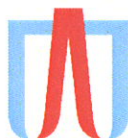




NORWEGIAN
REFUGEE COUNCIL



UKRAINIAN
HELSINKI
HUMAN RIGHTS
UNION



GROUP OF
INFLUENCE
CIVIL
HOLDING



Save the Children



HUMAN RIGHTS
INFORMATION CENTRE



Letter No. 296-KO
of 20 December 2018

To the Prime-Minister of Ukraine
Mr. Volodymyr Groysman

Cabinet of Ministers of Ukraine
12/2 Hrushevskoho Street
Kyiv 01008

Dear Mr. Prime Minister of Ukraine,

The importance of the civil status documentation for a full and equal access of the conflict-affected population to their rights could hardly be overestimated. A birth certificate serves as a recognition of the existence of a child under law, which ensures a child's access to the entire spectrum of rights and to critical State services, such as education and healthcare. Moreover, the birth registration prevents statelessness of children. A death certificate, in turn, is instrumental for managing inheritance claims and subsequent proper settlement of property transactions.

On 3 December 2018, there were held consultations on the need to introduce an alternative – administrative – procedure for the issuing civil status documentation (birth and death certificates) for residents of the non-Government controlled areas of Donetsk and Luhansk regions and of Crimea. Representatives of the relevant State authorities of Ukraine, of international and national organisations, including those dealing with human rights and humanitarian issues, participated in the consultations and discussed the major problematic aspects of the current – *simplified* court – procedure governing the registration of the facts of birth and death that take place in the above-mentioned territories.

We understand that the simplified court procedure, introduced in 2016, was a reactive measure of the Ukrainian Government based on the approach of the non-recognition of all documents issued in the territories beyond the effective control of the Ukrainian authorities but within Ukraine's territorial integrity. In this regard, it is important to recall that under international law the invalidity of any documents issued in the territories over which a territorial State does not exercise its control cannot be extended to such acts as birth or death certificates, the effects of which can be ignored only to the detriment of the inhabitants of the territory.

In addition, based on the first-hand observations in the field and on daily interactions with people affected by the crisis, participants of the consultations, including organisations providing counselling and legal aid, free of charge, to the conflict-affected population, in particular, in Donetsk and Luhansk regions, were unanimous in their assessment that the simplified court procedure, in practice, still presents a lengthy and cumbersome process, entailing numerous challenges in accessing the system of registration of the facts of birth and death..

Therefore, the discriminatory nature of the current procedure, significant adverse consequences of the lack of an accessible and responsive – administrative – procedure of birth and death registration for concerned families and the alarming situation around a high percentage of children who do not have a birth certificate issued by the Ukrainian authorities, raise serious legal and humanitarian concerns.

On 18 January 2018, the Verkhovna Rada of Ukraine adopted Law of Ukraine No. 2268 -VIII 'On peculiarities of the State policy on ensuring the state sovereignty of Ukraine on the temporarily occupied territories of Donetsk and Luhansk regions' (Law No. 2268). Law No. 2268, in its Article 2, reiterates the approach of the non-recognition of all documents issued in the non-Government controlled areas in Donetsk and Luhansk regions, 'except for documents certifying facts of birth or death of a person, which shall supplement an application for the State registration of birth or death of such a person.' The need to implement this clause, in the view of the undersigned organisations, presents an excellent opportunity for the relevant authorities to amend the current legal regulation of this matter and to establish a new procedure that would govern the issuance of birth and death certificates for residents of the non-Government controlled areas of Donetsk and Luhansk regions, on a non-discriminatory basis.

In the course of the consultations, participants discussed the existing initiatives on the alternative procedure for the civil status documents registration for residents of the non-Government controlled areas of Donetsk and Luhansk regions and Crimea.

The undersigned organisations recommend an approach, according to which:

- The relevant legislation requires to submit those documents that are essential for the establishment of the facts of birth and death and that families could be reasonably expected to produce;
- The registration of facts of birth and death that take place in non-Government controlled areas of Donetsk and Luhansk regions and Crimea is carried out on the day of the submission of the required documents and is free of charge;
- The submission of an application for the registration of birth should not be limited by any statute of limitations;
- The use of the administrative procedure for the registration of facts of birth and death having taken place in non-Government controlled areas of Donetsk and Luhansk regions and Crimea does not exclude employing the court procedure for certain complex cases (as it is generally prescribed by the current legislation of Ukraine).

In our opinion, these key elements are reflected in a draft Law of Ukraine 'On amending certain legislative acts of Ukraine regarding introducing an administrative procedure of the state registration of facts of birth and death, which took place on the temporarily occupied territories of Ukraine', developed by the Ministry of Temporarily Occupied Territories and Internally Displaced Persons together with international and national humanitarian and human rights organisations.

The undersigned organisations also would like to encourage the Government of Ukraine to consider various options on how to facilitate applying for relevant services remotely (online preliminary submission of the required documents through safe and protected channels) and bringing the relevant services close to the contact line in Donetsk and Luhansk regions or to the administrative boundary line in Crimea.

Moving forward with shaping a non-discriminatory and accessible alternative to the registration of births and deaths that take place in the territories beyond the effective control of the Ukrainian authorities, we would welcome a continued dialogue between the Government of Ukraine, on the one hand, and the humanitarian community and civil society in Ukraine, on the other. We would like to note that our recommendations are always informed by a sound analysis of international law and national legislation, the experience in addressing specific humanitarian issues that some of our organisations accumulated through operating in other countries affected by humanitarian crises as well as by our first-hand observations on the ground.

We would like to urge the Government of Ukraine to take immediate steps on introducing a non-discriminatory accessible administrative procedure of birth and death registration for residents of the territories not controlled by the Government of Ukraine within the country's territorial integrity.

Please accept, Mr. Prime Minister of Ukraine, the assurances of our highest consideration.

On behalf of the following organisations:

Christopher Mehley
Country Director, Norwegian Refugee Council



Oleksandr Pavlychenko
Executive Director, the Ukrainian Helsinki Human Rights Union



Aleksandr Galkin
President, CF "Right to Protection"



Krista Zongolowicz
Country Director, Danish Refugee Council / Danish Demining Group



Tetyana Durnyeva
Executive Director, NGO Civil Holding "GROUP OF INFLUENCE"



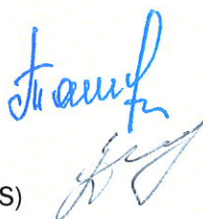
Dariusz Zietek
Country Director, Save the Children



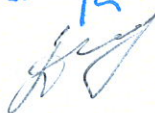
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Head of the board NGO "CrimeaSOS"



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