the standard "classical" schedule, two other offices in Kotovsk and Tatarbunary were organized on the basis of the pro-active principles.

That is if the first ones awaited their customers, then the second ones looked for their customers by means of repeatable active trips to the places of permanent stay of the stateless persons. As a result, the pro-active approach proved its value completely — most requests for legal assistance had been received during the trips (more than 130).



Providing legal aid during field trips, Odessa region.

The consultation offices received about 500 requests for rendering legal assistance altogether. It's worth noticing that only about 40% of the customers, who had been rendered free legal assistance, agreed to record their application in a way, developed for the project (filling in the questionnaire of the customers with provision of identification data). The other part of the applicants asked not to disclose their information, that is connected with the specificity of legal statelessness problems (fear of sanctions for illegal stay in Ukraine and negative experience of communication with the registration and law-enforcement bodies).

The tried-and-tested legal practice in the sphere of statelessness points to at least three conclusions.

In the first place, difficultness of the issues and imperfection of the available legal basis don't actually give any opportunity or complicate independent solving of their problems for the stateless persons (persons with undefined citizenship).

Secondly, during legal protection of the stateless persons (persons with undefined citizenship) one cannot get away just with legal consultations, the secondary legal assistance (support in court) is necessary for most cases. Moreover, taking into account the predominant residence in the distant settlements and unsatisfactory financial standing of the majority of customers, such assistance is to be rendered in the place of their stay.

In the third place, service support of a customer under the available legislative base is greatly protracted in time, complicated by numerous bureaucratic hindrances. In this aspect a specific importance is gained by identification and promotion of strategic cases with the purpose of alteration of the imperfect legislation and practice of its using at last.

Considering the above-mentioned factors, the main emphasis in the aspect of rendering legal assistance was laid on identification and support of strategic cases. In the course of work more than 15 strategic cases have been found, which, by virtue of the national judicial procedure, are on the different stages of proceeding (for example, the case of Ovchiyants). Apart from this, the experts of the organization prepared and filed an application to the following Special Procedures of the UN: Special Rapporteur on the right to education, Special Rapporteur on minority issues, Special Rapporteur on the human rights of migrants, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context.

Education and motivation of the interested parties for reduction of statelessness, caused by the collapse of the USSR.

The informational and educational campaign aimed both at the stateless persons and at the representatives of the local authorities and local governments was an important component of the initiative's activity.

Holding of 12 seminars and spreading of the practical guide "Stateless Persons: International Documents and Standards" not only increased the professional level and awareness of the local functionaries, but also gave them an impetus to conduction of legalization of the stateless persons.



Training “Stateless people: international documents and standards”, Kel'mentsi village, Chernivtsi region, 27 August 2015.

Large work was carried out for increase of awareness, legal culture, capacity of protection of own rights and for motivation of the stateless persons to legalization in Ukraine, too. With this purpose the organisation has spread 5000 flyers, containing the information on providing legal assistance, 3000 practical leaflets “20 Typical Questions Concerning Statelessness”, 450 information boards have been set “Let’s Overcome Statelessness Together”.



Printed educational materials on statelessness.

1500 motivating posters contained an appeal “If you want the future for yourselves and your children — legalize your stay in Ukraine”. Behind the poster lies a story of the Muntians from Odessa Region. After 16 years of wandering, a migrant from Moldova and her 6 children became legalized in Ukraine. Obtaining the official status of a “stateless person” and issue of birth certificates for children saved them all from poverty and lawlessness.



Motivational poster to combat statelessness in the reading room of the Odessa National Scientific Library.

A prepared 5-minute video “Voices of the Invisibles” demonstrates the real condition of the stateless persons and limitation of their rights, readiness and willingness of the stateless persons for legalization of their status in Ukraine, and also the particular advantages and benefits of the official legalization.



Video "Voices of invisible" available via the Internet.

Fulfilment of advocacy for implementation of the international standards in respect of the stateless persons.

For obvious reasons, this segment of work was the most difficult and was carried out in close collaboration with the Ukrainian and international organizations focused on the statelessness issues — in particular, the All-Ukrainian Charity Organization "Right to Protection", the UNHCR.

The groundings and arguments for carrying out the advocacy activity were provided by the results of the conducted pilot "field" monitoring, which identified and confirmed the definite statelessness problems. Wide informational and media response promoted the influence on the corresponding state authorities, first of all, through the State Migration Service, to a great extent.

The common discussions of problems and elaboration of recommendations in the form of "round tables" became the main influence tool. As practice shows, a successful solution of the statelessness problem in Ukraine is possible only under the condition of support of the government officials and coordinated cooperation between the government and non-governmental organizations.



Roundtable “Implementation of UN Conventions on statelessness in national legislation of Ukraine”, Kyiv, 8 December 2015.

Logical character and synergetic effect of all components of the initiative must be emphasized.

In particular, conduction of monitoring provided information for guidance and filling of the informational and educational campaign and created a document legal base for advocacy. The informational and educational campaign involved and motivated a target group for more dynamic actions concerning protection of their rights, and it also created a necessary informational support for impact on the authority. Rendering legal assistance displayed the imperfection of legislation and vital necessity of bringing it to the international standards practically.

METHODOLOGY AND RESULTS OF IDENTIFICATION OF STATELESSNESS PROBLEM IN THE PILOT REGIONS

During development of methodology, the aim of monitoring was defined as determination of the extent, specificity, profile, reasons and consequences of statelessness concerning the persons without citizenship or persons of undefined citizenship, who came to Ukraine from the Republic of Moldova or from the unrecognized state of the Pridnestrovian Moldavian Republic (PMR). Allowing for this, the majority of monitoring operations were located in the districts of Odessa, Vinnytsia and Chernivtsi Regions, bordering on Moldova and PMR.

For obtaining the necessary data, the following scheme of information source use was applied:

- analysis of the regulatory and legislative framework;
- studying of experience in solution of similar problems in another post-Soviet countries;
- interviewing the stateless persons;
- conduction of focus-group research;
- questioning of the local functionaries;
- obtaining the information through the informational requests;
- expert polls;
- analysis of judicial and legal practice;
- analysis of applications for legal information as a part of the initiative;
- analysis of materials in mass media.

Analysis of the regulatory and legislative framework was performed in comparison to the international standards, and primarily with the provisions of the 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness, and also with the recommendations of the UNHCR.

Studying of experience in solution of statelessness problems was focused on the two directions — the area of implementation of the UN Convention relating to the Status of Stateless Persons and Reduction of Statelessness to the national legislation of Georgia and Moldova, and also conduction of national campaigns aimed at detection, registration and legalization of the stateless persons or persons of undefined citizenship (Kyrgyzstan). Due to the awarded small grant as a part of the project “Advocacy and Governmental Capacity Building in Migration” the authors of the title managed to learn the experience in solution of statelessness problems in these countries themselves during the introductory visits.



**СКОРОЧЕННЯ БЕЗГРОМАДЯНСТВА
В ПОСТРАДЯНСЬКИХ КРАЇНАХ:**

КОРИСНИЙ ДОСВІД ГРУЗІЇ, МОЛДОВИ ТА КИРГИЗСТАНУ



Publication “Reducing statelessness in post-soviet countries: useful experience of Georgia, Moldova and Kyrgyzstan”, Odessa, 2015.



Focus- group “Problem of statelessness: local officials’ understanding”, Krasny Okna village, 17 June 2015.

Interviewing of the stateless persons was carried out with the help of a special questionnaire containing 15 open-end questions. In case the respondent had allowed using his/her name, story and photos for the project, consent for use of personal information was additionally documented. The main peculiarity and precondition of performance of such actions is trust of the stateless persons to an interviewer. This requires the significant communicative skills, authority and in the most cases a sort of “guaranteee” from the local leaders (chairmen of village councils, principals etc.)

Focus-group research was performed within two groups — the stateless persons and local functionaries. The scenario of the focus-groups was built according to the semi-structured principle and contained baseline, main and additional questions, and also a concluding part. In total 6 focus-group surveys were conducted which not only provided the necessary information but involved their participant into the efficient non-discriminatory problem solving.

Questioning of the local functionaries was carried out after the seminars “International Standards of Treatment of Stateless Persons and Their Implementation in Ukraine” had been held with the use of a special integrated questionnaire.

Informational requests were filed with the purpose of obtaining the official information about statistics, various quantitative data and scopes of phenomena, affected actions and decisions made, current procedures and problems.

Expert polls provided that, after identification and brief indication of experience in the sphere, an expert expressed his/her opinion on the

9 certain question put (question pools). The final tenth question was open-ended and allowed the expert to specify other aspects of the problem, wishes, commentaries, recommendations.

Analysis of judicial and legal practice was performed with the use of data from the Unified State Register of Judgements <http://www.reyestr.court.gov.ua>.

Analysis of applications for legal information as a part of the initiative made provisions for both generalization of the certain exponent on the grounding of a customer's questionnaire and preparation of separate cases in respect of the most exemplary pursuits.

Analysis of materials in mass media was focused mainly on the search and studying of the available investigative reports in the field of statelessness or in the tangent areas.

Taking into account the absence or low information capacity of the received official information, a fundamental approach of "field" monitoring was developed and implemented in the **selected 5 border districts of Odessa Region (Kodymsky, Kotovsky, Krasnooknyansky, Frunzovsky, Velykomykhaylivsky)**.

The above-mentioned districts were not chosen for the "field" monitoring by chance. First of all, according to the data of the 2001 population census, it was Odessa Region of all others where the largest number of stateless persons had been (11491). Secondly, these districts border the unrecognized PMR and, as a consequence, they are situated in a greater "risk zone". Thirdly, the most powerful collaboration and interest from local authorities and local government were demonstrated in these districts. Fourthly, the Decision No. 3 of the Odessa Regional Intra-departmental Coordination and Methodological Council on Legal Education for Population dated 25.04.2014 "Implementation of legal education in the matters of obtaining the Ukrainian citizenship and getting of identity documents by the Moldavian stateless persons, whose statelessness was caused by the collapse of the USSR" significantly contributed to conduction of the "field" monitoring. The decision was made at the suggestion of the Odessa Regional Organization of the All-Ukrainian Non-Governmental Organization "Committee of Voters of Ukraine" and with the assistance of the Head Administration of Justice in Odessa Region.

The "field" monitoring scheme was as follows: request to each village council according to the "questionnaire for determination of potential quantity and profile of the stateless persons"; receiving and analysis of information; elaboration of routes and the schedule of departures to the "problem-plagued" locations; meeting the representatives of village councils in person and information clarification; interviewing the stateless persons at a place of their stay as a part of combined mobile teams (representatives of the project and of judicial bodies). Moreover, we managed to perform several monitoring visits to the places of captivity (penal colonies mainly) and to document the stories of the convicted stateless persons.

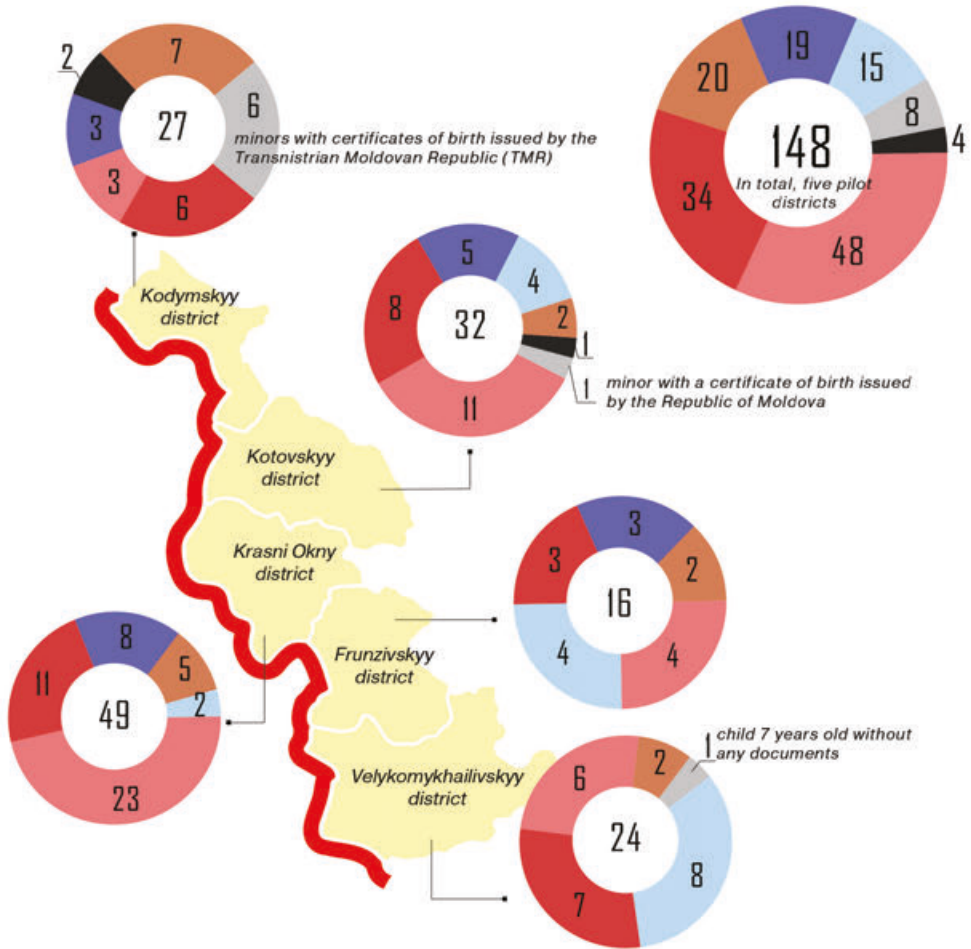


Interviewing stateless persons within the “field” monitoring in Odessa region.

It were collaboration with the village councils and establishment of trust relationship with them, trips to the majority of the rural settlements in the selected districts and face-to-face communication with the stateless persons or persons of undefined citizenship that had the effect. It became possible to determine the approximate number of the undocumented stateless persons or persons of undefined citizenship in these five districts, that amounted to about 250 persons, due to the information of the village councils.

The mobile teams interviewed 148 stateless persons or persons of undefined citizenship who were not documented in any way and who were absent in the official data or statistics. Nearly the third part of these persons are persons with passports of the former USSR, invalid in Ukraine, part of them had a passport of the unrecognized PMR, others having Birth Certificates only or no documents at all.

The number of identified undocumented stateless persons (persons with undetermined citizenship)



The border between the districts of Odessa region and the unrecognized Transnistrian Moldovan Republic (TMR).

- Number of people with passports of the former USSR
- Number of people with passports of unrecognized TMR
- Number of adults with birth certificates of the former USSR
- Number of adults with birth certificates of Moldova
- Number of adults with birth certificates of TMR
- Number of adults without any documents
- Other categories

According to the evidence of the people, having no established status and documents for more than 10-20 years, they face the impossibility of exercising or protection of their basic rights such as right to medical care, education, social security, movement, founding a family and many others every day. Most of them answered a question “What is statelessness for you?” with the words “**you’re nobody**”, “**hopelessness**”, “**inferiority**”.

Despite the fact that such people have lived in Ukraine during the greater part of their life, they cannot send their children to schools or get the documents upon finishing it, register a marriage and birth of a child, purchase real estate, open a bank account, be officially employed or go into entrepreneurship, take legal action for protection of their rights etc. The greater part of their life these invisible men are bound to avoid the law-enforcement authorities that may require checking their documents and putting them into a place of detention for illegal migrants.

Legal uncertainty of women (especially in case of de facto marriage to the men who are the citizens of Ukraine) leads to their immense gender-based discrimination and domestic violence. Such women are absolutely deprived of any forms of state protection, including the criminal offences (they simply cannot go to the police or court).

It is indicative that not a single respondent stated his/her willingness to leave Ukraine for obtaining a citizenship of another country. Thus, the vast majority of the detected stateless persons or persons of undefined citizenship is **completely connected with Ukraine** by dwelling, job, family relations etc. and they have lost any bonds with Moldova, the unrecognized PMR or another country, from which they had come, entirely. Almost everyone wants to obtain a status of a citizen of Ukraine and to be of use for the state.

It was eloquently confirmed by the two boys aged 20, who asked for help. They and their parents moved to Ukraine in the 90s and have lived here for already more than 15 years, they even have permanent residence permits. In 2014 each of them went to the military enlistment office voluntarily so as to be enrolled to the Armed Forces of Ukraine and to defend our country in the East! But the only response they got was there was no for the place stateless persons in the Armed Forces. So the young patriots, who have lived all their life in Ukraine (although born in Moldova), cannot protect the country during difficult times. It is also interesting that the guys consider themselves Ukrainian, and despite the problems with obtaining the Ukrainian citizenship, they're not going to go to Moldova where this procedure is much easier.

A number of seminars on the matters of statelessness, held in Odessa Region in 2014-2015 and the focus-groups not only confirmed the numerous facts of undocumented statelessness, caused by the collapse of the USSR, but also showed a **great interest of the local functionaries in reduction of this phenomenon**.

For example, the representatives of local government and of the state authorities (including the State Migration Service), when expressing their attitude towards the indicated problem, underlined that the question of status of the stateless persons should be urgently resolved by the state. According to the results of the conducted questioning of approximately 170 local functionaries, 58% of them stated that in the course of their professional activity they have faced the problems of statelessness, caused mainly by the collapse of the USSR. 70% of the questioned officials are ready for active collaboration with other authorities, non-governmental organizations and international institutions upon the necessary improvement of the regulatory framework, with the purpose of efficient non-discriminatory solving of the problem of statelessness, caused by the collapse of the USSR.

Many representatives of local authorities and local governments confirmed with their actions their readiness to help the legalization of the stateless persons. However, the vast majority of these efforts appeared to be useless in view of the competence limitations. For example, to promote the legalization of Mynza Dmytro from the village Dovzhanka of Krasnooknyansky District of Odessa Region (who only had a Moldavian birth certificate), the village council took the initiative and appealed to the court with the purpose of confirmation of his residence in Ukraine for over 20 years. Unfortunately, it didn't go any further than the court judgment.

The monitoring also displayed a number of negative trends. In particular, the stateless persons with the actual status, who failed to find an opportunity to become legalized in Ukraine, go to the unrecognized PMR for its citizenship and employment. These are mostly young and middle-aged people who are lost by Ukraine because of the absence of well-thought migration policy.

The situation of Vykhrystiuk Tetyana is quite indicative — she is a mother of six children who lives in the village Hrebenyky of Velykomykhailivsky District of Odessa Region which is situated on the very border with the unrecognized Pridnestrovian Moldavian Republic. The only document she has is a passport of the former USSR, which is invalid in Ukraine for a long time already. Five of her children are already adult and live in the PMR as there didn't manage to become legalized in Ukraine upon coming of age. The sixth and youngest son still hasn't received even a birth certificate, although he was born and lives in Ukraine. Tetyana has long been desperate and does not even hope that her children will once be able to come back to Ukraine. Like most people, Tetyana was forced to flee to Ukraine during the armed conflict in the PMR. But her children and she didn't manage to become legalized in Ukraine, therefore they're forced to wander from place to place, avoiding the border control checkpoints.

In many cases statelessness and rightless status instigate people to crimes. In order to survive, desperate people are often forced to act illegally — in particular, to steal... Such fate came to Julia from the village Karabanovo and the brothers Sergiy and Andriy from the village Nova Shybka who never found an official job and resorted to

stealing to feed themselves and their families. Some of these people upon completion of their sentence turned to the path of correction — they took up farming, but the paradox is that this business of them is also illegal.

The children whose parents live with the passports of citizen of the former USSR, have even greater problems. They do not exist de jure, as they have no birth certificates. Upon finishing the schools such persons cannot get a certificate of education. The doors to higher educational institutions, to official employment, to registration of marital relations, to securing of social aid are closed for such children. In fact, children become victims of the state bureaucratic apparatus, the system of which doesn't give these people any chance for legalization of their status. It is typical that, according to the stateless persons or persons of undefined citizenship, it is the rightless status of children that is the strongest reason and motivation of legalization of their status in Ukraine.

The problem may be exemplified and illustrated by the life story of three sister Apior from the village Topaly of Krasnooknyansky District of Odessa Region who moved from Moldova. The parents of Svitlana, Olena and Nadiya came from Moldova to the territory of Ukraine far back in 1994. For reasons beyond control, they didn't have time to change the passports. The girls were born within the borders of Ukraine, but the birth had been registered in the PMR, as in the civilian registry office domiciliary they were rejected to issue a birth certificate on the grounding of the passport of the USSR. Nowadays they parents are already gone, the sisters live in Ukraine having on hand only the birth certificates of the unrecognized PMR. Due to absence of documented status the sisters also cannot register their children and cannot get the social child maintenance support too...



Providing legal assistance, Odessa region.

In most cases the problem of statelessness result from that the people, due to different factors (complicacy of the established procedure, legal ignorance, lost papers, absence of necessary monetary funds etc.), cannot themselves legalize their status in Ukraine. By generalizing the results of the conducted questioning of the local officials (approximately 170 persons), one may determine the main problems and hindrances to registration of the status of the stateless persons and further exercising of the basic rights.

Absence of necessary monetary funds (25% versus other reasons). The chairmen of the village councils and the representatives of the local bodies of the State Migration Service find that the vexed problem lies in the utmost poverty and social vulnerability of the stateless persons. The absence of an officially-given status of the stateless persons as good as deprives them not only of any forms of social protection on the part of the country but even of any opportunity to maintain themselves and their families with their own work lawfully during the period of consideration of their status applications.

Such obligatory expenses as expenditure for traveling to the territorial bodies of the State Migration Service, notarization of the necessary copies of the documents and even preparation of photos are unmanageable for the stateless persons. This situation is a consequence of much lower salary level for the stateless persons without any documents — by times smaller from the minimum amount guaranteed by the state. Moreover, according to the national legislation, the State Migration Service bodies should firstly fine a person, who filed an application for registration of the stateless person's status, with an administrative penalty that is an additional hindrance.

Procedural problems at the time of registration of the stateless person's status, complicacy of the established procedure (24% versus other reasons). The representatives of local authorities expressed criticism towards the current legislation in the part of protection of rights of the stateless persons, as the legal regulations do not solve the problems of the most part of the stateless persons. The list of documents needed for registration of the corresponding status is too complicated and, in most cases, infeasible for these persons. The participants of the seminars held think that a lawmaker didn't account for the great number of typical situations connected with the loss of documents, absence of necessary money, etc. In the course of all seminars the majority of the participants expressed the hope to agree the national legislation with the international standards, implementation of simpler procedures of definition of the status of the stateless persons, and also the necessity of a "migration" amnesty.

Legal ignorance of the stateless persons (18% versus other reasons). Most stateless persons do not have the corresponding legal knowledge and have no financial ability to seek the necessary legal advice. At the same time, most of the territorial authorities of the State Migration Service are not always ready to explain the provisions of the national legislation and as a response to the request they just provide a formal list of documents for registration of the status of stateless persons.

Moreover, it is worth noticing the fact that the border village councils are located quite far from the district and regional centres which limits the possibility of getting

the free legal advice significantly, and also greatly affects its quality. In their turn, the representatives of the State Migration Service underlined that they had neither organizational nor technical opportunity for consulting and explanations to the stateless persons. Considering this, the state together with non-governmental organizations has to pay attention to running informational and educational campaigns, especially in the distant village districts of Ukraine. At the same time, free legal advice should be provided for this category of citizens, which could be given immediately at the places and would correlate with the impelling needs and expectations of the stateless persons.

Among the main problems of the stateless persons arising from the absence of duly registered status and of necessary documents, the participants of the questioning distinguished **impossibility of getting the social aid and payments (21%)**, and also **impossibility of registration of temporary or permanent residence (19%)**.

Heads of the village councils together with the representatives of the State Migration Service authorities drew attention to the significant hindrances in the process of registration of the status of stateless persons because of impossibility of registration of their place of residence. This problem has two main aspects: firstly, not every stateless person has his/her own or rented housing for further registration of the place of residence; secondly, big percentage of residential housings in the rural settlements are registered by the Bureau of Technical Inventory / State Registration Service, which makes the process of registration of the place of residence impossible for their owners. Thus, in one of the village societies of Kotovsky District of Odessa Region the Chairlady of the Village Council had to register more than 10 undocumented stateless persons in her own house with the purpose of promoting the registration of the stateless person's status. If a citizen of Ukraine in case of absence of a permanent or temporary place of residence has an opportunity to register his/her place of residence in the Homeless Registration Centre, the stateless persons are deprived of such right. Such situation is in direct contradiction to the norms of the UN Conventions relating to the Status of Stateless Persons and on the Reduction of Statelessness, ratified in Ukraine, which prohibit discrimination of the stateless persons in comparison to the country citizens.

Representatives of the territorial State Migration Service bodies also underlined the **inefficient distribution of authority in the system of the State Migration Service**. Nowadays the territorial State Migration Service bodies have to pass the application of the stateless persons for consideration to the central apparatus of the State Migration Service and this complicates and delays the process of registration of the stateless person's status significantly. Delegation of authorities to the territorial State Migration Service bodies, which work directly with such persons, would allow considering their applications for obtaining a status of a stateless person more efficiently, accounting for the certain situation.

Thus, the results of the pilot “field” monitoring in the separate border districts of Odessa Region afford grounds for supposing that the detected statelessness problems may involve all the regions of Ukraine, especially those having border specificity.

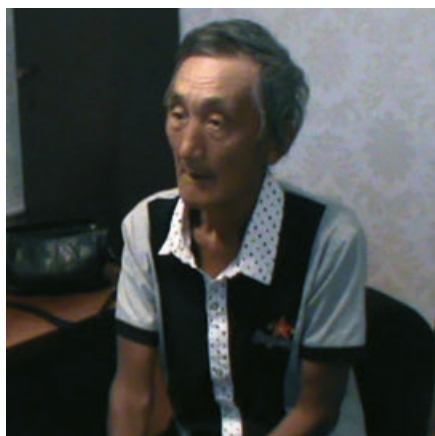
“THE VOICES OF LEGAL GHOSTS”: SELECTED STORIES

This section describes the **true stories of people** whose lives are entirely dependent on their undocumented status. These stories illustrate the typical problems of statelessness caused by the collapse of the Soviet Union.

Most of these stories reflect the main aspects of the problems raised by statelessness — a long stay in the status of non-citizens and marginalized status; futile attempts to legalize their stay and omissions of the public authorities; attitude to Ukraine as a state they plan their future with and willingness to defend their future. The stories described became the main material to prepare the appeals on human rights violations to UN bodies, as well as used for media coverage of the issues of statelessness and advocacy to improve the legislation in the relevant field.

A story of Li Oleksandrovych Alger, who moved to Ukraine from Uzbekistan.

In the early 1990s, Ukraine was a popular destination for labor migration on the part of the inhabitants of the various republics of the former Soviet Union. Liberal immigration legislation of the CIS countries, in the stage of its development, allowed the bearers of the Soviet passports to move from country to country searching the more comfortable place of residence. At that time, few citizens of the former Soviet Union paid attention to such a thing as national citizenship. People were busy with survival and attempt to settle down in a permanent turbulence and turmoil that occurred after the collapse of the Soviet Union. One of such persons was Li Alger who moved to Ukraine from Uzbekistan.



Li Alger.

Li was born in 1950 in Samarkand in Uzbekistan. After the collapse of the Soviet Union, a country was in the flames of the armed conflict on ethnic grounds, that claimed many lives and completely destroyed the economy of the region. In this regard, Li as a skilled worker of the agricultural sphere could not realize himself and was forced to leave Uzbekistan. Thus, in 1994, Li appeared in Ukraine, in Odessa region. As a specialist in demand in the field of agriculture, our hero with no problems found a permanent job in Tatarbuniar district of Odessa region in the agro-industrial sector. He had a 1974 standard passport of the former USSR. At that time, Li did not think about any legal or social guarantees. He worked informally and accordingly he wasn't registered any labour or pensionable service. At the same time, unofficial earnings allowed him to lead a decent life, without thinking about possible problems.

In 1998, there was born a son of him and an Ukrainian citizen. In connection with the absence of any documents Li was not registered as the child's father. Moreover, in the "father of the child" line there was specified another person. It was done in order to avoid any future problems while obtaining the child's documents. Gradually Li's health became worsen. He could not carry out all the work required. The informal employment told on him — Li was not entitled for the pension and other social benefits. Moreover, for the state in general he didn't exist officially at all. This situation gradually destroyed the family and Li was left alone with his problems.

Today, Li has only a passport of the former USSR that is no longer valid in Ukraine. When Li realized how he is limited in the basic rights due to lack of his formally recognized status, he sounded the alarm and appealed to all possible state instances to obtain the Ukrainian nationality. In particular, Li repeatedly appealed to the village council and territorial authorities of the SMS in Odessa region to resolve his problems. However, the appeal to the SMS with the purpose to obtain the Ukrainian nationality or residence permit didn't produce any results. Despite the fact that according to the Law of Ukraine "Immigration", Li is entitled to obtain a residence permit, he has no required documents, namely, the identity documents. When asked what is "home" for him, he tearfully said that for him it is a state in which he lives, where he has a family, a son.

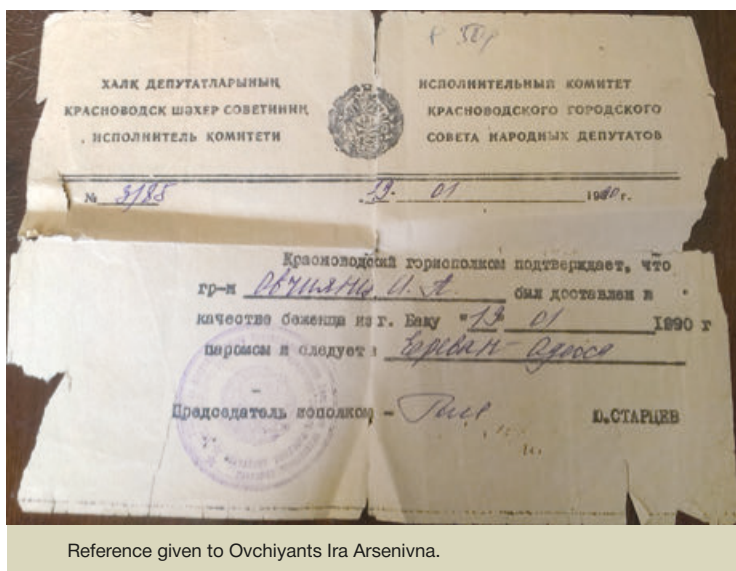
Former Secretary of the village council, speaking of Li's difficult fate did not hide the tears. She told of the problems faced not only by Li himself, but by his son too. Jointly with the officials of the Civilian Registry Office of District Administration of Justice and the sector of the State Migration Service, as well as the village council employees, despite substantial bureaucratic obstacles due to indifference of the local officials, Li's son could get a passport and became a university student.

Unfortunately, Li's situation is still unresolved. Today, formerly successful and hardworking worker, depends on the humanitarian benefit of the concerned residents of his now native village Trapovka in Tatarbuniar district of Odessa region and is completely ignored by the state.

A story of Ovchiyants Ira Arsenivna, who moved to Ukraine from Azerbaijan.

Ovchiyants Ira Arsenivna was born in 1937 in the village Goshakend, Azerbaijan. At the beginning of 1990, Ira Arsenivna with her family, as ethnic Armenians were forced to flee from Azerbaijan in connection with the beginning of the ethnic armed conflict. In Baku they left all their belongings and savings, as well as a hard-earned flat.

On January 23, 1990 Ira Arsenivna arrived to Odessa. She has a Soviet Union passport, a workbook and a certificate issued by the local authorities of Azerbaijan, that Ovchiyants I.A. was sent to Odessa in the status of refugee. Ira Arsenivna was accompanied by her sons — Zahar and Aram while moving to Ukraine.



Reference given to Ovchiyants Ira Arsenivna.

First, the Ovchiyants hoped for a quick solution to the conflict and return home. Therefore, until September 1990 they had lived in the village Victorivka in Odessa region, together with their relatives. In September, the family decided to move to Odessa and begin to set up housekeeping — Ira Arsenivna was employed officially, the family rented an apartment. Moreover, in 1993, Ira Arsenivna received a registration to her passport, and eventually pasted a new photo as required by law.

In 1999, the family could buy a small part of the communal apartment — Ira Arsenivna received a permanent registration in Odessa. It should also be noted that in 1993 she was granted and paid a pension in connection with the achievement of the appropriate age. Despite this, Ira Arsenivna continued to work as a cook in a kindergarten-nursery. Her total work experience in this institution made 24 years.

All this while Ira Arsenivna tried to legalize her status and the fact of stay in Ukraine. Her children and in the course of time, a grandson acquired the nationality of Ukraine, and Ira Arsenivna still could not defeat the bureaucracy. Due to the legal illiteracy, in 2008 Ira Arsenivna was documented with a permanent residence permit in Ukraine as a stateless person. The document stated that she arrived to Ukraine in 2000 only. And all this in spite of the continuous work in a kindergarten for more than 18 years old (at the time of receipt of the permit), as well as the presence of the other proof of residence in Ukraine until 2000. She has no still reasons and justification of such a record.

A story of Portnova Anastasiya Viktorivna, who moved to Ukraine from Moldova.

Portnova Anastasia was born in 1988 in Moldova. As a result of the armed conflict that swept over the country in the early 1990s, the Portnovas were on the territory of the unrecognized Pridnestrovian Moldovan Republic in Bendery. In 2012, Anastasia decided to sell a part of the house in Bendery, left after her mother's death, and moved to Ukraine to search the better life. Her hometown, never regained consciousness after the conflict, could not offer the decent conditions for her self-realization.



Anastasiya Portnova

In 2012, Anastasiya Portnova came to Kotovsk in Odessa Region. She had the following documents: a passport issued by the authorities of the unrecognized Pridnestrovian republic, a birth certificate of the Soviet standard. In the same 2012, Anastasiya's documents were stolen. She had only a copy of her mother's death certificate. Based on the theft there was written an application to the police. According to Anastasiya, the police sent a notice of this fact to the authorities of the Republic of Moldova. Unfortunately, the documents were not found.

Faced with the problem of statelessness in everyday life, namely when she came to the hospital for some medical treatment, Anastasiya began to attempt to legalize her status in Ukraine. Her appeals to the SMS of Ukraine, Civilian Registry Office, Passport Office, and the other public authorities and institutions were futile. Anastasiya also referred to the passport office in Chisinau, however, this measure didn't bring the desired result too.

Today, after three years of appeals to the state bodies of the two countries, Anastasiya Portnova remains a hostage to the imperfection of the legal system in the area of statelessness. She has no identity documents and, at her worst the possibility to get them in Ukraine. Anastasiya tries to lead normal lives, in spite of such a catastrophic legal status. Moreover, her loved one she lives with in an unregistered marriage, is a member of the anti-terrorist operation and protects the state refusing to protect the interests of his family. Every year, the lack of rights becomes more tangible for Anastasia.

A story of Pleshka Timofiy Mykolayovych, who moved to Ukraine from Moldova.

Pleshka Timofiy Mykolayovych was born on December 1, 1971 in the Republic of Moldova Cimislia. When completing his military service he returned and became a permanent resident in the village Katerynivka in Cimislia district. In 1997, he arrived on a visit to Odessa region, the village Berezino, where he met a girl and therefore decided to stay in Ukraine. At the time of his move he had a passport of the citizen of the Soviet Union with a mark of belonging to the nationality of Moldova.

He married, and there were born two children in this marriage: a daughter Natalia (born in 1997) and a son Sergiy (born in 1998). The children were later given the documents of the citizens of Ukraine. Timofiy Mykolayovich himself was registered in the military registration and enlistment office, was employed and worked for the bread-baking complex in the urban village Tarutino. However, in the early 2000's this bread-baking complex was eliminated and he was dismissed on the grounds of redundancy. Through such the events his family life did not come around and he was forced to discontinue his relationship with his wife, he began to live in a civil marriage with another woman.

During this period, he repeatedly appealed to the various state authorities of Ukraine to resolve the issue and to obtain the nationality of Ukraine. He was refused. Later, through the Embassy of the Republic of Moldova in Ukraine, he was able to travel to Moldova. Referring to the authorities of the Republic of Moldova, he tried to resolve the nationality issue. However, he always got an answer — as a citizen of the Republic of Moldova he did not appear. Taking into account these circumstances, Timofiy returned to Ukraine.

And then March 2014 came, Ukraine declared mobilization. Sergeant Pleshka T.M. was served a draft notice of his mobilization to the Armed Forces of Ukraine.

Timofiy receiving a draft notice, did not dodge the draft, and immediately came to the assembly point. In an interview with a chief enlistment officer the man explained that he was not a citizen of Ukraine, and therefore, could not be mobilized. But he was told the following: “Do you live within the territory of Ukraine for more than five years, and therefore automatically you are a citizen of Ukraine.” So, Pleshka T.M., a stateless person with the undocumented status became a military man of the Armed Forces of Ukraine and was sent to serve to the Belgorod-Dniester border detachment. There, he took the oath of allegiance to the people of Ukraine, and also he made a statement that he was not a citizen of Ukraine. The commanders did not know what to do. According to Timofiy, they began to find out from their authorities how to proceed. So Timofiy sworn, but there was not made a record in his military ID.



After taking the oath, receiving military weapons, Sergeant Pleshka served in the Ukrainian national border control. Later, he was sent as a part of the group of servicemen to serve in the ATO zone in the city of Lisichansk. While being in the ATO he got the call “Legionnaire”. When he was asked why Legionnaire his comrades said that he, as a foreigner in the French Legion. He served properly, without any remarks. He knew that defended his second homeland, where his children lived, and which was attacked by the enemy. There, in the ATO zone he was injured (spine disease), and therefore the decision of the command was to send him for treatment to the military hospital. After this treatment he was found fit for the military service and continued it in the Belgorod-Dniester border detachment.

After demobilization Timofiy arrived for the permanent residence to the village Berezino in Tarutino district. Despite being in a combat zone, he was not awarded a certificate of the member of hostilities, he could not find a job. “Legionnaire” is not discouraged, he is active and full of energy, he wants once again to be mobilized and

continue to serve. He expects that the country will see him and hear his request of legalization of his status.

A story of Molkosyan Olena Vasylivna, who moved to Ukraine from Moldova.

Molkosyan Olena was born in 1977 in Taganrog, Russia. The same year the Molkosyans moved for the permanent residence to the village Chobruchi, Moldavian SSR. In the 90s, during the Pridnestrovian armed conflict Chobruchi village became a territory of the unrecognized Pridnestrovian Moldavian Republic. Thus, Olena received a passport from the actual power of the PMR.

In the early 2000s, Olena due to the mass unemployment in her native province was forced to move to Ukraine. She had only a Pridnestrovian passport and a birth certificate of the Soviet standard. Immediately after her move, the passport was irretrievably lost.



Olena Molkosyan.

In Ukraine, Olena gave birth to her nine children (as of 2015, from 19 years to 3 months). Both parents are the citizens of Ukraine. However, due to lack of any documents Olena's marriages were not formalized. Moreover, only one of her nine children has a birth certificate, which was issued exclusively due to the determination of the officials in the village council and the district civilian registrar. The other children have only a medical birth certificate. The local school administration met Olena's needs and allowed all her children to learn. At the same time, a certificate of education her children will receive only after the documents are executed.

For a long time, Olena and her husband try to formalize their status in Ukraine. Due to the help of the officials of the local administration and the territorial Department of Justice there were received the certificates of statelessness from the consulate of the Republic of Moldova and the Russian Federation. The repeated appeals to the SMS did not bring any results — despite the existence of the right to immigrate, Olena could not provide the documents required by law. Besides, on the July 17, 2012 Tarutino District Court of Odessa Region has sentenced Olena Molkosyan for 4 years and 6 months' imprisonment with a probation period of 2 years for willful failure to comply with the parental responsibilities (part 4, Art. 166 of the Criminal Code of Ukraine). The basis for the sentence was that Lena's children were not arranged at school and are retarded.

To the date, the territorial bodies of the SMS can not verify the status of Olena as a stateless person and provide her with a residence permit. All this, despite the fact that Olena, as a mother of the Ukrainian citizens is entitled to obtain Ukrainian nationality under simplified procedure. But in the realities of the legal uncertainty, she is still forced to fight for survival of her family and herself.

A story of Dascal Semyon Ivanovych, who moved to Ukraine from Moldova.

A story of Dascal Semyon Ivanovych, born in 1983, is quite similar to the fate of many people in the border areas of Odessa region. In 1992, Semyon and his parents moved to Odessa region for the permanent residence. At first, the family lived in Tarutino district, but later Semyon moved to the village Belolesie in Tatarbuniar district. In Ukraine Semyon studied for five years at school, but he hadn't received any documents of it as he had no passport.

Subsequently, Semyon created a family, but their relationship again failed to be legislated, as he had no passport document. In 2014, he bore a daughter Angelina, that had to be registered by the mother's surname.

Due to the help of the family members and employees of the village council, Semyon appealed to the various state agencies of Ukraine and Moldova. Unfortunately, these appeals yielded no results. Almost all the public authorities ascertained the fact of his birth and residence, but there the matter dropped. So, the village council issued a certificate to confirm the fact of residing in Ukraine since 1992, Voznesensk School in Tarutino district, for its part, confirmed his study in 1992-1995. Moreover, in 2014, Semyon received a birth certificate issued by the Moldavian public authorities. At the same time, the competent authorities of Moldova provided a certificate that Dascala Semyon was not of Moldavian nationality.

A story of Nikolov Yevgen Mykolayovych, who moved to Ukraine from the Russian Federation.

On August 21, 2015 Nikolov Yevgen, born in 1989, native of Kamensky district of Voronezh region, Russian Federation, appeared at the community liaison office on statelessness in Tatarbunary of Odessa region. An only identification document Yevgen had a medical certificate of birth.

In 1997, together with his parents Yevgen moved to the territory of Ukraine to his father's homeland. In Ukraine, he went to school, graduated it, but the document on education was not received, as there were no passport document of the citizen of Ukraine. The life put its requirements and tests to him.

Now he is in a common law marriage, and has two children: a son born in 2013 and a daughter born in 2015. As soon as he is not able to get the documents, the children were registered at the mother's surname. Now Yevgen is unable to resolve the problematic issues such as gainful employment, travelling outside Ukraine, registration of marriage, healthcare and others.

A story of Zaretska Yuliia Borysivna, who moved to Ukraine from Moldova.

Zaretska Yuliia was born in 1985 in Moldova. In connection with the Pridnestrovian armed conflict of 1992, the family appeared at the territory of the unrecognized Pridnestrovian Moldavian Republic. In 1998, together with her parents, the underage Julia moved to Odessa region for the permanent residence.

In Odessa region she became 16 years old, but she couldn't receive Ukrainian nationality. To have at least some status, Yuliia drawn up the nationality and received a passport of the unrecognized Pridnestrovian Moldavian Republic.

In Ukraine, Yuliia gave birth to two children, but officially she was not able to register their birth. In addition, she also was refused in granting of the residence permit as the Pridnestrovian Moldavian Republic is a state unrecognized by Ukraine. The territorial division of the migration service in Odessa region answered to the girl that she was nobody, and officially neither she nor the country that had issued her a passport did not exist... Then Yuliia was forced to go to Moldova in 2014, to try to obtain the nationality there, and to legalize her status in any way. It appeared quite easy to get the Moldavian nationality, and after a while she returned to Ukraine with the Moldavian passport and the certificates for her children. However, Yuliia seeks to Ukrainian nationality, that can be obtained only in case of refusal from the Moldavian nationality.

A story of Konev Viktor Borysovich, that came to Ukraine from Tajikistan¹⁹.

Viktor Konev was born in 1988 in Chkalov of Leninabad region, Tajikistan. Viktor was brought up by his mother, his father died when Victor was still small. In the mid-1990s, his mother sent Viktor for summer to visit their relatives in Odessa region. For some unknown reasons, the contacts with her were immediately interrupted. Since then Viktor hadn't seen his mother. He had only a birth certificate of the Soviet standard. He left the school in Ukraine, however, due to lack of any documents, could not get the certificate of education. In addition, since the age of 16, the problem to obtain a passport became to actual.

His concerned neighbors that knew the Konevs from the far-away Tajikistan, tried to help Viktor to overcome the bureaucratic obstacles. First, they tried to find Viktor's mother — but the letters sent to Tajikistan, remained unanswered. The appeals to the passport office and the Ministry of Interior were futile, as Viktor Konev was not a citizen of Ukraine. Then they went to the guardianship authorities, with a view to adopt Viktor and give him the opportunity to arrange his lives. But there was a refusal on the part of the state too.

In July 2012, due to the support of the relatives and concerned people, Viktor turned to the SMS of Odessa region with an application for receiving a passport. Within the framework of establishment of Konev's nationality, the SMS made a request to Tajikistan to prove his nationality. Based on the response of the authorized bodies of Tajikistan, it was found that Viktor Konev had nationality of that country. Moreover, on request of the SMS, Ministry of Internal Affairs carried out Viktor's identification procedure as he had no identification documents besides his birth certificate. Despite all the procedures performed and the presence of the grounds, the SMS refused Konev in nationality and documentation. In 2015, the SMS repeatedly denied Viktor in nationality.

A story of the sisters Muntyan who moved to Ukraine from Moldova.

The Muntyans composed of a father, a mother and five sisters moved to Ukraine 1996 from a small village Temeleu'i Calarash district in the central part of Moldova. The reason of such relocation was involuntary unemployment of the parents — they were reduced from a local cannery. First, the family moved to the village Kokhanivka in Ananiev district of Odessa region, where the mother's sister lived. Tatiana's parents employed there at the local farms.

Tatiana Muntyan at the time of migration was 9 years in Ukraine, she had just finished three classes of school in Moldova. After moving to Ukraine, she no longer studied

¹⁹ Personal data have been changed

at school — “the mother would not let”. From that moment, Tatiana learned of his statelessness, and that she is significantly limited in many of her rights.

The mother legalized the Ukrainian nationality only for two of the four Tatiana’s sisters (that have another father). Olena, Veronika and Tatiana had only birth certificates issued in the Moldavian SSR and near 18 years they were actually stateless. However, there was the opportunity to draw the Ukrainian nationality at that time, but she had to pay near 600 hryvnas to process the documents for a child. The mother refused to do so, saying that, “it had to be free”.

From Ananiev District the large family Muntyan moved to Krasni Okny district of Odessa region, the whole life of Tatiana Muntyan was connected with. There she found two her husbands, all her children were born there. Now she has six children — Natalya (11 years old), Vladislav (7 years old), Ivan (6 years old), Yuliia (5 years old), Dariy (3 years old) and Mariya (1 year old). All the children were born in the village Fedorivka in Krasni Okny district. The two youngest children from the current husband, a citizen of Ukraine, Leonid, with whom Tatiana lives in a civil marriage. The other four children from the previous husband, the relations with whom were not registered also. All the children up to the moment of registration of their birth certificates in 2013, had never been registered and had only the medical birth certificates. The school officials understood the situation of the children’s statelessness and accept them without any problems, but on one condition — to register the status and the documents required until the school completion. Otherwise — the children will not receive any educational documents. Generally, statelessness significantly limited the rights of the whole family, according to Tatiana Muntyan it is “when you’re not even a person, because you’re nobody without the papers”.

For a long time, Tatiana together with her sisters tried to formalize their status in Ukraine. In particular, Tatiana Muntyan appealed to the passport office (later migration service) in Krasni Okny, in Odessa. Referred to the Consulate of the Republic of Moldova in Odessa, and even received for a fee of 500 hryvnas a certificate of statelessness in Moldova. Paid for the official translation of her birth certificate, gathered the other documents. The issue was complicated by the fact that there was a mistake in Tatiana’s birth certificate — she was recorded as Muntyanu, unlike the other family members registered as Muntyan. As long as the documents were collected, the regulatory requirements with respect to their number and content changed, the validity of many documents passed, and she had to start all over again. These unsuccessful attempts to formalize her status in Ukraine took place on the background of significant poverty, and lasted more than 4 years, since 2008. With respect to the children’s status registration, Tatiana appealed to the civilian registry office in Krasny Okny but they refuse to issue the birth certificates for her children without her residence permit in Ukraine. Despite such obstacles, Tatiana never thought to leave Ukraine, all her plans and hopes were associated exclusively with Ukraine and formalization of their status.

In 2012, the case was taken jointly by the lawyers of Odessa regional organization of the NGO “Committee of Voters of Ukraine” and experts of Kotovsk inter-district Department of Justice, the significant contribution was provided by the Stavrivsky village majort Anatoly Andriyovych Gupalo. The CVU lawyers free of charge provided the permanent legal advice and provided the legal support for these proceedings, preparing the necessary statements and the other documents referred to the various authorities to speed up the solution to the problem. Tatiana was constrained by the powerless position of her children to seek the assistance of the lawyers.

The financial assistance was provided by director of the agricultural complex “Stavrivske” where Tatiana’s civil husband worked. The administration of the enterprise provided 22000 hryvnas without any interests on account of the future salary. All this amount went to the registration of the residence permit in Ukraine — preparation, receiving, translation of the documents, payment of the required fees, travel expenses and so on. The husband still work out this amount, as he works as a worker with a salary of 1000 — 1500 hryvnas.

Finally, on November 5, 2012 Tatiana along with her sisters Olena and Veronika received the status of stateless persons and the long-awaited permanent residence permit in Ukraine, which was issued in perpetuity, with the indication of the place of permanent residence. Therewithal Tatiana received an identification code. Then there was a question of the children’s birth certificates registration. Only after the district prosecutor’s office had raised this issue in the regional civilian registry office, the problem got off the ground. The six children’s birth certificates were issued due to the official appeal and the children are recorded of Ukrainian nationality.



Tetyana Muntyan with children.

Now Tatiana Muntyan is just 27 years old, she is making plans for her further future, caring of her children, working in the garden and with the livestock. Getting of the official status of a stateless person dramatically affected Tatiana Muntyan and her family, all of them received the “ticket” into the future. In May 2013, Tatiana Muntyan first received social benefit for her children, and for the money in September of the same year they bought a house in the village Stavrovo. According to Tatiana Muntyan, they bought the house for “the children to go to school and kindergarten nearer, and not to walk through the bog.” By making a large family status and certain benefits, social assistance to the children the family has secured a minimum financial and material conditions for living. The children legally attend school, last year due to the governmental program and small parental assets they even were able to improve their health in the children’s summer camps, including Molodaya Gvardiya in Odessa. All the children will be able to receive the documents of secondary education, optionally to continue their education, to work legally, to create a family, to participate in the political life of the country, or to realize themselves in full.

A story of Rotar Kseniya Bogdanivna²⁰, who moved to Ukraine from Moldova.

Kseniya Bogdanivna was born in 1954 in the Moldavian SSR. In 1979, together with a 6-year-old son moved to Horlivka, Donetsk region. There she got a job at the storage base of the fishery products. In the late 1980s, Kseniya Bogdanivna got married to the citizen of the Ukrainian SSR, and took his surname. For over ten years, she was registered at the place of residence in Gorlovka. However, in April 1991, for family reasons Kseniya Bogdanivna was forced to be taken off the register and return to Moldova. There she received a temporary registration in the hostel.

Despite the move and registration in Moldova Kseniya Bogdanivna was constrained to return to Ukraine, Odessa region. According to the woman, she was unable to find a job in Moldova due to the pre-registration in Gorlivka. Kseniya Bogdanivna almost 20 years has been seasonal worker in the various farms of Odessa region. It should be noted that in many cases she worked with the corresponding employment records in her workbook.

In 2009, the woman was convicted by the District Court of Odessa region to 9 years in prison. According to the verdict, Rotar Kseniya Bogdanivna is stateless. While serving a sentence in a penal institution of Odessa region, Kseniya Bogdanivna finally decided to renew her documents and to get instead of her passport of the former USSR the passport of citizen of Ukraine, where she lived for almost 36 years.

In April 2014 the employees of the correctional institution appealed to the territorial body of the Ukrainian SMS in Gorlovka to confirm the date of Kseniya Bogdanivna’s

20 Personal data have been changed

taking off the register. According to the data available the territorial body of the Ukrainian SMS in Gorlovka could not confirm or provide any other information of the date of the last registration and deregistration. During the 2014-2015 period, a correctional facility has repeatedly appealed to the Consulate of the Republic of Moldova in order to confirm the fact of the Rotar's presence / statelessness, but did not receive any official reply. Only in a telephone conversation the consular officers reported that they have no information concerning the woman's Moldavian nationality.

In December 2014, with the aim to document Kseniya Bogdanivna and to process the passport of the citizen of Ukraine, the prison referred to the territorial authority of Ukrainian SMS in Odessa. According to the response of the territorial body of the Ukrainian SMS, Kseniya Bogdanivna was qualified to acquire the nationality of Ukraine, as a person residing within the territory of Ukraine until 24.08.1991. At the same time, she had to submit a passport, where her place of residence is registered.

Furthermore, at the end of 2015, Kseniya Bogdanivna referred to the Centre of Free Legal Assistance in order to restore the passport. According to the answer of the Odessa Regional Center of Free Secondary Legal Assistance, the situation of Kseniya Bogdanivna is not subject to the required criteria of the current legislation for providing of the free secondary legal assistance.

A story of Tinova Olena, that was permanently in Ukraine²¹.

Olena was born in 1984 in Bila Tserkva, Ukrainian SSR. She almost don't remember her parents: her dad left her family, and her mother died when Olena was small. Her aunt living in a small village at the border of Moldova (Chernovtsy region) took her for upbringing.

Throughout her life, Olena lived in the village, not being able to leave because she have no documents, even a birth certificate. Moreover, the relatives did not allow Olena to study at school because they could not prove with a document the fact of her birth and existence. Due to it Olena was forced instead of learning to help their relatives to keep the house. "A garden and a cow — were my disco" Olena said when being asked how it happened that the village council or the relevant governmental agencies all this while did not know of her existence.

During 2000-2009, Olena gave the birth to nine children, four boys and five girls. All the children were registered for Olena's sister to avoid any problems with their subsequent documentation.

In 2010, Olena Tinova was sentenced to nine years in prison. Now the prison is trying to document Olena, but can not get even the documents confirming the fact of her birth, that greatly complicates the case.

21 Personal data have been changed

STRATEGIC PROTECTION IN THE SPHERE OF STATELESSNESS

As of today effective laws of Ukraine do not give a possibility to stateless persons to effectively implement and protect the fundamental human rights being integral according to international and national laws and cannot be limited: **right for proper life level, right for education, for medical aid and other basic rights.**

Ukrainian non-governmental public organizations in their activity more and more often apply to instrument of strategic court cases being the form of protection in court of social interests when the court case is conducted in the best interests of the claimant or group of claimants but the interest of the case goes out the limits of the sphere of interests of certain claimants and the result is spread over a bigger number of subjects.

Strategic court cases have advantages as well as disadvantages. On condition of the circumspect strategy and correct circumstances the strategic court dispute can create considerable system changes which can positively affect a large number of people. Nevertheless, the court process is not the only tactics and it cannot be more corresponding strategy in any circumstances or conditions.

Advantages of conducting strategic court cases:

- possibility of impacting the laws by the way of establishing an important legal precedent;
- higher interest of mass media or society to the raised issue.

Disadvantages of conducting strategic court cases:

- necessity of considerable material and intellectual resources;
- absence of guarantees of positive result;
- risk of negative advertisement;
- strategic court process does not apply to all cases.

Results of strategic case can be:

- changes in laws;
- changes in applied legal practice;
- change of public thought or social conscience.

As of today, the application of the instrument of strategic court cases is very urgent in the sphere of protection of rights of stateless persons in Ukraine. It is conditioned by the following:

- imperfectness of effective laws (incompliance with international standards, lack of proper regulation of many essential issues, presence of contradictions, etc.);

- quantity of stateless persons: considering this fact problems they come across are typical for many of them. Thus, considerable number of persons is interested in successful settlement of strategic cases;
- vulnerable status of stateless persons (low material status, violation of basic human rights, legal ignorance, etc.) That is why successful strategic cases are of a big importance for positive changes in their conscience, raise of faith in justice and understanding the sense of asserting the rights and interests.

Today's development of international legal system provides human rights defenders with a wide field for protection of human rights. As except national court systems they have an opportunity to protect human rights through applying to regional and **international institutes and mechanisms of protection of human rights**.

In the limits of protection of rights of stateless persons let us consider two most widely spread for Ukraine: **the European Court of Human Rights and the UN Human Rights Special Procedures**.

The European Court of Human Rights²² was created for the purpose of ensuring compliance and execution of norms of Convention on protection of human rights and its fundamental freedoms by member states. Settlement of case at the European Court of Human Rights is a very efficient mechanism of protecting the violated right. Such judgment can not only establish and describe the violation of right but it can also resolve to charge funds from the breaching state for the benefit of the affected. Not least importantly that the European Court of Human Rights assesses quality of national laws regulating legal relations stated in the claim of the applicant.

On such stage of development of the practice of the ECtHR, protection of rights of stateless persons is a rather difficult procedure as the European Convention about protection of human rights and fundamental freedoms does not contain clear definition for the right for nationality²³. At the same time, pointing out the violation by the state of right of persons not having nationality one can refer to articles 3, 8 and 14 in conjunction with article 6 and 8 of the European Convention about protection of human right and fundamental freedoms. The question is about the following violations: impossibility of acquiring real estate, impossibility of registering marital relations, limitation of access to justice, impossibility of registering paternity, impossibility of regulating the legal status or receiving financial aid from the state for dwelling or other conditions, and racking condition of angst caused by the absence of procedure of defining the status for stateless persons and others.

Moreover, the ECtHR has already made judgments on cases with applicants being stateless persons. They include, for instance: **Al-Nashif v Bulgaria, Kuric and Others v Slovenia, Andrejeva v Latvia, Auad v Bulgaria, Smirnova v Russia, and Kim v Russia**.

22 <http://www.echr.coe.int>

23 <http://www.statelessness.eu/blog/strategically-litigating-statelessness-ens%E2%80%99s-three-year-strategy>

In the context of the absence of procedure of defining stateless persons in Ukraine and impossibility of documenting stateless persons “de facto” there is an urgent case of **Anakomba Yula v Belgium (№45413/07 dd. 10.03.2009)**. While settling this case the applicant raised a point of access to paternity and courts considering absence of documents. The court established the violation of article 14 in conjunction with article 6 of the ECHR. The applicant achieved the Court to establish the fact that her unregulated stay prevented her from exercising her fundamental rights including right for paternity and right for access to courts. Thus, it was also about violation of article 13 of UN Convention on Status of Stateless persons of 1954.

Except the ECtHR Ukrainian human rights defenders and victims of violations of human rights can apply to **the UN Human Rights Special Procedures**²⁴.

“Special Procedures” is a general name for mechanisms provided by UN Council on Human Rights and accepted by Council on Human Rights for consideration of certain situations in country or thematic issues at any parts of the world.

On the contrary to the ECtHR the UN Human Rights Special Procedures provide for simplified procedure of applying regarding to violations of human rights and have an possibility for faster reaction to them by the way of applying to the government of the relative country.

You can get acquainted with the procedure of applying to the UN Human Rights Special Procedures at the web-site of United Nations High Commissioner on human rights at: <http://www.ohchr.org/RU/HRBodies/SP/Pages/Welcomepage.aspx>

Important!!! Judgments of the UN Human Rights Special Procedures have the recommendation nature and are not binding on the part of state authorities of Ukraine.

Disregarding the fact that the UN Human Rights Special Procedures do not have a separate group to protect rights of stateless persons the problems of this category of persons are often raised in the reports of experts of the adjoining spheres. For instance, reporter on Myanmar in the report for 2015 paid attention of the world’s community to the issue of absence of citizens among children in this country²⁵. In the limits of protection of rights of stateless persons in Ukraine the following special procedures are of big importance: the Special Rapporteurs on Minorities, on the Right to Education, on the Right to Health, on the human rights of Migrants, and the Working Groups on Discrimination against Women in Law and Practice²⁶.

So far Odessa Regional Organization “Committee of Voters of Ukraine” is working over several strategic cases in the sphere of statelessness. Most of these cases are on the stage of preparation of appeals to national courts. At the same time, in parallel with

24 <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>

25 <http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/MMIndex.aspx>

26 <http://www.statelessness.eu/blog/using-un-human-rights-special-procedures-address-statelessness>

national court consideration as well as National Human Rights Institutions such cases are sent for the consideration of the UN Human Rights Special Procedures.

Unfortunately, effective laws and legal practice in Ukraine does not allow most of stateless persons legalizing their status through appeals to national court system. This issue was caused by several basic factors:

- absence of any documents of stateless persons;
- absence of transparent procedure of their identification;
- procedural obstacles through imperfect laws.

Special attention should be paid to the issue of trust to state and court power on the part of stateless persons. Durable neglect of the issue of this category of population brought to discouragement of stateless persons in the possibility of legal settlement of their problems and protection of interests. Moreover, in most of the cases of appeals to departments of SMS or courts the stateless persons came across indifference and open ignoring on the part of officers. Due to such negative practice the special attention is paid to the international legal mechanisms of protection of human rights.

Case of Ovchiyants Ira Arsenovna.

Main problem of this case is the absence of legal awareness of stateless persons regarding their rights and possibilities. Case of Ovchiyants illustrates treatment and attitude of SMS of Ukraine to stateless persons or not documented persons with low legal awareness as to the objects of receiving financial bonuses.



Ovchiyants Ira Arsenovna near the Primorskyi district court of Odessa.

Ira Arsenovna moved to Ukraine in 1990 escaping from ethnic conflict in Azerbaijan. Many times she applied to authorities of MIA and SMS of Ukraine for the purpose of legalizing her status but each time she received formal non-committal replies or promises to assist in solving her issue, but later. In 2008 Ovchiyants overcame the bureaucratic obstacles and received permanent residence permit though according to effective laws she is the citizen of Ukraine from the moment of declaration of independence which is clearly observed

from the present documents. Moreover her children were accepted to citizenship of Ukraine on the ground of residing in Ukraine for 5 years but not acquired it as persons residing on the territory of Ukraine at the moment of declaration of independence.

Settlement of this case will be an important precedent for many stateless persons who due to indifference, negligent attitude or incompetence of officers were not documented as citizens of Ukraine and had to strain after at least temporary or permanent residence permit in Ukraine for years. Special attention should be paid to legal ignorance of stateless persons who were disabled to pay the cost of professional legal assistance through difficult social and economic conditions. This case once again emphasized the necessity of including this category of population into the number of persons having right for free legal support on the part of state.

Case of Konyev Viktor²⁷ and Portnova Anastasiya.

Stories of Viktor Konyev and Portnova Anastasiya have completely different circumstances but they raise same problems of effective laws in the sphere of nationality which is absence of procedure for identifying stateless persons and documenting stateless persons who lost or do not have effective identification documents due to different circumstances.

This, in the beginning of 2000s underage Viktor came to Ukraine to visit his relative only for summer period from Tajikistan but due to family circumstances he was left by his relatives and had to stay in Ukraine for permanent residence. He only had his birth certificate of the USSR pattern in his hands.

Anastasiya Portnova was born in Moldova in 1988. Through Pridnestrovye armed conflict she found herself on the territory of unrecognized Pridnestrovian Moldavian Republic and some period of time later she received passport of the state not recognized as existing. In 2012, Anastasiya crossed the border with Ukraine for the purpose of permanent residence in Odessa region. After some period of time all her documents were stolen.

Viktor and Anastasiya many times applied to authorities of SMS of Ukraine for the purpose of legalizing their status. In fact, Viktor received court judgment about establishing the fact of residing in Ukraine. Considering the absence of Konyev's passport or any other documents for identification the SMS of Ukraine commissioned authorities of internal affairs for his identification which was accomplished. Having considered the provided documents the SMS of Ukraine decided to refuse Konyev as he did not have the immigration permit. The same fate stroke Anastasiya. That is persons who had lived a lot of years on the territory of Ukraine, became fully legitimate members of local communities in the opinion of the state did not have any grounds for legalizing their status.

27 Personal data was changed for ethical reasons.

Thus, not documented stateless persons became hostages of endless circle of gaps in effective laws in the sphere of nationality:

- absence of mechanisms of identification of stateless persons having no passport documents;
- list of documents required for legalization of status of stateless persons is unrealizable in advance due to the presence of clause about mandatory provision of passport documents;
- not documented status of stateless persons deprives them of access to fundamental human rights;
- absence of access to free legal support provided by state.

Due to the absence of effective ways of protection on national legal system these cases were transferred for consideration of the UN Human Rights Special Procedures for the purpose of drawing attention to considerable gaps of laws and violations of rights of stateless persons. Considering the presence of draft laws directed to bringing the effective laws of the sphere of nationality in compliance with international standards²⁸, applying to the UN Human Rights Special Procedures can become an additional reason for speeding the execution of relative legal changes.

Case of Pleshka Tymofiy.

Story of Tymofiy is unique in its own way. In 1997 he moved from Moldova to Ukraine for permanent residence. He got married, had two children from his marriage who further received documents of citizens of Ukraine. Tymofiy received military registration and was employed. Many times he applied to different instances of state power authorities of Ukraine to solve the issue of receiving citizenship of Ukraine but he was rejected. Further through the Embassy of Republic of Moldova in Ukraine Tymofiy managed to go to Moldova and apply to competent authorities for the purpose of receiving citizenship of Moldova. Nevertheless, he received a response that he was not registered as a citizen of Moldova. Through the impossibility to legalize his status in Moldova Tymofiy returned to Ukraine.

In March of 2014 in the limits of mobilization campaign Pleshka Tymofiy was mobilized to Border Service of Ukraine and disregarding his remark that he was not a citizen of Ukraine he was sent to the armed conflict zone. After demobilization Tymofiy arrived to place of permanent residence and applied to Military Committee for the purpose of receiving the status of combat veteran and to the State Migration Service of Ukraine. But he was not provided with the status of combat veteran and he was refused in providing residence permit on the ground of absence of required documents. A person who honestly executed its obligation to protect the statehood and territorial integrity in the difficult period for Ukraine, so far cannot prove the fact of his existence and receive access to basic rights.

28 <http://dmsu.gov.ua/normatyvna-baza/proekty-normatyvnykh-aktiv-hromadske-obhovorennia/3840-proekt-zakonu-ukrajini-pro-vnesennya-zmin-do-zakonu-ukrajini-pro-pravovij-status-inozemtsiv-ta-osib-bez-gromadyanstva>

On the example of this case we can see indifference of the state to problems of stateless persons which brought to multiple violations of human rights including right of paternity, registration of marital relations and social security. Considering the effective laws, now we made a decision to prepare documents for applying to state and court authorities for the purpose of settling the issue about acquiring citizenship of Ukraine by father of citizens of Ukraine as well as to receive a status of combat veteran. In case of negative result we will sent our appeal to ECHR.

RECOMMENDATIONS FOR OVERCOMING STATELESSNESS IN UKRAINE

Taking into account the number and specificity of the Ukrainian population it is necessary to develop a **concept of “field” monitoring** based upon the “door-to-door” principle, with the purpose of maximum bracing of the most probable regions of residence of the stateless persons — border regions (special attention is to be paid to the border with the unrecognized PMR), places of large-scale residence of the internally displaced persons (special attention is to be paid to the regions located next to the contact line), temporarily occupied territory of Donetsk and Luhansk regions, the institutions of the State Penitentiary Service of Ukraine (other places of detention), detention centres for foreigners and stateless persons of the State Migration Service of Ukraine.

The tasks of such monitoring should be as follows: determination of the number of the undocumented stateless persons and persons who risk losing the citizenship, definition of their categories and profile with the purpose of development of a strategy of overcoming statelessness as a phenomenon.

On the grounding of the developed concept of filed monitoring, **the All-Ukrainian campaign** concerning detection of the undocumented stateless persons should be conducted with extensive involvement of international partners and of civil sector. Accounting for the difficult economic situation in the country and low credibility of the state authorities on the part of this population category, it is involvement of public activists and non-government organizations that will help to uncover the actual situation in the area of statelessness.

Such campaign should serve the two main purposes: detection of the undocumented (“de-facto”) stateless persons and increase of legal awareness and motivation of the state sector and of sociability in the sphere of statelessness.


The campaign for detection of the undocumented (“de-facto”) stateless persons and persons who risk losing the citizenship must have great informational support, aimed at the potential beneficiaries. The main informational messages must both explain the non-discriminatory character of the arrangements and promote trust to the campaign. It is important for the informational component of the campaign to be implemented through the channels of receiving the information, most available for the beneficiaries — in particular, local and central TV channels and radio channels; external declarations and printed products, put in (spread) directly in the places of probable stay of the undocumented stateless persons.

With the assistance of the UNHCR and expert non-governmental organizations, develop and implement a package of legislative alterations, aimed at improvement of the access of the stateless persons to legalization procedures:

- bringing of the national definition of the “stateless persons” to the international standards;
- implementation of the Stateless Determination Procedure for detection of the stateless persons, accounting for the realities of the conducted monitoring and of the best international practices (special attention is to be paid to the “de-facto” stateless persons);
- elaboration of a document identifying a stateless person;
- development of a procedure for identification of stateless person having no documents;
- introduction of alterations to the procedure of birth registration with the purpose of elimination of undocumented children;
- introduction of alterations to the procedure of issue of temporary/permanent residence permits within the territory of Ukraine;
- introduction of alterations to the legislation in the part of payment of court fees (to add stateless persons to the category, entitled to benefits and exempted from payment of court fees);
- to reassign the powers in the system of the State Migration Service concerning detection and documentation of the stateless persons (local territorial subdivisions are to be granted with more authority);
- to provide the executive authorities the opportunity to confirm the fact of residence of persons within the borders of a settlement so as to avoid the load upon the judicial system and prevention of waste of time and money on the part of the stateless persons;
- to provide the stateless persons with the access to the state system of of legal aid.

With the assistance of the UNHCR and expert non-governmental organizations, develop regulatory prescriptions for fulfilment of “migration amnesty” for the undocumented stateless persons (including the “de-facto” stateless persons) by means of legalization of their stay in Ukraine. According to the elaborated regulatory prescriptions, carry out such “migration amnesty” in a non-discriminatory way and legalize the undocumented stateless persons in Ukraine, in accordance with their willingness to undergo such a procedure. Conduction of such “migration amnesty” should be supported by a large informational campaign with involvement of the state authorities, local governments, mass media and society.

It is important to organize **free legal assistance and protection** to the stateless persons (especially with an undocumented status) both as a part of the state-warranted system of providing legal aid and through the special programs, which will account for the peculiar status of a customer and specific character of problems. Such system must definitely include common repeated on-site reception by the territorial subdivisions of the State Migration Service and representatives of the relevant non-governmental organizations in the rural and distant districts, and also in the places of large-scale residence of the stateless persons.



Odessa Regional Organization of the All-Ukrainian Non-Governmental Organization “Committee of Voters of Ukraine”

“INVISIBLE” STATELESSNESS IN UKRAINE

the experience of identification
and overcoming

The book is issued in the Ukrainian and English languages
in printed and electronic versions, not designated for sale.

We would appreciate the reviews, suggestions,
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“The Initiative for Overcoming Statelessness in Ukraine” is an informal partnership, aimed at prompting of reduction of statelessness in Ukraine, caused by the collapse of the USSR (including the performance of “migration amnesty”), as well as prevention, exclusion and overcoming of all other forms and types of statelessness.

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