



ADC MEMORIAL'S CAMPAIGN TO PROTECT REFUGEE CHILDREN FROM UKRAINE

European countries received millions of refugees – primarily women and children – from Ukraine in the spring of 2022. Europe had not seen such a large-scale wave of female and child migrants within its borders since World War II. Children are a special group that require special protection in the conditions of mass migration. ADC Memorial has already demanded observation of the rights of migrant children as part of its *#CrossborderChildhood* campaign. Now this issue is more relevant than ever, so we need a new stage for this campaign: *#CrossborderChildhoodUA*.

We strongly condemn the Russia's military aggression and call for protection of the rights of children affected by the war, without exceptions and discrimination.

All the children who have left Ukraine or moved to western parts of the country must be protected from violence, exploitation and family separation. They need a safe environment, and they must be able to live freely, develop in new conditions, and receive an education, medical care and psychological support.

Every country that accepts child refugees from Ukraine must develop and implement a program of comprehensive measures to protect minors from the risks of sexual exploitation, child trafficking, forced labor, and panhandling.

Our task is to achieve implementation of UN Committee on the Rights of the Child standards concerning the treatment of children in migration.

HUMAN RIGHTS STANDARDS APPLIED TO MIGRANT CHILDREN

Safe environment

All children have the right to safe environment. This includes physical safety (living away from military operations, without the risk of military violence), environmental well-being (minimizing the damage caused by bombing, fires etc.), psychological comfort, friendly environment. Prevention of forced labor and exploitation of children is of particular importance (measures against involving them in begging, prostitution), protection of children from various forms of violence, including sexualized violence.

Prevention of separation from relatives, control over guardians

Children who are traveling with their family need a guarantee of non-separation from their relatives. If somebody else takes care of a child on the move, systematic evaluation of the guardian's role is necessary, in order to avoid the risks of violence and exploitation. It is of particular importance to protect the rights of unaccompanied children (older teenagers, war orphans) and to provide them with the support from specially trained responsible adults.

Access to education and medical care, including psychological care

All migrant children must have access to education and medical care, including psychological care. For children who have suffered through war – who have often lost loved ones, seen violence, and survived shelling, the hardships of forced travel, and an abrupt change in their usual environment – psychological care is of extreme importance and must be included in the standard.

Special attention for vulnerable groups

Vulnerable groups – ethnic and religious minorities, foreign children, children with special needs, orphans (both those who were previously in social institutions or shelters of those who lost their parents during the war), and children from closed institutions – require special attention. Child protection standards must always be applied to these groups without exception and without discrimination.

Observance of the rights of children from closed institutions

When closed institutions (residential institutions, special schools, prisons or colonies) are relocated, it should be recalled that children's human rights standards must be applied to them.

CHILDREN OF UKRAINE IN THE FACE OF WAR, MIGRATION AND SEPARATION



On October 3, 2022, at the OSCE/ODIHR Human Dimension Conference in Warsaw, a side event was held on protecting the rights of Ukrainian children in a situation of mass migration.

The side event was organized by the Coalition for the Rights of the Child in Ukraine and the Ukrainian Network for the Rights of the Child with the support of ADC Memorial. The meeting began with the premiere of the documentary animated film “We left. Voices of the Children of Ukraine.” The film is based on interviews conducted by psychologists with children who found themselves in forced migration in the EU countries. Children talk about how they survived the news of the beginning

of the war, shelling, evacuation under bombing, and separation from loved ones, they talk about their pain, hopes and dreams.

Experts from Ukrainian public organizations involved in the protection of children's rights spoke at the side event. Svetlana Shcherban (NGO “Kharkiv Institute for Social Research”) spoke about the problems of evacuating families with children from the temporarily occupied territories and territories where active hostilities are taking place. Tatyana Luzan (NGO “Right to Zakhist”) devoted her speech to unaccompanied migrant children and the practices of different EU countries in dealing with such children. Natalia Dmytruk (NGO “Gender Creative Space”) spoke about internally displaced children who ended up in safer regions of Ukraine and the problems their families face. Marianna Onufryk (SOS Kinderdorf Ukraine project “Right to Family”, Deputy Head of the Board of the Ukrainian Network for the Rights of the Child) spoke about the situation of children with disabilities, emphasising the need to continue the deinstitutionalization reform in Ukraine. The discussion was moderated by Tatyana Semikop (Public Movement “Faith. Hope. Love”).

CHILDREN AND WAR: THE RISKS OF CHILDREN DURING THE EVACUATION Svetlana Shcherban

Due to the security threat, people continue to evacuate from the temporarily occupied territories and territories where active hostilities are taking place. Since July 29, mandatory evacuation of residents of the non-occupied areas of the Donetsk region has been introduced in Ukraine. If citizens disagree to evacuate, they must sign a refusal form confirming that they understand all the consequences and are responsible for their lives. An important decision related to mandatory evacuation was an increase in responsibility for the lives of orphans and children deprived of parental care. For refusing to evacuate, families as well as foster care and orphanages raising children will lose their right of custody. In the future, it is planned to expand the mandatory evacuation to the territory of other regions where constant shelling occurs and public services are destroyed without the possibility of their quick restoration (supplies of gas, water, heat and electricity). These are, first of all, Luhansk, Kharkiv, Zaporizhzhia, Kherson and Mykolaiv areas.

The expert noted that the evacuation is usually organised by local authorities and volunteer organizations. Departure from temporarily occupied territories is often associated with a number of risks. This is both a direct threat to health and life due to uncontrolled shelling and a threat to remain on long-term filtration for adults. Any of the situations described can be critical for children that their parents are trying to take out. There is a high probability of separation of parents and children during the evacuation and children can be sent to the territory of the Russian Federation unaccompanied by relatives.

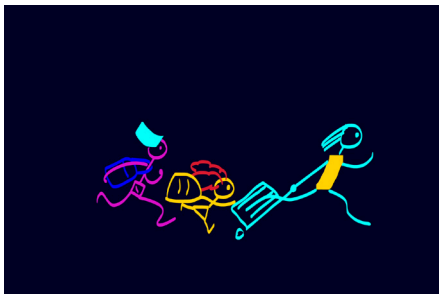
UN EXPERTS CALL FOR URGENT ACTION TO PROTECT UKRAINIAN CHILDREN WITH DISABILITIES STUDYING AT BOARDING SCHOOLS

On October 7, 2022, experts from the UN Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities issued a statement regarding the safety of Ukrainian children with disabilities who lived in boarding schools and were evacuated from war zones to Western Ukraine or other countries, as well as those who are currently located in unsafe regions of Ukraine. In particular, experts pay attention to children with a high need for physical, psychological and other types of support, who are negatively affected by institutionalization.

“We support the effort of the Ukrainian Government to ensure evacuated children do not go missing, are not adopted by persons in other countries, and will return to Ukraine once the war is over. In this regard, we note the moratorium on inter-country adoption under the conditions of Martial Law,” said Mikiko Otani, Chairperson of the Committee on the Rights of the Child.

UN experts argue that the Ukrainian government’s decree that all children evacuated from institutions to other parts of Ukraine or other countries must remain together in these groups, leads to the continued institutionalization of these children. They are often placed in overcrowded, understaffed institutions where they cannot be properly cared for and are also exposed to danger. The experts also noted that this policy hinders further efforts to evacuate children from institutions, as some potential host countries are unable to comply with the Ukrainian government’s decision.

“We are seriously concerned about the safety of children with disabilities and the high demands for support. Because of the neglect associated with institutionalization, these children are likely to be susceptible to respiratory and malnutrition-related illnesses. It is already October, and given the extent of the damage done to the gas, electricity and heating infrastructure, children who remain in understaffed, under-served and overcrowded institutions in Ukraine are at a disproportionate risk of mortality,” said Rosemary Kayess, chair of the Committee on the Rights of Persons with Disabilities.



A still from the film «We have left. Voices of Ukrainian children»

Experts call on all UN member states to urgently work to address these problems and reduce the risk of death, human trafficking and abuse of Ukrainian children with disabilities in institutions. In addition, they note the need for the government of Ukraine to abolish the rules according to which evacuated children must remain together in groups. They call on countries hosting children with disabilities from Ukraine to fully include these children in their national child protection systems. Finally, the experts call on international humanitarian agencies, the European Union and donors to support timely funding and expertise for Ukraine and host countries to develop a temporary foster care program for children evacuated from Ukrainian institutions, including children with disabilities.

Before the full-scale invasion of Russia, there were more than 105,000 children in Ukrainian boarding schools. From February to July 2022, 4,505 of them were evacuated outside of Ukraine. Most children are now in Poland – 36%, Germany – 17%, Italy – 8%, Austria – 6%, Romania – 6%, and Turkey – 6%. According to Russian data (TASS), as of July 24, 2022, 448 000 Ukrainian children crossed the Russian border, of which more than two thousand are orphans and children deprived of parental care.

It is known that at least 100 Ukrainian orphans, illegally taken by the Russian military from the so-called “Donetsk People’s Republic” and “Luhansk People’s Republic” and from the territories seized by the Russian troops after February 24, were transferred to Russian foster families by the Russian authorities.

MORE THAN 100 ORPHANS FROM UKRAINE WERE SENT TO RUSSIAN FOSTER FAMILIES BY THE RUSSIAN AUTHORITIES

The children were taken out from the so-called “DPR” and “LPR” territories and from the territories occupied by the Russian troops after February 24. Paperwork and selection of foster families began in June, after Putin signed a decree on a simplified procedure for obtaining citizenship for orphans “from the DPR, LPR or Ukraine.” Maria Lvova-Belova, Commissioner for Children’s Rights under the President of the Russian Federation, reported that by the end of July, “108 orphans of Donbass who have received Russian citizenship will have parents.” Most of the children before family placement were in temporary accommodation centers in Kursk and Rostov-on-Don.

The Ukrainian authorities consider the actions of the Russian military to evacuate children from Ukrainian cities illegal and demand the transfer of the evacuated children to Ukraine. According to Art. 49 of the Geneva Convention for the Protection of Civilian Persons in Time of War and Art. 85 of the Additional Protocol of 1977, it is prohibited, regardless of motives, to carry out forced individual or mass resettlement or deportation of people from the occupied territory to the territory of the occupying state. This rule also applies to children.

By 14 December 2022, 13,124 children had been deported according to the National Information Bureau. 121 children have been returned to Ukraine.

On August 1, an information platform “Children of the War” with daily updates on the information about Ukrainian children who suffered during the conflict will launch in Ukraine. It is the main source of information for citizens who want to help children, journalists and law enforcement agencies.

“This portal was created as a tool for finding children, rescuing them and liberating them from places of forced displacement or deportation”, - Darya Herasymchuk, Advisor - Commissioner of the President of Ukraine for Children’s Rights and Rehabilitation.

THE UN COMMITTEE ON THE RIGHTS OF THE CHILD IS CONCERNED ABOUT THE PLIGHT OF UKRAINIAN CHILDREN SUFFERING FROM THE WAR

The UN Committee on the Rights of the Child during the 91st session in September 2022 considered the combined fifth and sixth periodic reports of Ukraine and alternative materials submitted by civil society representatives. As a result of the session, the Committee published recommendations in which it expressed concern about the plight of Ukrainian children suffering from the war.

In view of the exceptional situation that has developed in Ukraine due to the armed attack by the Russian Federation, a number of the Committee's recommendations relate to the situation of children's rights after 24 February 2022, while others address general problems (the previous consideration in the UNCRC took place in 2011).

Thus, the Committee, noting the devastating impact of hostilities on Ukrainian children and serious obstacles to the implementation of all the rights of the child defined by the Convention and its optional protocols, recognized as effective the measures taken by Ukraine to implement the Convention on the Rights of the Child, in particular, the adoption of Law No. 936-VIII aimed at strengthening the social protection of children and supporting families with children, and the introduction of the concept of the "best interests of the child" into the legislation. The Committee also welcomed such measures taken by the Ukrainian authorities since the beginning of the armed attack by the Russian Federation on February 24, 2022, as the creation of a Coordinating Group for the Protection of the Rights of the Child in conditions of martial law.

While appreciating the efforts of the Ukrainian authorities to mitigate the adverse effects of the armed conflict on children, the Committee noted that it is seriously concerned by the numerous confirmed reports of grave violations of children's rights since the beginning of the war, including the killing of children, the massive and uncontrolled movement of children within the country and abroad, as well as the destruction of houses, schools, hospitals and other important infrastructure facilities of Ukrainian settlements, committed mainly by the Armed Forces of the Russian Federation and its satellites. The Committee pointed out that many children were trapped in areas of active warfare without access to food, water and basic medical care. On a daily basis, they risk becoming victims of shelling due to the difficulty of evacuating from such areas. In this regard, the Committee urged Ukraine to take all measures necessary to minimize the



A still from the film «We have left. Voices of Ukrainian children»

impact of the armed conflict on children and to prioritize children and families with children in its evacuation plans from war-affected areas and in its negotiations on humanitarian corridors.

The Committee specifically noted that since the outbreak of hostilities, many children with disabilities who need serious support have been left behind in Ukrainian orphanages and boarding schools, which are understaffed and in poor condition. With the closure of boarding schools and institutions due to the fighting, many children with disabilities were sent home without a proper assessment of their family situation. Taking into account the information from NGOs, the Committee urged the Ukrainian authorities to seek support from allied states, UN agencies, civil society and other stakeholders involved in humanitarian activities in order to timely identify and respond to the needs of children with disabilities who find themselves in combat areas. In this regard, the Committee called on the Ukrainian authorities to develop a public policy plan for the full inclusion of all children with disabilities in all areas of their lives, to adopt an early identification and intervention program for difficult situations related to children with disabilities, and to combat discrimination and stigmatization against children with disabilities.

Welcoming the adoption of the anti-discrimination law and the Strategy for promoting the rights and opportunities of persons belonging to the national Roma minority in Ukrainian society for the period until 2030, the Committee nonetheless called on the Ukrainian authorities to ensure access to rights for all children without discrimination of any kind, take effective measures to combat racism and xenophobia among young people, including by supporting children's and youth organizations that promote intercultural dialogue, tolerance and respect for diversity, and strengthen monitoring of

the situation of children from vulnerable groups, including Roma children, and on this basis develop a comprehensive strategy containing specific and targeted actions to eliminate all forms of discrimination against children. In particular, the Committee recommended that the citizenship law be amended to facilitate the acquisition of citizenship for children, in particular Roma children, who may otherwise become stateless. The experts emphasized that all Roma children should be provided with birth registration, even if their parents were undocumented, and any penalties for late registration of children should be abolished against Roma parents.

Noting that some schools have already resumed face-to-face education after being suspended due to hostilities, while others have continued online education, the Committee recommended that the Ukrainian authorities take the necessary measures to improve the accessibility and quality of education, especially for Roma children and children without registration, and to ensure, to the extent possible, that children belonging to minority groups in government-controlled territories have access to education in their mother tongue.

Proceeding with the topic of protecting the rights of Roma children, the Committee referred to cases of hate speech and violence, including violent attacks on Roma settlements in 2018, which affected both adults and children. The Committee called on Ukraine to take measures to prevent such incidents and bring those responsible to justice. The Committee expressed its concern about the practice of early marriage among the Roma. The experts recommended that Ukraine legally abolish all exceptions allowing the marriage of children under the age of 18, as well as take measures to prevent child marriage and raise awareness among children and parents about its harmful consequences.

ASSISTING STATELESS PEOPLE TRAPPED IN UKRAINE: REPORT FROM THE GROUND

The Ukrainian organisation Right to Protection (R2P), on the European Network for Statelessness website, outlined the situation of stateless persons under wartime conditions.

The last census in 2001 recorded 82,550 stateless people in Ukraine. In 2021, UNHCR estimated that 35,875 people in Ukraine were stateless or had 'undetermined nationality'. However, only 6,047 stateless people were legally residing in Ukraine at the end of 2021. Approximately 10-20% of the estimated 400,000 Romani people living in Ukraine are stateless or at risk of statelessness. Additionally, 55% of children born in Donetsk and Luhansk and 88% of children born in Crimea were reported to lack Ukrainian birth certificates or personal documents, putting them at risk of statelessness.

Many of the stateless people and people at risk of statelessness who the project works with are individuals who previously held passports from the Former-USSR but lost them and are now undocumented. The majority of this group are elderly with no source of income, and many have long-term health conditions. Even before the war, they were reliant on NGOs for assistance, including for food and medicines. Since the invasion, this group of beneficiaries has become even more vulnerable.

Another significant group of project beneficiaries are people who were inter-

nally displaced from the occupied territories of Donbass between 2014 and 2020 and came to the territory controlled by Ukraine. Many had Ukrainian passports, but their documents were lost, destroyed, or left behind when they left the Non-Government Controlled Territories (NGCA). Ukraine has not had access to identity data files located in the NGCA since 2014, so many of these people resorted to applying for recognition as stateless persons under the SDP. Currently, many of them are stuck in the war zone and unable to leave.

Another large group of beneficiaries is made up of people who came to Ukraine with their parents at a young age after 1991. Many of those supported by the project are members of minority groups, including Roma, and come from very complex family backgrounds in which parents or guardians never resolved their children's lack of documentation. Upon reaching the age of 16, these young people could not obtain a Ukrainian passport because they lacked any documentation or proof of family links.

The legal status of R2P's clients awaiting a decision under the SDP is unclear, and we do not know whether people who have fled Ukraine will be able to return. The Government of Ukraine needs to find solutions for these people, including finding ways to extend the validity of any documents that stateless people abroad hold and ensure the legal possibility for state-

less and undocumented people who have fled without travel documents to return to Ukraine.

R2P is also concerned that according to the *Council Implementing Decision (EU) 2022/382 of 4 March 2022* establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of *Article 5 of Directive 2001/55/EC*, and having the effect of introducing temporary protection it is unclear whether a stateless person's temporary residence permit from Ukraine will be considered as a document confirming "equivalent national protection in Ukraine". R2P urges EU Member States to be aware that recognised stateless people will have only a temporary residence permit, which should be considered as confirming "equivalent national protection in Ukraine".

The R2P team adjusted its legal hotline for Internally Displaced Persons (IDPs) to provide consultation, assistance, coordination, and support to IDPs, evacuees, and people located in encircled or occupied localities on any issue or question they might have. R2P is also present at the borders with Poland, Moldova, Romania, Slovakia, and Hungary to identify gaps and issues there for further advocacy and provision of services. R2P officers are conducting monitoring visits to temporary accommodation centers for IDPs in different regions of Ukraine to reach beneficiaries and establish their key needs.

A NEW HUMAN RIGHTS REPORT CRITICIZES DEPRIVATION OF NATIONALITY AS A NATIONAL SECURITY MEASURE

A new report, launched March, 29 by the Institute on Statelessness and Inclusion (ISI) and the Global Citizenship Observatory (GLOBALCIT), offers the first comprehensive global survey of legislative provisions regulating nationality deprivation in relation to national security. In the decades following World War II, citizenship stripping disappeared as a practice in the West, inter alia because the practice had come to be associated with totalitarian regimes. But it is now making a comeback – repackaged for the 21st century as a counter-terrorism instrument after the 9/11 terrorist attacks in the United States and during the period marked by the rise and fall of ISIS.

Covering 190 countries, the report analyses the prevalence and scope of the phenomenon, the level of the deprivation decisions, the risks of statelessness as a result of stripping. It finds that 79% of countries practices nationality deprivation on at

least one of the following security-related grounds: disloyalty; military service to a foreign country; other (non-military) service to a foreign country; other offences.

Foreword to Principles on Deprivation of Nationality as a National Security Measure by Professor Fionnuala Ní Aoláin, United Nations Special Rapporteur on the Protection and Promotion of Human Rights and Fundamental Freedoms while Countering Terrorism:

'Security challenges are genuine and keenly felt by many states, but as Special Rapporteur I fundamentally maintain that rights and security are not at odds. Rather, it is only through the meaningful enforcement of rights that security in all its dimensions will be realized for states and individuals. It remains essential that States respect safeguards established by international human rights law around the prohibition of arbitrary deprivation of nationality. These safeguards include non-discrimination, fair process, legal representation, the opportunity to effectively chal-

lenge decisions before an independent body, ideally of judicial nature and reparations. Decisions must respect the absolute prohibition on refoulement and take due consideration of the impact on human rights, including the right to private and family life, as well as the impacts on the rights of the child. Legal safeguards around the prohibition of arbitrary deprivation of nationality are imperative as loss of nationality has serious human rights consequences many of which may be irreparable.'

The main conclusion of the report is that there is no proven effectiveness of deprivation of nationality in providing protection for national security. This means that deprivation of nationality must be limited to well-established norms of international law. These include prevention of statelessness, prohibition of discrimination, prohibition of arbitrary deprivation of nationality; international humanitarian law; and international legislation on the rights of refugees.

INTERVIEW WITH OLEKSANDR SNITKO, STATELESSNESS PROJECT MANAGER AT THE TENTH OF APRIL ('DESYATE KVITNYA'), an ENS member organisation based in Odesa, Ukraine

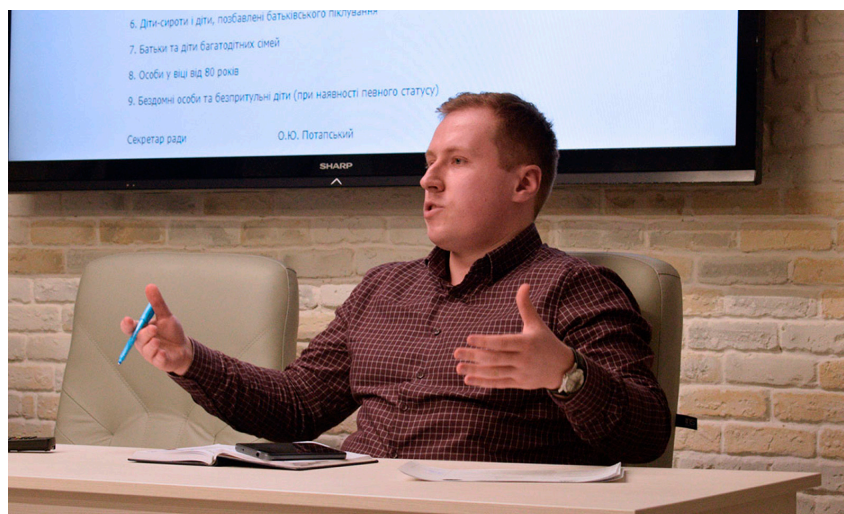
The European Network on Statelessness (ENS) was able to catch up with Oleksandr Snitko, Statelessness Project Manager at the Tenth of April ('Desyate Kvitnya'), an ENS member organisation based in Odesa, Ukraine. ENS asked Sasha about the Tenth of April's work providing legal aid and social assistance to asylum seekers, refugees, internally displaced people, stateless people and Roma people in Ukraine, and how their work has changed through the war.

Everyone at ENS is in awe of the bravery and skill of our Ukrainian members who remain working on the ground. How has your work changed since the February invasion and how have stateless people been impacted by this?

On the first day of the invasion, martial law was established, and freedom of movement was strictly controlled for everyone. The freedom of movement of stateless people was heavily impacted, as under martial law the police have the right to fine undocumented people. Fortunately, we have not had that many cases where people haven't been able to reach our offices due to the police stopping or detaining them.

For the first couple of months, people also faced greater challenges earning money. For example, if people had to cross checkpoints to get to work, they wouldn't be allowed to pass without documentation. Many people fled Ukraine when the war started but undocumented people faced huge barriers and were often not permitted to cross the border. There were some exemptions made where people were allowed to move to Moldova, Poland, or Hungary, but this was always at the discretion of border officials. Movement towards the west has been particularly difficult and sometimes it is also difficult for undocumented people to return to Ukraine.

Since February, we have adjusted our programmes to meet urgent needs wherever possible. Currently, alongside our legal work, we are more focused on social assistance, finding places where internally displaced people (IDPs) can stay and providing necessities such as mattresses, pillows and blankets. In the short-term we have also established some emergency shelters for children, and in the long-term, we hope to help renovate damaged houses. So, we are providing wider social



support which feels important and pressing right now.

However, legal assistance is still a significant priority for our organisation. For example, we are providing legal assistance to IDPs who had to leave their homes in a hurry without their documentation. It's been challenging to help people who have the old type of Ukrainian ID, which hasn't got a biometric link. Similar to issues faced in 2014 with the occupation of Crimea, birth registration is also difficult to establish in the occupied territories, as, often, other governments will not recognise documents provided by the occupying authorities. Since 2014, it is estimated that more than 40,000 children were not properly registered in the occupied territories. This is issue has only increased with the further occupation in recent months and poses significant risks of new cases of statelessness arising in the future.

Another major legal issue has been registering deaths. Local government is trying to control how to register people properly, but photos from Bucha and from Mariupol have shown there are graves in people's own back gardens. I think the horror of these images accurately reflects what people have had to go through and the potential state of mind some people who come to us will be in. Therefore, we not only have lawyers and social workers in our organisation but psychologists to provide mental health support to both clients and staff. Of course, the situation for our colleagues in the occupied areas is even more challenging than what I describe here. At present, reaching people in the occupied areas is very difficult for us, but with time, I hope that we'll be able to provide support to these communities again.

Among a range of activities, the Tenth of April provides free legal advice and social assistance to stateless people. Can you tell us more about your work and explain what the main issues are facing stateless people in Ukraine?

The Tenth of April was created in 2012 by several lawyers with long-term experience working on human rights. We first worked with refugees and asylum seekers in Ukraine, providing legal aid, something we have continued to do since. However, when the number of internally displaced people rapidly increased in 2014 with the invasion of Crimea, we also started providing legal assistance to people who were internally displaced and expanding our work to also focus on community empowerment and fostering collaborative action.

In 2017, we started working with stateless people. At the time, the armed conflict in the East had resulted in a significant increase in the number of people at risk of statelessness. It was also at that time that we began our partnership with UNHCR on the topic of statelessness and joined the European Network on Statelessness.

At first, we worked on statelessness only in the Odesa region where our organisation's main office is located. Later we expanded into other regions too, working with other organisations in Ukraine to try and identify ways to mitigate, prevent and end statelessness.

The legal system in Ukraine is built on the principle that a person first needs to prove their identity and then prove their legal stay in Ukraine in order to ac-

cess rights. This directly impacts on people's access to fundamental rights such as healthcare, higher education, and the labour market. For example, an undocumented mother of a new-born child faces a lot of obstacles in registering the birth and also getting legal recognition as the mother. Undocumented families won't be able to access financial aid from the government if they don't have proper documentation. Even more problematic can be accessing medical assistance. Families often rely on the discretion of medical practitioners in order to receive support.

Unfortunately, a lot of Roma people in Ukraine are undocumented and at risk of statelessness. Many Roma families have been undocumented for generations, which creates additional difficulties proving entitlement to Ukrainian nationality. Therefore, providing evidence in courts can seem almost impossible, requiring a complex investigation to prove the relationship between generations. NGOs may also be reluctant to support undocumented people as they are not funded to do so or don't have the relevant expertise. This has been an issue for a while, and we are the only organisation providing assistance to undocumented people in the regions we cover.

Last year, Ukraine introduced a statelessness determination procedure (SDP). What is your assessment of the new procedure, and how is the SDP operating during wartime?

For several years, we worked with colleagues to draft and push for new legislation to establish an SDP in Ukraine. Honestly, when it was established, it was a moment of personal achievement and pride for me, alongside my colleagues. Implementation was delayed while the by-laws needed to operationalise the procedure were developed, but since June 2021, the SDP has been available for applications.

While the introduction of the SDP is a significant step in the right direction, much work is still needed to effectively address the current challenges faced by stateless people in Ukraine. A lot of people who have reach out to us are not stateless but at risk of it, for example, people with USSR passports living in Ukraine at the time of dissolution of USSR, or people born in Ukraine to unknown parents who cannot prove their entitlement to nationality. Our aim is not only to identify stateless people, but also to help people in cases like this to confirm their nationality and obtain IDs.

At the end of 2021, an official report stated that throughout Ukraine more than 800 people had applied to the

SDP, but only 55 final decisions had been reached. Our organisation, for example, supported 25 applications and only two received a positive decision by the end of the year. With the outbreak of war, the SDP procedure ground to a halt, because the government closed down access to the population registers access to which is needed to decide on SDP claims. In my view, this closure initially made sense to protect the personal data held in registers, but the State Migration Services now need to continue. In regions less affected by active conflict, some work has restarted, very slowly. Talking to colleagues this morning, four clients have had positive decisions on their applications and are now applying for residence permits.

We constantly monitor the SDP, and, at present, access to the procedure is mainly impeded by technical or administrative barriers. A major issue is the lack of staff within the State Migration Service. Government officials have shared with us that there isn't enough information about the number of undocumented people in Ukraine so they cannot accurately judge how many professionals are required to support official procedures. Nevertheless, it is encouraging that we have such a system in place because compared to other procedures such as those connected to the courts, this one is much quicker. We hope these obstacles can be overcome with time.

In this time of conflict, there is a greater risk of new cases of statelessness arising. Do you think the Ukrainian Government has emergency measures in place to address this issue?

Currently, we are in close communication with governmental bodies and non-governmental actors to address these issues. As this isn't necessarily something new to Ukraine, there are some temporary mechanisms that have already been developed, but they need to be improved. For example, court applications regarding birth or death registrations in occupied territories take time. Due to the situation in 2014, we already have a simplified administrative procedure in place for registering births and deaths, but we still need to communicate these issues with our partners and with the Ukrainian Government. Compared to the situation in 2014, these issues aren't as high on the Government's agenda, so we are working with partners to try to make it more of a priority. Today is the 126th day of the conflict and we hope Members of Parliament are becoming more aware of and willing to address these risks.

At ENS, we value hearing about your incredible work, despite facing both personal risk and uncertainty. This inspires all of us to try to do whatever we can to help. What kind of support does your organisation currently need? Where do you think your work will need to focus in the future?

Currently it is very hard to have long-term plans because we only find out what is happening on the frontline through daily news briefings, and the situation is constantly changing. There is a lot of different information being shared and it is hard to predict what will happen next.

Our organisation is currently hiring new staff to handle the increasing amount of work we are facing. We gain information from colleagues, partners, and beneficiaries in different regions of Ukraine who also seek our assistance. So, we are trying to respond and provide support in new parts of the country. There was such uncertainty when the first bomb fell on 24 February about what happened and what we could do. However, a few days later, the first evacuation trains came to Odessa, and we knew that our assistance was required at the railway station. Still to this day, my colleagues go to Odessa railway station and provide children arriving with emotional support and basics like food. When the Government started to register IDPs, we also knew our expertise would be needed in registration centres in order to support their applications.

So, when discussing our future plans, I suppose we will continue to monitor the situation, find what and where our assistance is most needed, and try to address those needs. Right now, for example, there are a lot of artillery strikes still happening in Mykolaiv, so we are planning to start providing emergency kits to help either create temporary accommodation or repair current buildings as much as possible. We don't know what new issues will arise, but we will use our experience and motivation to find solutions to the situation at hand.

There are three main needs we have identified as essential: accommodation, nutrition, and medicine. If your readers are able to support our organisation, we would be very grateful and we are more than ready to cooperate. To do so, please feel free to get in touch with me directly.

*The European
Network on Statelessness*

THE NEW DECREE OF THE RUSSIAN PRESIDENT ON THE ABOLITION OF THE EXPULSION OF UKRAINIAN CITIZENS DOES NOT SOLVE THE PROBLEM OF MANY PRISONERS CONVICTED IN DETENTION CENTRES

On August 27, 2022, a decree of the President of the Russian Federation on the temporary cancellation of the expulsion/deportation of citizens of Ukraine and on the removal of restrictions on the period of their stay in the Russian Federation was signed and entered into force. The decree will ease the plight of many, but by no means of all Ukrainian citizens who cannot leave Russia due to hostilities. For example, those who have served their criminal sentences in the Russian Federation and are due to be deported now continue to languish in Centres for the Temporary Detention of Foreign Nationals (CTDFN), where they were placed “before deportation” – which is obviously impossible to organise.

The full name of the Decree № 585 is “On temporary measures to regulate the legal status of citizens of the Donetsk People’s Republic, the Luhansk People’s Republic and Ukraine in the Russian Federation.”

The decree abolishes restrictions on the period of stay in Russia for Ukrainian citizens (mandatory for other foreign citizens) and gives them the right to work without obtaining a work permit or a patent, if they undergo mandatory identification (dactyloscopy, photography and medical examination). Citizens of Ukraine who entered before August 27 and have not yet passed personal identification are required to do so within 30 days from the date of publication of the decree. The medical examination includes tests for drug use, the presence of infectious diseases that pose a danger to others, and HIV. Decree № 585 does not clarify the position of those who do not pass a medical examination (for example, of people who have HIV).

The decree is especially important for numerous citizens of Ukraine who are imprisoned in the CTDFN for administrative violations of the migration regime – they have been assigned expulsion, which is impossible to implement. Paragraph 7 of the decree states that the following decisions should not be implemented:

- on expulsion from the Russian Federation (both in the form of forced expulsion with placement in the CTDFN, and in the form of controlled independent departure);

- on deportation;
- on non-permission to enter the country or the undesirability of staying in the Russian Federation;
- on the reduction of the period of temporary stay in the country

Prior to Decree № 585, the courts acted inconsistently, but often released citizens of Ukraine from the detention centres due to the inability to enforce the decision on expulsion (due to hostilities, closed borders, lack of transport links between countries). The Decree should simplify the procedure for the release of such citizens from CTDFN, decisions on their expulsion should be cancelled.

The decree does not fill the legal gap that another large category of Ukrainian citizens has fallen into: these are those who are placed in detention centres immediately after being released from penitentiary institutions. They are automatically recognized as undesirable in Russia and are subject to deportation. In fact, they receive a new sentence of imprisonment, although they have already served time for a criminal offense. They risk spending 2 years (the maximum term of detention in the CTDFN) in conditions that are often even worse than prison conditions, although the deportation of “undesirable” former prisoners is just as impossible to carry out as the expulsion of administratively convicted. Of course, such people should also be released, since the additional punishment they are forced to serve is illegal.

The decree does not apply to other categories of citizens, including those capable of protests, namely: “persons released from penitentiary institutions or posing a threat to the national security of the Russian Federation, including those advocating for a violent change in the foundations of the constitutional order of the Russian Federation, or financing, planning terrorist (extremist) acts, assisting in the commission of such acts or committing them, as well as supporting terrorist (extremist) activities by other actions, or encroaching on public order and public security, including participating in an unsanctioned assembly, rally, demonstration, procession or picketing.”

Ukrainian citizens released from the Center for the Temporary Detention of Foreign Nationals in Saint Petersburg

On June 17, 2022, the Frunzensky District Court of Saint Petersburg ruled to release S., a native of the Donetsk region of Ukraine, and B., a representative of the Roma community from the Transcarpathian region, who had been in the Center for the Temporary Detention of Foreign Nationals in Krasnoe Selo for more than six months “in order to ensure expulsion”.

S. was born in the Donetsk region of Ukraine, but did not have Ukrainian citizenship. In December 2021, he was found guilty of evading an unassisted exit from the Russian Federation – that is, a previously appointed expulsion, which was obviously impossible for a stateless person even before Russia’s war against Ukraine. The court imposed a fine of 3,000 rubles on him and forced deportation with preliminary imprisonment in the Center for the Temporary Detention of Foreign Nationals (CTDFN). B. in November 2021 was found guilty of exceeding the term of stay in the Russian Federation. The court imposed a fine of 5000 roubles and expulsion.

Defending S. and B. the lawyer pointed out the actual impossibility of expulsion: it is impossible to establish that S. and B. hold Ukrainian citizenship (consular offices do not function), just as the procedure itself is impossible due to hostilities, closed borders, lack of transport links. In addition, while in the CTDFN, S. and B. submitted applications for temporary asylum, which were pending at the time of the proceedings. To confirm the place of birth of S., the court communicated with the “Ministry of Justice” of the so-called “Donetsk People’s Republic” (previously in such cases, the Ukrainian authorities did not issue information about the birth of stateless people – immigrants from uncontrolled territories).

Both applicants were released from the CTDFN – the judge referred to the decision of the Constitutional Court of the Russian Federation (2017), which recognized the detention of stateless persons in the CTDFN as illegal in case of impossibility of expulsion (the so-called Mskhiladze mechanism). Forced expulsion was canceled, administrative fines remained in force.

A CITIZEN OF UKRAINE IS IMPRISONED IN THE CENTRE FOR THE TEMPORARY DETENTION OF FOREIGN NATIONALS NEAR KRASNOYARSK FOR MORE THAN 8 MONTHS

Krasnoyarsk media at August became aware of another prisoner of the Centre for the Temporary Detention of Foreign Nationals (CTDFN) with Ukrainian citizenship. 51-year-old I.N. is imprisoned for more than eight months.

I.N. came to Russia back in 2014 and lived in Irkutsk with Ukrainian documents, but lost them. At the end of 2021, he was detained by police in Krasnoyarsk Krai for lack of documents; the court fined him 2,000 rubles and decided to expel him, placing him in CTDFN until the expulsion.

Expulsion became impossible because of the war. I.N. tried to appeal

against this decision, but the courts refused him several times, citing the missed deadline for appealing. While in the detention centre I.N. applied for temporary asylum in Russia and received a certificate that can serve as a temporary personal document. However, only a court can release him from the CTDFN, cancelling the decision on expulsion.

The recent decree of the President of the Russian Federation №585 on the abolition of decisions on the expulsion of citizens of Ukraine and the abolition of restrictions on the period of their stay in the Russian Federation concerns precisely such cases as this one.

THREE PRISONERS OF THE DETENTION CENTER IN TOLYATTI HAVE BEEN ON HUNGER STRIKE SINCE MAY 26

Three prisoners of the Center for the Temporary Detention of Foreign Nationals (CTDFN) in Tolyatti have been on a hunger strike since May 6, Radio Liberty reports. These are former prisoners of the Russian penitentiary system who were placed in CTDFN immediately after their release. Two citizens of Ukraine cannot be ordered home because of a "special military operation", and a native of Uzbekistan, recognized as a stateless person, cannot be expelled at all.

In addition to the untimely imprisonment in CTDFN, the reason for the hunger strike is the lack of urgently needed medical care. Citizens of Ukraine are in dire need of medicines for HIV therapy, which they received in the institutions of the penitentiary system. Apatride complains of acute toothache, pain in the kidneys and spine. But for more than a month now, there have been no health

workers in the TsVSIG Togliatti and even basic medical care is not being provided.

A similar situation with the untimely detention of Ukrainian citizens in the CTDFN is observed in other cities of the Russian Federation. According to media reports, 113 citizens of Ukraine have been stuck in the Moscow CTDFN Sakharovo since February. According to lawyer Tseytлина, more than 40 people "are stuck" in Saint Petersburg.

Despite the decision of the Constitutional Court, which actually recognized the untimely detention in CTDFN as unlawful, the required changes were not made to the legislation. Therefore, contrary to the decision of the Constitutional Court, many people whose expulsion is impossible continue to be held in deportation centers for years.

The Constitutional Court of the Russian Federation obliged the courts to take into account the family situation of foreigners in cases of expulsion

On October 10, 2022, the Constitutional Court of the Russian Federation issued a ruling on the complaint of Serbian citizen Milan Dzhurdzhevich about the unconstitutionality of clause 12, part 1 of Art. 27 of the Law "On the procedure for leaving the Russian Federation and entering the Russian Federation". According to this law, a foreign citizen or stateless person is not allowed to enter the Russian Federation for three years from the date of his previous departure from the Russian Federation if during his previous stay he exceeded the period of stay of 90 days in total during each period of 180 days.

In September 2019, by decision of the Slavyansk City Court of the Krasnodar Territory, Dzhurdzhevich was found guilty of violating the procedure for staying in Russia. However, when considering the case, the court took into account that Dzhurdzhevich was married to a Russian citizen, and did not impose a mandatory penalty in the form of administrative expulsion on him, limiting himself to a fine. A month later, the Main Directorate of the Ministry of Internal Affairs of Russia for the Krasnodar Territory banned Dzhurdzhevich from entering the territory of the Russian Federation for three years for violating the regime of stay. Dzhurdzhevich failed to challenge this decision in courts of general jurisdiction, and he appealed to the Constitutional Court of the Russian Federation.

According to the applicant, the contested norm allows one to be prosecuted twice for the same act, does not allow taking into account all the circumstances of the case, and also violates the right to inviolability of private life.

The Constitutional Court held that the application of expulsion in this particular case was inadmissible since it violated the applicant's right to respect for private and family life. However, the resolution is not universal: the Constitutional Court did not find inconsistencies with the Constitution in the disputed paragraph of the law. The ruling emphasizes that the presence of a family does not provide migrants with immunity from liability if they violate migration laws. In its clarifications, the Constitutional Court pointed out that in order to make a decision on non-permission to enter Russia, the department must assess the marital status of a foreign citizen and the consequences of the decision for his family life, and the court must make a decision independently, after a thorough study of all the details of the case, and not only on the basis of formal federal law regulations.

According to Roman Kiselev, human rights defender of the Moscow Helsinki Group:

By now (December 9), we have managed to get most of the Ukrainians out of the Moscow Center for Temporary Detention in Sakharovo, but there are still a few people who cannot be rescued. These are mostly people who have a notice from the FSB on suspected involvement in extremist or terrorist activities in their case files. No reasons for a criminal case have been found, but the court is asked to take this information into consideration. Courts do take this into consideration - they absolutely ignore the fact of an existing armed conflict when considering statements on suspension of the execution of a sentence due to the impossibility of organizing expulsions to Ukraine.

MIGRANTS FROM CENTRAL ASIAN COUNTRIES GOT INVOLVED IN RUSSIA'S WAR AGAINST UKRAINE

It is reported that with the launch of the Russian invasion of Ukraine, immigrants from Central Asia who have obtained Russian citizenship are being drafted into the Russian army. There is information about the voluntary participation in the warfare of migrants who hope to receive Russian citizenship in exchange for military service. It is also reported about labour migrants missing in Ukraine.

Naturalised immigrants from the countries of Central Asia have been actively recruited into the Russian army. Human rights activist Karimjon Yorov wrote on March 4 on Facebook: "For three days now, Tajiks with Russian citizenship have been reporting invitations to the military recruitment office". According to migrant rights defender Valentina Chupyk, the migrants claim they are being forced to sign military service contracts, those who evade are threatened with withdrawal of citizenship.

Sardarbek Mamatillaev, 25, from the city of Osh has recently obtained Russian citizenship. Although he has already served in the Kyrgyzstan army, he will now have serve in the Russian military. "Now they call me and tell me to come to the draft board, otherwise they will deprive me of the citizenship. [...] I think, it is all because of the Ukraine. There are many ads now for recruiting conscripts on various websites", Mamatillaev said. This information is confirmed by other Kyrgyzstanis in Russia, who received draft cards and were forced to join the Russian army.

In 2013, the federal law On Military Duty and Military Service was amended, according to which all young people of military age who have received Russian citizenship are required to serve in the military forces of the Russian Federation, even if they have previously served in the army of their country, with an exception for the natives of Tajikistan and Turkmenistan, who have relevant international agreements with Russia.

A lot of the migrants are willing to sign the contracts with the Russian army as they have lost their jobs since the war started. Also, there are those who try to obtain Russian citizenship as soon as possible.

On December 29, 2021, Putin submitted a bill to the State Duma that simplifies the acquisition of Russian citizenship for contract servicemen in the Russian Armed Forces. The term for consideration of their applications for admission to the citizenship of the Russian Federation is planned to be reduced from one year to three months. The bill has yet to be passed, but in recent weeks some migrants have received calls from some dubious firms promising citizenship within three months if they sign the contract. This was told by 15 migrants who live in Russia. The number of emigrants from Central Asia fighting now in Ukraine is unknown, however, at least 3 natives of Kyrgyzstan have been killed in Ukraine.

In March, it became known about the death of 19-year-old Egemberdi Dorboev (buried in his native village in the

Issyk-Kul region) and 26-year-old contract soldier Rustam Zarifulin, a native of Kara-Balta, Chui region. Their bodies were transported to Kyrgyzstan through the Russian airbase in Kant. In April, another soldier, native of Kyrgyzstan, was killed. The head of the Zhazy ayil okmotu of the Uzgen district of the Osh region, Avatbek Zholoev, said that in the village of Kara-Dyikan, relatives are waiting for the body of the deceased for burial: "The body has not been delivered yet, they said that today it will be known when they are going to bring it. He left for Russia long time ago, received citizenship there. There he joined the army. His parents live here. They say that he was killed in Ukraine".

There is no reliable information about migrants from Central Asia fighting on the Ukrainian side, but have been reports on civilian deaths. On April 18, it became known that 11 migrants from the Surkhandarya region of Uzbekistan, who worked in the suburbs of Kyiv, went missing in the first days after the invasion of Russian troops. Last time they contacted their relatives from the village of Buzovaya, Buchansky district, Kyiv region.

On April 9, during the evacuation from Donetsk, a 62-year-old native of the Gorno-Badakhshan Autonomous Region of Tajikistan, Yodali Muborakshoev, and his wife Tatyana were killed. Their car was involved in a fatal accident when they tried to steer past the gunfire. They were buried on April 13 in the village of Kozellets, Chernihiv region of Ukraine.

Both the recruitment itself and these promises contravene laws of Russia and other countries. The embassies of Kyrgyzstan, Uzbekistan, and other Central Asian countries have issued statements reminding their citizens that they could face serious punishment (up to 10 years in prison, possible confiscation of property) for participating in hostilities on the territory of a foreign state. The Embassy of the Republic of Uzbekistan in Russia "warns fellow citizens against forming volunteer battalions and/or participating in hostilities on the territory of a foreign state, which will result in criminal liability. The Embassy calls on fellow citizens to avoid responding to provocations and to show caution."

Now it is especially important for anyone who could be affected by recruitment or even mobilization to show caution. Both are provocations that cannot be responded to. We cannot become killers and participants in the crimes against humanity that the military is perpetrating in Ukraine. Spontaneously emerging "new recruitment practices" employing tempting promises and the new "laws" adopted by the State Duma in one day do not in any way justify crimes or the flouting of any law, be it international, Russian, or Uzbek.

**TO STAY WITHIN THE LAW, NEITHER FOREIGN NATIONALS
NOR RUSSIAN CITIZENS CAN PARTICIPATE IN THIS WAR!**

RUSSIAN PMCS ARE RECRUITING CITIZENS OF KYRGYZSTAN TO PARTICIPATE IN THE WAR IN UKRAINE UNDER THE GUISE OF WORKING IN THE RUSSIAN FEDERATION

According to a journalistic investigation by MediaHub in July, the private military company (PMC) Wagner recruits citizens from Central Asian countries, including Kyrgyzstanis, for the war in Ukraine.

It is reported that over the past few weeks, in Kyrgyz accounts on Instagram, in particular in the account kz.zarplata, there have been advertisements for employment in private security companies (PSCs) in Russia with a high salary and assistance in obtaining Russian citizenship. However, according to journalist Argen Baktybek uulu, if one calls the number indicated in the ad, he is told that employees in the private security companies are no longer required “due to a change in priorities”, and they offer another job – “performing tasks in the special operation zone in Ukraine.”

“Contact person started sharing pre-prepared messages with us. They offered 240 thousand rubles a month, a schedule of more than four months of work. They didn’t ask about military training. They

even take people with a criminal record, as long as they are not citizens of the EU and NATO countries. A simplified form of obtaining Russian citizenship is provided for service for more than 6 months. But most importantly, they write that the recruit will perform tasks in the special operation zone in Ukraine and that the organization works in the interests of the Russian Ministry of Defense. There is no provision for compensation in the event of injury. And it’s not a fact that the promised money will be paid,” says Argen.

The contact person indicated in the ads asks interested citizens to come to Molkino (Krasnodar Territory) and is identified as Wagner PMC. Back in early March 2022, the Russian service of the BBC wrote that the base and recruiting center of the Wagner PMC were supposedly located in Molkino.

According to investigators, announcements about the recruitment of mercenaries for the war in Ukraine began to be distributed on the social networks of Uzbekistan as well.

It is known about at least 5 natives of Kyrgyzstan who fought on the side of the Russian Armed Forces and died in Ukraine. One of the reasons why the citizens of Central Asia go to fight on the side of the Russian Federation is the promise to quickly obtain Russian citizenship. On December 29, 2021, a draft law was submitted to the State Duma, according to which the period for consideration of applications for admission to the citizenship of the Russian Federation from military personnel under a contract in the Armed Forces of the Russian Federation is reduced from one year to three months. The bill has not yet been adopted, but from the very beginning of the Russian military invasion of Ukraine, some migrants began to receive calls from shady firms which promised to provide citizenships within three months if they sign a contract. In April, 15 migrants living in Russia spoke about this. Currently, the recruitment of military men with promises of obtaining Russian citizenship has begun in the territory of the countries of Central Asia.

Russian companies hire Tajikistan’s migrants to work in Mariupol – they complain about cheating with wages

Tajikistan’s migrants sent by Russian construction companies “to rebuild Mariupol” complain that their wages are delayed or not paid in full, Radio Liberty reports on December, 6.

Construction companies promised salaries from 130,000 to 250,000 rubles a month, temporary housing, and three meals a day. However, according to Radio Liberty’s sources, in five months the Russians have never paid migrants their salaries on time, and the housing and food of the workers appeared not to meet minimum standards. Tajikistanis receive 60-70 thousand rubles for their work – that sum is comparable to their usual salaries in Russia.

The exact number of foreign citizens sent from Russia to Mariupol is unknown. According to the interlocutor of the publication, the construction company “Restavratsiya” alone sent there 110 workers, most of whom are Tajikistanis.

The publication draws attention to the unclear legal status of migrant builders: they work on the territory of Ukraine without the permission of the Ukrainian authorities.

THE RUSSIAN ARMED FORCES BEGAN RECRUITING FOREIGNERS, INCLUDING PRISONERS, FOR THE WAR IN UKRAINE

In October, there have been many reports in the media that migrants from Uzbekistan, Tajikistan and Kyrgyzstan working in the Russian Federation began to receive conscription notices, despite the fact that they do not have Russian citizenship.

On October 12, a citizen of Uzbekistan living in Moscow reported that he had received a conscription notice stating that he should come to the military registration and enlistment office: “I live in Moscow, but I have never been a citizen of the Russian Federation. Accordingly, I cannot stand on any military registration. I have already applied to the Embassy of Uzbekistan, they told me to come and write a statement, and they also warned me that I should not go anywhere as the conscription notice suggests.”

In addition, relatives of convicted Uzbeks held in Russian prisons and colonies began to report recruitment to the Russian Armed Forces and private military companies. They claim that various methods, including torture, are used to recruit their relatives to participate in the Russian war against Ukraine.

According to a citizen of Uzbekistan, the administration of a correctional facility in Bashkortostan is forcing his brother to go to the war in Ukraine:

“My brother has been in prison in Bashkortostan for several years. They want to force him to go to war. He has not yet been taken to Ukraine, because he will not sign, but he is beaten every day in his cell. Prisoners who agree to go to war are promised big money and reduced sentences. I don’t even know how to help my brother. I don’t even know for how long he would last.”

Olga Romanova, the head of the Russia Behind Bars organisation, writes about numerous appeals from prisoners – citizens of Belarus, Uzbekistan, Kyrgyzstan, and Azerbaijan – who are being recruited by the private military company “Wagner” for the war in Ukraine.

According to Article 15 of the Federal Law “On the legal status of foreign citizens in the Russian Federation”, foreign citizens cannot be called up for military service, therefore the actions of the Russian authorities to attract foreign citizens to serve in the army are illegal and must be immediately stopped.

STATELESS PEOPLE GAIN ACCESS TO DOCUMENTATION IN RUSSIA

In August 2021, amendments to the Law on the Legal Status of Foreign Citizens in the Russian Federation and other legislation regulating the legal status of stateless people came into force (Law No. 22-FZ of February 24, 2021, entered into force 180 days after signing). By the beginning of January 2022, about 600 stateless people had been documented in Russia (according to the Ministry of Internal Affairs), and this problem received substantial media attention when the first stateless person's certificate was issued in Moscow. This blog examines the grounds for celebration of this case and the work ahead to protect the rights of stateless peoples in Russia.

In practice, the new amendments (Article 52) provide for issuing a temporary identity document to stateless people, allowing them to legally live and work in Russia. The document is issued for 10 years and provides significant protection: documented stateless people cannot be expelled or deported and decisions on their undesirability, expulsion or deportation must be cancelled. A reduced timeframe has also been imposed within which authorities are required to identify stateless persons and issue identification. Once equipped with ID, documented stateless people cannot be prosecuted for violation of the migration regime or 'illegal labour' offenses.

WHAT WAS THE SITUATION BEFORE?

Previously, the Law on the Legal Status of Foreign Citizens already had Article 101 (since 2013) describing the procedure for identifying an undocumented foreign citizen or a stateless person. However, the law did not prescribe the issuance of a document legalizing a stateless person. Furthermore we know from practice that in reality it was almost impossible to pass this procedure: instead of collecting documents and other information, interviewing witnesses, identification, police officers would routinely detain the stateless person and place them in a detention centre for violation of the migration regime (here are some ADC Memorial case studies on this approach).

Russian migration legislation treats migrants with citizenship and stateless people as a united group, including in the provisions of the law governing removal/deportation. Violation of the migration regime falls under administrative proceedings for the execution of which the law allocates up to 2 years. Although detention in such centres is not considered punishment but an 'interim measure', there has been no judicial control over these centres, meaning detainees could not appeal their detention. Accordingly, undocumented stateless people who could not be removed anywhere

were deprived of their liberty in such institutions for up to 2 years. When they left the detention centre they did not receive documents, so many of them were imprisoned again, or even several times.

THE ROLE OF THE EUROPEAN COURT IN THE CHANGE OF THE LAW

The amendments to the Law on the Legal Status of Foreign Citizens could have been adopted much earlier – back in 2014, when the ECHR had issued a strategic decision in the case “Kim v. Russia” (read more about the facts and legal argument on the ENS Statelessness Case Law Database). The prescribed general measures included the establishment of the legal status of stateless people and their documentation, as well as the introduction of judicial control over detention centres. Precisely because Russia did not comply with the ECHR decision, ADC Memorial had to initiate the appeal to the Constitutional Court of the Russian Federation in the Mskhiladze case in 2017. Thus, the adoption of amendments on the documentation of stateless people was further delayed by about 7 years.

HOW DID THE LAW CHANGE?

The immediate catalyst for changing the law was the strategic decision of the Constitutional Court of the Russian Federation No. 14-P/2017 in the case of Noe Mskhiladze, a client of ADC Memorial. The court ordered the legislative bodies of Russia to establish a special migration status of stateless person, protecting them from impossible expulsion and detention. In addition, the Constitutional Court ordered the implementation of judicial control over the timing and grounds for detention.

Even before the amendment of the Law on the Legal Status of Foreign Citizens, lawyers of stateless people have enjoyed the new opportunity to refer to the Constitutional Court's ruling to achieve the release of their clients. A professional term has emerged: “liberation by the Mskhiladze mechanism”.

THE WORK AHEAD TO PROTECT STATELESS PEOPLE'S RIGHTS IN RUSSIA

While the adoption of these amendments is a huge step forward, human rights defenders still have a lot of work ahead. Unfortunately, the second aspect of the ECHR decision in the Kim case and the decision of the Constitutional Court of the Russian Federation in the Mskhiladze case has not yet been reflected in Russian legislation and practice. Judicial control over the legality and duration of the detention has not been introduced in law, meaning

the relevant amendments to the Administrative Code have been under consideration since 2017 but have not yet been adopted. In practice detainees who have nowhere to be expelled and who do not know about the new law and their rights are still deprived of liberty without access to legal aid, in conditions that are worse than in prison.

Furthermore, the other related pieces of legislation important for stateless people are not yet amended – for instance, the Law on Acts of Civil Status, in order for stateless people to be able to marry, be legal parents of their children, receive welfare benefits, education, health services, etc.

Practicing lawyers are still sceptical about the work of law enforcement in the identification of stateless people and believe that the implementation of the amendments will be delayed by local authorities in the field of migration. Until now, there are insufficient by-laws and administrative regulations in place by the Ministry of Internal Affairs of Russia to consistently protect stateless people.

Human rights defenders are also concerned about existing judicial practice: courts continue to issue rulings on expulsion of stateless people and on their detention. This also applies to those who have been deprived of their liberty more than once. For example, the lawyers of ADC Memorial twice won the release of Alovodin H., a stateless person of Tajik origin, from the detention centre (in 2017 and in 2019), and each time this case required an appeal in several court appearances. And again, in December 2021, the St. Petersburg City Court refused to release Alovodin from the detention centre, – despite the impossibility of expulsion, the amended law and the danger of COVID-19 infection in the detention centre.

Finally, there is a very concerning point in the amended law that a stateless ID cannot be issued (and an already issued ID can be revoked) if a stateless person has provided false personal information or forged documents when applying for the ID. In practice, some stateless people resort to forged documents in desperate attempts to navigate bureaucratic system that require documents they do not have. We have already seen a precedent when a person was deprived of Russian citizenship for a crime committed, which was interpreted as “providing false information” when applying for citizenship. This creates a risk of statelessness, and the ground for further human rights violations.

For other jurisprudence on Russia browse through the ENS Statelessness Case Law Database.

Olga ABRAMENKO,

First published in the blog of European Network on Statelessness

THE UN COMMITTEE ON MIGRANT WORKERS HAS SUBMITTED THE LIST OF QUESTIONS TO THE GOVERNMENT OF KYRGYZSTAN

At the end of the 34th session, the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) has published a List of Questions on the observance of the Convention by Kyrgyzstan.

Members of the UN CMW have requested the information on the restrictions on the rights of migrant workers and members of their families in the context of the COVID-19 pandemic and on the measures taken by the government of Kyrgyzstan to mitigate its adverse effects, including in relation to migrants who were in the Russian Federation during the pandemic, and migrants having problems with documents and experiencing difficulties in repatriation.

The question of UN CMW about the measures taken to regulate the return of Kyrgyz children left without parental care has a particular importance. For several years, ADC Memorial has been developing the #CrossborderChildhood campaign aimed at protecting the rights of migrant children, calling for an end to the practice of taking children away from their parents and separating them during the process of expulsion/repatriation. ADC Memorial welcomes the fact that in Kyrgyzstan, detention of migrants and deprivation of children's liberty in closed institutions of the Ministry of Internal Affairs system in the

process of repatriation are almost never used in practice. The transit of children under 3 years old has already been practically transferred to the social sphere; the country has a Regulation on the return of children-citizens of the Kyrgyz Republic left without parental care and located outside of the country. Responsibility for the entire process of returning children to Kyrgyzstan and their further placement rests with the authorized bodies for the protection of children, the bodies of the Ministry of Foreign Affairs, health, and population registration. However, the repatriation of older children is still carried out through the Center for the Prevention of Juvenile Delinquency (CPPN), subordinated to the Ministry of Internal Affairs. Thus, in order to completely exclude repressive models from the procedure for repatriating children, the legislation of Kyrgyzstan should be brought into line with modern international standards of children's rights. This means replacing the outdated Chisinau Agreement with bilateral agreements on humane repatriation and readmission of children.

The Committee has posed questions about the measures taken to promote the rights of Kyrgyz labor migrants abroad, about assistance in creating normal, fair and humane working conditions in the countries of migration, in particular in the Russian Federation, as well as about the measures taken for the reintegration and

employment of returning migrants and members of their families. Earlier, ADC Memorial repeatedly raised the question of the insufficient response of the Kyrgyz authorities to violations of the rights of migrants in Russia: racism and xenophobia, ethnic profiling, anti-migrant raids and special police operations, mass expulsions for minor violations, deception by employers, forced labor, massive lack of access to medical care, lack of real access to general education and preschool institutions for children of migrants. Human rights activists are also concerned about the lack of effective programs in Kyrgyzstan that help recent migrants reintegrate after a long stay abroad. With its questions about the situation of labor migrants abroad, the Committee emphasizes the responsibility of the country of origin of migrants for violations of their rights.

The UN Special Rapporteur on Poverty Olivier De Schutter called on Kyrgyz authorities to reduce dependence on external migration and create jobs within the country. "The talented youth of Kyrgyzstan should not become the country's most important export," he said. In his opinion, expressed after a visit to Kyrgyzstan, the authorities should invest in preschool and secondary education, social support for the poorest, and fight corruption, which is throwing the country back and ruining its reputation in the eyes of donors and investors.

Statement of Anti-Discrimination Centre Memorial, 28 March 2022, 34th Session of the UN CMW

Having overcome the hardest phase of the pandemic, with economic decrease and lockdown, in 2022, migrant workers faced a new challenge. The Russia's war against Ukraine caused a catastrophic economic crisis in the whole region, the risks of martial law and again border closures. Russia's military propaganda provokes chauvinistic and xenophobic sentiments, which creates risks for labor migrants from Central Asia. In this situation, it is extremely important, including for the promotion of the Convention in the world, that Kyrgyzstan would insist on respecting the rights of its citizens even in the countries who have not ratified the Convention.

We ask the Committee to address the following questions for the government of Kyrgyzstan:

- What has been done and planned in order to strengthen the protection of the rights of migrants abroad, in particular: demand for general improvement of migration policies and legislation in the destination countries; demand for decriminalizing the HIV-positive status of migrants in the destination countries; demand for effective investigation of cases of police and judicial arbitrariness and hate crimes against migrant workers abroad; for strengthening consular assistance abroad?
- What lessons have the Kyrgyzstan authorities learned from the COVID-19 pandemic in terms of preparedness for similar situations in the future (safe and rapid repatriation of citizens from countries in a state of emergency, measures of economic support in the country, measures taken in order to re-orient the economy and minimize dependence on migrant labor)? What has been done in order to prevent involvement of migrant workers from Kyrgyzstan in the military aggression of Russia against Ukraine?
- What measures is the Kyrgyzstan government taking for protection of migrant women from discrimination abroad and stigmatization at home? What measures are being taken to reduce the health risks of migrant women in the context of their labor migration? Are gender-sensitive provisions being introduced into migration legislation and practices, including on reintegration of women after their migration? What is being done for protection of the rights of girls forced to work abroad, including their right to education?
- Does the Kyrgyzstan government intend to bring legislation and practices on the repatriation of children in line with modern international human rights standards and replace the outdated Chisinau Agreement with modern bilateral agreements on the repatriation of children, completely eliminating immigration detention of children and police involvement in the repatriation process?
- Finally, having in mind that during the previous reporting cycle there were obstacles to the cooperation of NGOs with the Committee, what has been done to create proper conditions for independent and effective work of Human Rights organizations and their cooperation with the UN in the framework of the Convention?

PAMIR 2022: FLIGHT FROM REPRESSIONS



Pamiris, residents of the Badakhshan Mountainous Autonomous Region (BMAR) of Tajikistan, have been subject to migration in recent decades. The reasons for migration were not only economic, although BMAR remains one of the most backward regions of the country (it has a high level of unemployment, underdeveloped transport and road infrastructure). Many young people did not see their future in their homeland, and could not realize their professional potential there. They were also forced to leave by the repressive practices enacted by the Tajik authorities with a certain regularity.

Large Pamiri diasporas have developed in Canada, the USA and, of course, in Russia: it was attractive for the Pamiris in terms of migration (traditionally, the inhabitants of the region speak Russian very well, many have a good education and saw perspectives for professional development in Russia).

However, the events of 2021-2022 are increasingly forcing the Pamiris to seek asylum in the United States,

Canada, and European countries, although it is very difficult to even get there and even more so to get refugee status or a work visa. Such a difficult choice is due to the fact that the Russian authorities extradite to Tajikistan those who protest against the persecution of the Pamiris, although in their homeland they are expected by the arbitrariness of the security forces, closed courts and cruel sentences without the possibility of legal protection.

Since the beginning of 2022, as our respondents testify, a real flight from BMAR has begun: residents of the Pamiri villages and the city of Khorog are closing the doors of their houses and leaving with their whole families. Desolation, deprivation of the people of the present and future in their homeland – this is the price of many years of persecution and intimidation, the unwillingness of the country's authorities to conduct a normal dialogue with the population. "Darkness has fallen on our country," the Pamiris say.

CRISIS DIGEST EASTERN EUROPE CENTRAL ASIA

The war Russia has unleashed against Ukraine threatens to plunge the entire East European and Central Asian region into a deep crisis. Tens of thousands of people have already been wounded or died, millions have become refugees, and the region is on the threshold of economic collapse. Even in places where there are no hostilities, the catastrophe hit people who were in a vulnerable position even in peacetime, including migrants, members of ethnic minorities, LGBTI+ people, and civil activists.

We have decided to track news about vulnerable groups and publishing it on our Telegram channel (in Russian).

We post the longer materials and an English translation to a separate section #crisis digest of our website.

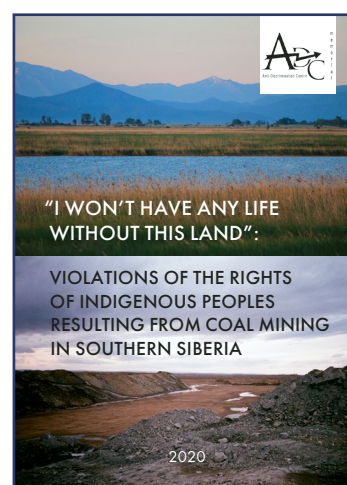
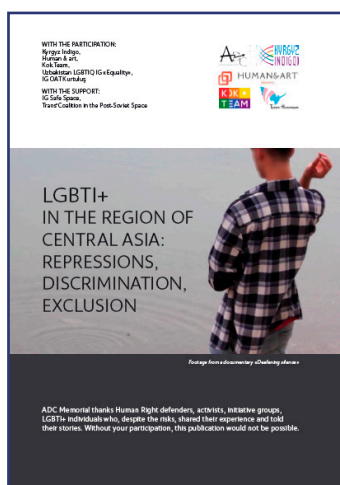
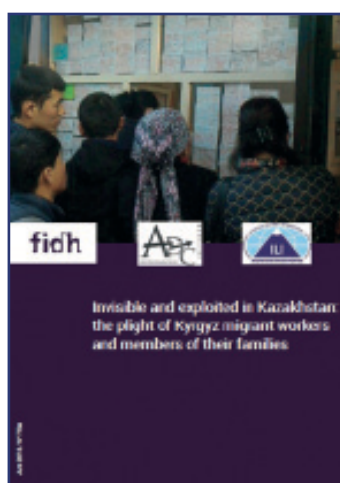
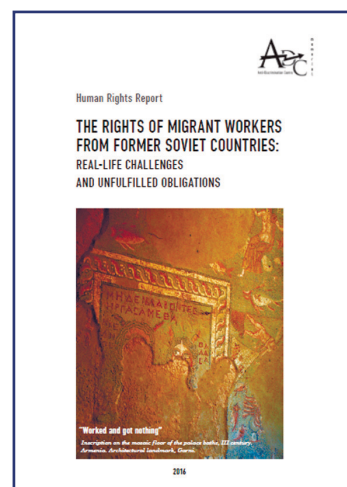
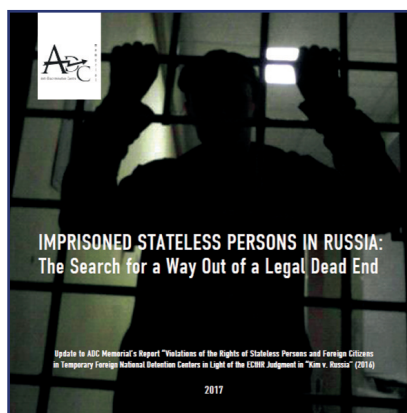
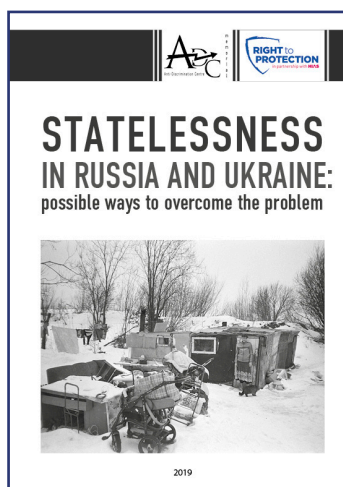


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