

e-mail:
crimeahrg@gmail.com



**CRIMEAN
HUMAN RIGHTS
GROUP**

website:
<http://crimeahrg.org>

**Shadow Report on the 8th Periodic Report of Ukraine on the
Implementation of the International Covenant on Civil and Political Rights
(CCPR/C/UKR/8)
(regarding the Report of Ukraine on the Implementation of the ICCPR in
the armed conflict in Ukraine context)**

This shadow report was drafted by a Crimean Human Rights Group.

The Crimean Human Rights Group (CHRG) is a public non-profit organization of the Crimean human rights defenders and journalists, aimed at promoting the observance and protection of human rights in Crimea by attracting wide attention to problems of human rights and international humanitarian law in the territory of the Crimean Peninsula. The CHRG focuses on documentation and ongoing monitoring human rights violations and war crimes in connection with the illegal actions of the Russian Federation in Crimea. The CHRG publishes reviews on the human rights situation in Crimea monthly since 2014.¹

August 2019

¹ <https://crimeahrg.org/en/category/monitor-2/>

Introduction

When the international armed conflict started in Ukraine due to the military aggression of the Russian Federation, the Ukrainian authorities have faced such issues as a mass scaled movement of civilians from the occupied territories to the Ukraine controlled territory, and almost a lack of possibility to protect directly Ukrainian nationals on the occupied territories. In order to regulate legally the conflict effects and to secure the rights and freedoms of the people who suffered due to the conflict, Ukraine adopted some laws and by-laws. They include Law of Ukraine ‘On securing rights and freedoms of the people and the legal regime on the temporarily occupied territory of Ukraine’², Law of Ukraine ‘On securing rights and freedoms of the internally displaced people’,³ Law of Ukraine ‘On creating CRIMEA free economic zone and peculiarities of business activity on the temporarily occupied territory of Ukraine’⁴, etc. However, some of them and/or their enforcement have resulted into discrimination of the people by territory of origin.

The 8th Report of Ukraine submitted to the Human Rights Committee, does not cover some aspects of securing civil and political rights of Ukrainian nationals related to the consequences of the military aggression and occupation of some territories of Ukraine by the RF. The report presents these issues of concern in brief.

ICCPR, Article 2 and Article 26

(on preventing discrimination on any ground)

1. Persons who reside, are registered or have received earlier identification documents on the temporarily occupied territories of Ukraine do not have an equal – with other Ukrainian nationals – access to certain services (including administrative ones), for instance, receiving social insurance benefits, registration of residence on the temporarily occupied territories, right to participate in the election process on the territory of actual residence (this relates to the IDPs). Such people face substantial challenges with obtaining identification documents and even sometimes can’t get them.

² <https://zakon.rada.gov.ua/laws/show/1207-18#n81>

³ <https://zakon.rada.gov.ua/laws/show/1706-18>

⁴ <https://zakon.rada.gov.ua/laws/show/1636-18#n130>

2. The procedure for processing a Ukrainian national passport was approved by Resolution of Cabinet of Ministers of Ukraine no 302 of March 25th 2015⁵. This procedure provides for an algorithm to identify the persons if there is no access to department bases and archives (item 41 including the persons who obtained the documents on the temporarily occupied territory) however, it does not indicate an exhaustive list of documents to be submitted by such persons for identification. In addition, the government authorities do not meet the time fixed for check that delays substantially (sometimes by more than 2 months) the period of passport processing for such persons.

3. The law does not provide also an algorithm of actions for the person that has no documents at all (e.g., due to the loss), with no institutions or agencies on the Ukraine controlled territory that possess any data about such person.

4. It is also important that all persons (or most of them) residing on the temporarily occupied territory of the AR of Crimea and Sevastopol City and coming to the controlled part of Ukraine' territory to apply for the documents, have to address the governmental authorities that serve usually local population. This increases substantially a load on such authorities while their staff number and the equipment stock are increased by insufficient rate or are not increased at all. The result is conflicts between the local people and the Crimean residents due to queues and preconditions for the corruption that are not rare.

5. Applying for a passport for the persons residing on the occupied territory of the AR of Crimea and Sevastopol City is hindered by the fact that, pursuant to the valid laws, a person who is 16 years old and has no passport of Ukrainian national or other document issued in Ukraine is not allowed to cross the administrative border at the check point.

ICCPR, Article 12

No one shall be arbitrarily deprived of the right to enter his own country

6. Today a person who resides on the temporarily occupied territory and does not have a Ukrainian national passport or Ukrainian national international passport due to various reasons (e.g., it has been lost, stolen, destroyed or time for adding a new photo – 25 and 45 aged – has been exceeded) practically is not allowed to

⁵ <https://zakon.rada.gov.ua/laws/show/302-2015-#n166>

enter the Ukraine controlled territory to renew these documents according to the valid laws.

7. The laws for crossing the administrative border between the controlled and temporarily occupied territory of the AR of Crimea and Sevastopol City are regulated by Resolution of Cabinet of Ministers of Ukraine No 367 of June 4th 2015. On June 5th 2019 these rules were amended by governmental resolution No 474⁶ though this resolved the issue just in part and did not answer the abovementioned issues.

8. The standard procedure for the return of Ukrainian nationals (applying for a return note at consular offices) does not work in this case since there are no consular offices of Ukraine on the temporarily occupied territories and there could be a reason for administrative and criminal liability if the nationals leave unlawfully the Crimean territory for the RF. The criminal liability is imposed by Article 331-1 of the Criminal Code of Ukraine, and administrative one – by Article 204-1 of Code of Ukraine on administrative offences.

ICCPR, Article 24

Every child shall be registered immediately after birth and shall have a name.

Every child has the right to acquire a nationality.

9. The procedure for registering the birth of child who was born on the temporarily occupied territory is much more complicated and requires much more time and costs than the procedure for the children born on the Ukraine controlled territory.

10. The child parents should go through a several levelled court administrative procedure that, though the law assigns a day of the person's address for each of the phases, lasts for several days and is often associated with substantial expenses including those for a trip and accommodation at the service delivery location.

11. For instance, to obtain a birth certificate the person should address the civil registry office, though a negative answer is known in advance, and only with this refusal received, may apply to the court with a relevant claim. With the case considered by the court and the court decision received, the person should again apply to the civil registry office to be issued the birth certificate.

⁶ CMU Resolution no 474 of June 5th 2019 'On amending the Procedure for entering and departing the temporarily occupied territory of Ukraine : <https://zakon.rada.gov.ua/laws/show/474-2019-%D0%BF#n2>

12. In addition, a complicated procedure for exempting the court fees due to a dedicated application within the court proceedings may result in enforcing the parents to pay these fees.

13. Given a lack of regular transport communication, the abovementioned circumstances cause an extremely low level of registering the children born on the temporarily occupied territories.

Recommendations

14. To remove the abovementioned violations of the rights of nationals we consider the following to be done:

- To restart paying social benefits for all Ukrainian nationals, irrespective of the place of their actual residence and IDPs registration
- To regulate the issue of identifying the persons who have obtained the documents or reside on the temporarily occupied territory, having established a detailed procedure, a list of documents to be submitted, and the timing for processing such cases. The cases when the person had no documents but for a Ukrainian national passport and lost it, should be also defined and described in the valid rules.
- To find a solution for establishing additional capacities (sufficient staffing and equipment) in the Kherson Region districts the closest to the check points, to provide all administrative services the Crimean residents need.
- To regulate crossing the administrative border the people who have no Ukrainian national passport, in order to apply for such document, provided for such people an opportunity to return to the place of residence in the AR of Crimea and Sevastopol City for the time of checking and producing the passport.
- To amend the valid laws in order to provide a possibility of considering the civil status documents issued by the occupation administration on the territory of AR of Crimea and Sevastopol City within the civil status act registration administrative procedures, not recognizing such documents, though removing a need to consider such cases in the courts.
- To provide a transport communication with the check points to ensure non-obstructed visits to the Ukraine controlled territory for receiving administrative and other services.