

## Submission by the United Nations High Commissioner for Refugees

### For the Office of the High Commissioner for Human Rights' Compilation Report

#### Universal Periodic Review: 3rd Cycle, 28th Session

## UKRAINE

### I. BACKGROUND INFORMATION

Ukraine acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*) in 2002. Ukraine has also acceded to the *1954 Convention relating to the Status of Stateless persons* (the *1954 Convention*) and the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*) in 2013.

According to the State Migration Service of Ukraine (SMS), as of 1 October 2016, there were 6,983 asylum-seekers in the country, and 3,089 persons (648 children, 973 adult females and 1,468 adult males) who have been granted refugee status or complementary protection.<sup>1</sup>

Since 2014, internal conflict within Ukraine has uprooted more than two million people, both in Ukraine and outside the country's borders. As of 12 December 2016, there were 1,654,845 internally displaced persons (IDPs) registered in the country.<sup>2</sup>

An increased number of persons are at risk of statelessness as a result of the ongoing conflict, most notably because the Government of Ukraine does not automatically recognize birth certificates issued in occupied or annexed territories. At the end of 2016, SMS reported 5,363 stateless persons legally residing in Ukraine (including 4,904 permanently). UNHCR estimates the number of stateless persons, and persons at risk of statelessness, to be approximately 35,000.<sup>3</sup>

The Ukrainian asylum system still requires improvements to meet international standards, in particular procedures for qualification of the applicants as beneficiaries of international protection. The official recognition rate remains low and refugees and asylum-seekers face challenges to locally integrate. Racism and xenophobia, legislative discrepancies, corruption and the ongoing conflict in eastern Ukraine also hinder the integration of refugees.

### II. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

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<sup>1</sup> Since 2011, Ukraine has had two forms of protection: refugee status and complementary protection. See more information at: <http://unhcr.org.ua/en/2011-08-26-06-58-56/2011-08-26-06-58-26>

<sup>2</sup> See more information at the website of the Ministry of Social Policy of Ukraine, available at: <http://www.msp.gov.ua/timeline/Vnutrishno-peremishcheni-osobi.html>.

<sup>3</sup> The last official data dates back to 2001 when around 83,000 persons declared to be stateless, with the biggest groups located in the Autonomous Republic of Crimea, Odessa, Donetsk and Dnipropetrovsk regions. State Statistics Committee of Ukraine, *Census 2001*, available at: <http://2001.ukrcensus.gov.ua/results/general/permanent/>.

## **Challenges linked to outstanding 2nd cycle UPR recommendations**

### **Issue 1: Fair and efficient asylum procedures**

**Linked to 2nd cycle UPR recommendation no. 97.143:** “Review the Ukrainian legislative framework on asylum and refugees, so as to ensure respect of the principle of non refoulement and that asylum seekers are not deported to countries where they might find themselves at risk (Spain).”

No cases of *refoulement* were reported since 2013. However, UNHCR is aware that the State Border Guard Service of Ukraine (SBGS) has refused access to the territory to individuals of some nationalities. According to the SBGS, these individuals intended to use Ukraine as a country of transit in order to reach the European Union territory. In addition, very few of them actually applied for asylum with the SMS.

Despite repeated requests, UNHCR does not have predictable access to entry border crossing points or airport transit zones. Nevertheless, UNHCR conducts *ad hoc* protection interventions, as a result of which 24 asylum-seekers (of 27) were granted access to the territory and to the asylum procedure in 2015, as well as 13 asylum-seekers (of 23) in 2016.

#### **Recommendation:**

UNHCR recommends that the Government of Ukraine:

- a) Ensure effective protection from *refoulement* and improve asylum procedures, including through establishing a formalized border monitoring mechanism in cooperation with UNHCR and civil society organizations.

### **Issue 2: Statelessness determination procedure and birth registration**

**Linked to 2nd cycle UPR recommendation no. 97.11:** “Ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Portugal)” **and no. 97.125:** “Review its legislation to ensure the right of all boys and girls to have a nationality and ensure birth registration, regardless of their ethnic origin or their parents’ status (Mexico).”

Ukraine is considering a draft law<sup>4</sup> that would amend the existing national legislation on foreigners and stateless persons, asserting that anyone, regardless of their legal status in Ukraine, can apply a statelessness determination procedure through the SMS. It would not require possession of a valid identity document for a stateless person in order to initiate such procedure. The draft law also foresees that applications would be processed within 6 months.

Despite these proposed improvements, the definition of “a stateless person” under the draft law is not harmonized with that of the *1954 Convention*. Moreover, the draft law would exclude those who pose a threat to the health and legitimate interests of nationals and others. Moreover, it would prohibit recognized refugees from applying for immigration permits. The Parliament Human Rights Committee concluded that: 1) the proposed threshold goes beyond

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<sup>4</sup> Draft Law No 5385 on Introduction of Amendments to the Law of Ukraine "On Legal Status of Foreigners and Stateless Persons" registered in the Parliament on 10 November 2016, available at: [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=60482](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=60482).

the UN *1954 Convention* standards and may lead to unlawfulness of SMS rejections; and, 2) it discriminates refugees in their ability to obtain immigration status. UNHCR further recommends the Government provide applicants free interpretation and legal aid, and reduce the residence requirement for recognized stateless persons to be eligible for naturalization from 8 years to 3 years.

Regarding birth registration, on 24 February 2016, the *Civil Procedural Code of Ukraine* was amended to allow immediate processing by any court in government controlled areas (GCA) of a claim to establish the fact of birth of a child born in non-government controlled areas (NGCA). The processing time was significantly reduced, enabling a same day decision in some cases. However, the judicial procedure still requires payment of a court fee, which is not always affordable for the most vulnerable and is only waivable under certain conditions.

Children born in Ukraine to undocumented asylum-seeking parents are also at risk of statelessness as Article 9 of the *Law on State Registration of Acts of Civilian Stage* and Article 135 of the *Family Code* do not recognize the SMS asylum ID as a proper identity document. Therefore, the citizenship of the parents will not be reflected in the child's birth certificate. As a result of these complications, Article 7 of the *Law of Ukraine On Citizenship of Ukraine*, which stipulates that a child born stateless to parents legally present in Ukraine (provided they do not receive nationality from either parents' country of origin) shall be considered as a Ukrainian national, cannot be fully implemented.

### **Recommendations:**

UNHCR recommends that the Government of Ukraine:

- a) Harmonize the definition of a stateless person with the *1954 Convention*;
- b) Create a national system for the identification of Ukraine citizens, foreigners and stateless persons, improving the cooperation among the SMS, the MoJ and the MFA;
- c) Ensure the prompt adoption of the draft law and implementing by-laws that would establish a statelessness determination procedure in-line with the *1954 Convention* and international standards and best practices;
- d) Provides the stateless applicants with free legal aid, document translation, and oral interpretation during the statelessness determination procedures;
- e) Abolish administrative fines for violations of rules of stay in Ukraine for at least the most vulnerable and unemployed stateless applicants;
- f) Reduce the residence period required for recognized stateless persons to apply for naturalization from 8 years to 3 years;
- g) Abolish court fees for establishing the legal facts of birth and death of individuals from non-government controlled areas and Crimea;
- h) Harmonize legislation relating to birth registration, in line with international standards and best practice, to ensure further simplification of birth registration of children born in non-government controlled areas and Crimea, as well as for the birth registration of children of undocumented or stateless asylum-seekers; and
- i) Amend Article 7 of the *Law of Ukraine On Citizenship of Ukraine* to bring it in line with the *1961 Convention* and to remove the requirement that the parents of a child born stateless must have legal residence for the child to be granted Ukrainian nationality.

### **Additional protection challenges**

### **Issue 3: Protection of IDPs**

As of 31 December 2016, Ukrainian authorities report that more than 1,740,000 million persons have registered as internally displaced, the majority of them living in regions bordering conflict-affected areas and in Kyiv city.

On 20 October 2014, the Ukrainian Parliament adopted a law *On Ensuring Rights and Freedoms of Internally Displaced Persons*. With the law, Ukrainian authorities have addressed a wide range of issues, including protection against discrimination and forcible return, assistance in voluntary returns, simplified access to social and economic services, including residence registration, employment, and free accommodation for IDPs for six months.

The impact of the law is, however, contingent on the adoption of various by-laws and regulations. Some of these regulations have had a negative effect such as the Cabinet of Ministers (CoM) *Resolution 509* of October 2014, which established procedures for registration and resulted in administrative hurdles for certain persons to register as displaced, including those who lack the required documentation (such as Roma) and new-born children with birth certificates issued in the NGCAs. Monitoring by UNHCR confirms that IDPs who, for various reasons, were unwilling or unable to register have been generally unable to otherwise access any State assistance. The CoM *Resolutions Nos 637* and *595*, which link social benefits with registration, may encourage further displacement from NGCA to GCA in eastern Ukraine, particularly for persons with specific needs.

In February 2016, the Ministry of Social Policy issued regulations suspending social payments to 150,000 beneficiaries, pending verification of their residence.<sup>5</sup> CoM *Resolution 365*, adopted on 8 June 2016, regulates the reinstatement of IDPs' social benefits. However, it also provides for residence checks by joint teams of social service and law enforcement agencies, with the authority to de-register individuals found not to be immediately living at their place of residence during those 'spot-checks' foreseen under the resolution.<sup>6</sup>

Large numbers of persons living in NGCA are also internally displaced, however, accurate statistics on the scope of the displacement are not currently available. This is in part due to restrictions on movement imposed by de facto authorities. IDPs in the NGCA have reported a variety of protection concerns, including general insecurity due to shelling, fear of armed groups who operate in their region, shortages of water, electricity, and heating, limited access to health services and education, and lack of livelihood opportunities. The suspension of support payments to persons in the NGCAs of the Donetsk and Luhansk regions has also contributed to displacement.

On 21 January 2015, the Government of Ukraine introduced *Order No 27 og on the Approval of Temporary Procedures for controlling movements of persons, vehicles and goods along the conflict line within Donetsk and Lugansk regions* (the Order). The Order also imposed restrictions on freedom of movement between GCA and NGCA. Currently, movement between GCA to NGCA is only authorized through certain pre-identified corridors. These corridors are often closed, at the Government's discretion. On 12 June 2015, the Order was

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<sup>5</sup> OCHA, Humanitarian Bulletin: Ukraine Issue, February 2016, available at <http://reliefweb.int/report/ukraine/humanitarian-bulletin-ukraine-issue-07-1-29-february-2016>.

<sup>6</sup> This matter was in particular highlighted by the Special Rapporteur on the human rights of internally displaced persons during his September 2016 visit. See e.g. OHCHR Press Release, *Ukraine: UN expert calls for comprehensive strategy to address IDPs' plight as winter closes in*, 9 September 2016, available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20472&LangID=E>.

revised (via *Order No 415 og*) and an electronic pass system introduced, with an on-line application and pass authorization process.

The current approach has led to long queues, with vehicles and passenger buses having to wait several hours or days at check-points, often without access to water or sanitation services. It also led to an increased sense of isolation, impeding access to medical care and social benefits as well as disrupting family and communal links. The burden on most vulnerable persons, including the elderly, the disabled, as well as pregnant women and single parents has been particularly hard. Monitoring has also revealed that persons have attempted to circumvent the checkpoints by crossing through irregular routes. This exposes them to landmines and explosive remnants of war, and there have been reports of people being injured or killed while trying to cross the contact line irregularly.

Persons with specific vulnerabilities have reported challenges in meeting basic needs. Attention is brought, in particular, to the situation of persons with limited mobility and other disabilities, female-headed households, elderly persons, particularly those with no family members or host community to support them, and children. Gaps in the legal framework also present challenges, including in relation to school registration and obtaining birth certificates.

It should also be noted that although IDPs are eligible to vote in national elections, their participation in local elections is limited by *Law No. 1706-VII*. The law, adopted by the Parliament in June 2015, requires that they establish permanent residence in the oblast in which they are based.

#### **Recommendations:**

UNHCR recommends that the Government of Ukraine:

- a) Revise all relevant national laws and by-laws to guarantee effective implementation of the law *On Ensuring the Rights and Freedoms of Internally Displaced Persons*;
- b) Adopt procedures that will reduce the waiting time at the checkpoints between GCA and NGCA and ensure that persons living in NGCA are able to cross the line of contact and have effective access to their rights and necessary services;
- c) Ensure that humanitarian organizations receive unhindered access to all affected populations;
- d) Establish non-discriminatory mechanisms for registration, access to health, freedom of movement, and other issues specific to IDPs, in line with international standards;
- e) Streamline procedures for the payment of social benefits to IDPs, including de-linking the payment of pensions from registration as an IDP; and
- f) Amend national legislation to ensure that IDPs are able to effectively exercise their right to vote in local elections.

**Human Rights Liaison Unit**  
**Division of International Protection**  
**UNHCR**  
**March 2017**

## ANNEX

### Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

#### UKRAINE

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Ukraine.

#### **I. Universal Periodic Review (Second Cycle – 2012)**

Recommendation <sup>7</sup>	Recommending State/s	Position <sup>8</sup>
<b><i>Non-refoulement</i></b>		
97.143. Review the Ukrainian legislative framework on asylum and refugees, so as to ensure respect of the principle of non refoulement and that asylum seekers are not deported to countries where they might find themselves at risk;	Spain	Supported
97.144. Respect the principle of non-refoulement;	Belgium	Supported
97.145. Ensure the protection of refugees and asylum-seekers and reconsider cases in which asylum-seekers are to be forcibly returned;	Iraq	Noted <sup>9</sup>
<b>Statelessness and SGBV</b>		
97.11. Ratify the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence;	Portugal	Noted <sup>10</sup>
<b>Access to nationality and birth registration</b>		

<sup>7</sup> All recommendations made to Ukraine during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Ukraine" (20 December 2012), A/HRC/22/7, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UASession14.aspx>.

<sup>8</sup> Ukraine's views and replies can be found in: *Addendum* (21 February 2013), A/HRC/22/7/Add.1, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UASession14.aspx>.

<sup>9</sup> *Addendum*: "Not accepted partially concerning the cases in which asylum-seekers are to be forcibly returned reconsidering. However, Ukrainian law prohibits the expulsion or forcible return of a refugee to the country he came from, and where his life is in danger. Prohibition of expulsion or forcible return is a prevention of forcible return (voluntary or involuntary), extradition, transmission, and other forced displacement (non-refoulement principle). Forcible expulsion of foreigners in Ukraine is performed according to the administrative court decision. Appeals against deportation do not stop their action, except in cases where the court in order to support the administrative claim can stop a relevant decision of the authority."

<sup>10</sup> *Addendum*: "Not accepted. Ukraine considers that an analysis of the legal framework in the respective fields, as well as assessment of financial, economic and socio-political consequences of the implementation of a document should precede the recommendations implementation relating any international document ratification. [...]"

97.125. Review its legislation to ensure the right of all boys and girls to have a nationality and ensure birth registration, regardless of their ethnic origin or their parents' status;	Mexico	Supported
<b>Trafficking in persons</b>		
97.80. Allocate adequate resources to ensure the effective implementation of the Combatting Trafficking in Persons Act (2011);	Philippines	Supported
97.83. Redouble its efforts in regard to combating trafficking in persons, particularly in combating the trafficking of children for sexual and labour exploitation, including through addressing the root causes of trafficking, establishing additional shelters for rehabilitation and social integration of victims and ensuring systematic investigation, prosecution and punishment of traffickers;	Indonesia	Supported
97.85. Continue its efforts aimed at fighting trafficking in persons, particularly children and women, and at ensuring compensation and rehabilitation for trafficking victims;	Algeria	Supported
<b>Non-discrimination</b>		
97.27. Adopt a comprehensive antidiscrimination legislation that would include also a definition of direct and indirect discrimination and a comprehensive list of grounds for discrimination;	Czech Republic	Supported <sup>11</sup>
97.59. Continue its effort to combat discrimination and promote equality in accordance with international treaties establishing guarantees of fundamental human rights and freedoms, and equality in the enjoyment of such rights, without privileges or restrictions based on race, colour, political, religious or other belief, gender, sexual orientation, ethnic or social origin, property status, place of residence, language or other grounds;	Brazil	Supported
97.61. Continue efforts to combat different forms of discrimination and ensure respect for the rights of ethnic minorities;	Argentina	Supported
<b>SOGI</b>		
97.19. Withdraw its draft legislation criminalising the promotion of homosexuality, and refrain from adopting any other legislation that restricts freedom of expression;	Australia	Noted <sup>12</sup>
97.25. Enact legislation that explicitly protects LGBT persons from discrimination and that laws that contain discriminatory provisions against LGBT persons are amended;	Ireland	Noted
97.69. Respect its international commitments on fundamental rights related to non-discrimination, prevent the adoption of a law prohibiting freedom of expression with regards to homosexuality and raise awareness of civil society on combating all forms of discrimination, including discrimination based on sexual orientation and gender identity;	France	Supported

<sup>11</sup> **Addendum:** “Accepted, already implemented, see paragraphs 14–17 of the National report;”

<sup>12</sup> **Addendum:** “Not accepted, taking into account the opinion given in 97.18. Furthermore it should be noted that the adoption of new laws or amending existing laws shall not diminish the content and scope of existing rights and freedoms. In addition, the government has no authority to withdraw the bills initiated by MPs of Ukraine;”

<b>Hate crimes</b>		
97.65. Further pursue its efforts to create appropriate institutional mechanisms to counter all forms of discrimination and further pursue its efforts to provide human rights training for police personnel to effectively fight hate crimes;	Morocco	Supported
97.66. Issue a comprehensive anti-discrimination law and update the national action plan in order to dedicate special attention to addressing the practices of law-enforcement officials, as well as the legal and practical measures needed to combat incitement and hate crimes;	Egypt	Supported <sup>13</sup>

## **II. Treaty Bodies**

### **Committee on the Elimination of Racial Discrimination**

Concluding Observations, (26 August 2016), [CERD/C/UKR/CO/22-23](#)

#### **Demographic composition of the population**

5. The Committee regrets that the State party has not provided recent, reliable and comprehensive data either on economic and social indicators or indicators of ethnic origin, that would enable the Committee to better evaluate the enjoyment of economic, social and cultural rights by various groups living in its territory, including minorities and migrants, and the impact of the various programmes, strategies and plans adopted by the State party. The Committee notes that the census due to take place in 2016 has been postponed to 2020.

**6. The Committee recommends that the State party conduct its census and collect such disaggregated data in order to enhance its implementation of the Convention. The Committee also recommends that the State party provide the Committee with any updated available, reliable and comprehensive economic and social indicators based on ethnicity, nationality or country of origin and drawn from academic or social surveys carried out in this field. This will enable the Committee to have an understanding of the enjoyment of economic, social and cultural rights by various groups living in its territory, including minorities in particular Roma, migrants, refugees, asylum seekers and stateless persons as well as information on the impact of programmes, plans and strategies that have been evaluated and measured.**

#### **Racist hate speech and hate crimes**

11. The Committee is concerned at reports of a rise in racist hate speech and discriminatory statements in the public discourse including by public and political figures, on the media, in particular on the Internet and during rallies, and directed mainly against minorities, such as Roma, asylum seekers and refugees, among others (art. 4).

**12. In the light of its general recommendations No. 7 (1985) and No. 15 (1993) relating to the implementation of article 4 of the Convention, and recalling its general recommendations No. 35 (2013) on combating racist hate speech, the Committee reminds the State party of the importance of safeguarding the rights of groups in need of protection against racist hate speech, incitement to hatred, including by the media.**

<sup>13</sup> *Addendum*: “Accepted, already implemented, see paragraphs 14–17 of the National report;”



**The Committee recommends that the State party take appropriate measures to strongly condemn and distance itself from racist hate speech and discriminatory statements in public discourse, including from public figures, and call upon those responsible to ensure that their public statements do not contribute to incitement of racial hatred. It recommends that the State party register, investigate and bring to justice cases of hate speech, and sanction those responsible.**

13. The Committee is concerned at reports of racially motivated incidents or hate crimes, including physical attacks targeting individuals on the basis of their ethnic origin, such as Roma, Jews, Africans and other minorities that took place in some localities of the territory of the State party. The Committee is also concerned at information of denial of entrance to African and Indians on the basis of colour in Uzghorod, such as in the local Aquapark. The Committee is further concerned that cases of hate crimes or other racially motivated acts are not always adequately and effectively investigated and that those responsible are not prosecuted and punished. While noting that some cases have been addressed, the Committee remains concerned at the very low number of cases of hate crimes brought to domestic courts (arts. 2, 4, 6).

**14. In the light of its general recommendations No. 7 (1985) and No. 15 (1993) relating to the implementation of article 4 of the Convention, the Committee recommends that the State party take appropriate measures to:**

- (a) **Ensure that all reported hate crime cases are registered and effectively investigated under article 161 of the Criminal Code, that those persons responsible are prosecuted where appropriate and, if found guilty, punished with appropriate penalties;**
- (b) **Condemn the practice of denying certain groups access to public places and to investigate all reports of denial of access to public facilities;**
- (c) **Collect and make available disaggregated statistics on the number of reported cases relating to hate speech and hate crimes, the number and the nature of hate speech and hate crimes committed, the number of cases brought to court and the origin and outcome of those cases;**
- (d) **Increase public awareness-raising campaigns and other measures to counter incitement to hatred and hate crimes and continue to train law enforcement officials in this area.**

#### **Situation of Roma**

19. While noting the various measures taken by the State party to improve the situation of Roma, including the Strategy for the Protection and Integration of Roma National Minority until 2020 and its Action Plan, the Committee remains concerned at the persistence of discrimination, stereotypes and prejudices against Roma, including reports of physical attacks and killings such as those which occurred in the eastern Ukraine, in localities such as Slovyansk, Shchotove village in Luhansk region in 2014, either under the control of the non-governmental armed groups or of the government of the State party. The Committee is also concerned at reports that some Roma are unable to flee the conflict zones due to the lack of identity documents and that some Roma who fled the conflict zones face xenophobia and are denied assistance. The Committee is further concerned at the lack of funding and the low level of implementation of the Strategy for the Protection and Integration of Roma National Minority until 2020 and its Action Plan, including at the local level (art. 5).

**20. The Committee recommends that the State party firmly combat any discriminatory act against Roma and investigate incidents of attacks and killings of Roma including the areas of eastern Ukraine that are under the control of the government of the State party. The Committee also recommends that the State party find durable solutions to internally displaced Roma and take measures to ensure that they benefit from assistance. The Committee further recommends that the State party provide all necessary resources for the implementation of the Strategy for the Protection and Integration of Roma National Minority until 2020 and its Action Plan including at the local level.**

[...]

### **Refugees, asylum seekers and stateless persons**

25. The Committee is concerned about reports of challenges that still restrict the fairness and effectiveness of the asylum procedure in the State party, in particular: a) the restrictions to access border entry points of the territory of the State party, including by a great number of Syrian citizens in 2013-2014; b) lack of professional interpretation by the State Migration Service in relation to application for asylum; c) rejected asylum-seekers do not receive well-reasoned decisions; d) the limited time provided for the appeal to asylum decisions. The Committee is also concerned at the very limited reception conditions in particular in cities with significant number of asylum-seekers, such as Kyiv and Kharkiv, which compels asylum-seekers to seek sub-standard private accommodation. The Committee is further concerned at reports that refugees and asylum seekers face many obstacles to access the labour market and do not receive an adequate support for their integration. In addition, the Committee is concerned at reports of racially motivated incidents and xenophobia faced by refugees and asylum seekers (art. 2, 5).

**26. The Committee recommends that the State party improve its asylum procedure by: a) enabling access to its territory to persons in need of international protection; b) allocating adequate resources for professional interpretation at all stages of the refugee status determination procedure; c) providing training to the officers of the State Migration Service. The Committee also recommends that the State party improve the reception conditions of asylum seekers and provide those who cannot be accommodated with alternative housing solutions and support. The Committee further recommends that the State party firmly prevent and protect refugees and asylum seekers from any hate crime and hate speech and facilitate the integration of refugees including through access to the labour market and improve their access to education, language skills, vocational training and employment services.**

27. The Committee is concerned at information on a lack of mechanism to legalize the stay of stateless persons who are irregularly present in the territory of the State party. The Committee is also concerned at difficulties faced by undocumented stateless persons in being duly registered, obtaining resident permits or receiving valid documents. The Committee is further concerned at the risk of statelessness for an increased number of persons due to the internal displacement and the conflict and the reported reticence of the State party at recognizing birth certificates issued outside Ukrainian's government controlled territories (art. 5).

**28. The Committee recommends that the State party take measures to protect stateless persons, establish a mechanism to determine the status of persons in statelessness situation and facilitate their integration including by providing them with valid documents and the necessary support.**

### **Internally displaced persons (IDPs)**

29. The Committee is concerned at reports about difficulties faced by internally displaced persons in the territory of the State party, due to the conflict, in particular: a) social benefits including pensions are linked to the IDP status and residence in the areas controlled by the State party, which prevent some IPDs having access to such social benefits; b) local integration of IDPs is hampered by legal and regulatory framework; c) difficulties in accessing to affordable housing and adequate employment; d) restrictions to the freedom of movement, which prevents access to social services, education and healthcare services; e) difficulties to cross checkpoints and reports of persons injured by landmines or being targets of shelling. The Committee is also concerned that such a situation prevents persons belonging to minorities, such as Roma, from registering as IDPs and having access to social assistance while being at a high risk of discrimination and stigmatization (art. 2, 5).

**30. The Committee recommends that the State party take measures: a) to revise its regulations and ease freedom of movement for persons who would like to cross the administrative borders between non-government controlled areas and controlled government areas; b) to avoid linking social benefits the IDPs status and the duty to register or to live in the areas controlled by the State party; c) facilitate the registration of IDPs and strengthen its efforts to assist IDPs to obtain documentation; d) facilitate access to housing for IDPs or provide them with the assistance needed to find alternative housing; e) make efforts to facilitate the integration of and durable solutions for IDPs; f) adopt a national policy on IDPs and establish a national mechanism mandated to prevent and protect against internal displacement.**

### **Committee on the Rights of Persons with Disabilities**

Concluding Observations, (2 October 2015), [CRPD/C/UKR/CO/1](#)

#### **Situation of risks and humanitarian emergencies (art. 11)**

22. The Committee is concerned about the reports that persons with disabilities were abandoned and could not be evacuated during the conflict in the east of the country. It is particularly concerned about the reports that there were no warning systems for deaf and blind people and that persons with multiple forms of disabilities could not use bomb shelters. The Committee is also concerned about the lack of accurate data on displacement, casualties and injuries among persons with disabilities during the conflict. Furthermore, the Committee notes alarming reports that humanitarian aid, including aid provided by international donors, is not accessible to persons with disabilities and contributes to their exclusion from relief efforts.

**23. The Committee urges the State party to take all measures necessary, including at the local level, to facilitate the protection, including evacuation, of persons with disabilities who currently remain in the conflict areas of the country and ensure that its emergency response mechanisms and evacuation plans are inclusive and accessible to all persons with disabilities. It particularly calls upon the State party to prioritize persons with disabilities in its evacuation plans, including by training the personnel involved. The Committee further recommends that the State party mainstream disability in all**

**humanitarian aid channels and involve organizations of persons with disabilities in setting priorities on aid distribution.**

24. The Committee is concerned that the lack of a systematic registration process for persons with disabilities who are internally displaced hinders their access to social protection, emergency and humanitarian aid services, including shelters, medicine, benefits and pensions, which are necessary for an adequate standard of living.

**25. The Committee urges the State party to take all measures necessary to systematically register internally displaced persons with disabilities and provide them with an adequate standard of living.**

### **Committee against Torture**

Concluding Observations, (12 December 2014), [CAT/C/UKR/CO/6](#)

#### **Domestic violence**

14. While welcoming the steps taken by the State party, such as the adoption of the Prevention of Domestic Violence Act (2001) and the “Stop violence!” campaign, the Committee is concerned at the persistently high rate of domestic violence. It is also concerned about the absence of an appropriate normative framework to fight domestic violence effectively and the lack of availability of remedies for the victims (arts. 2, 12, 13, 14 and 16).

#### **The State party should:**

- (a) **Amend its legislation in order to strengthen efforts to specifically criminalize, prevent and combat domestic violence, and ensure the effective implementation of legislation on domestic and family violence in practice;**
- (b) **Ensure that complaints from victims are promptly, thoroughly and impartially investigated, that perpetrators are prosecuted and, if found guilty, punished with appropriate and effective penalties;**
- (c) **Ensure that victims of domestic violence benefit from protection and effective remedies, including access to medical and legal services, psychosocial counselling, redress, including rehabilitation, and safe and adequately funded shelters in all parts of the country;**
- (d) **Ensure that law enforcement and the judicial authorities, as well as medical and social workers, are provided with appropriate training to deal with cases of domestic violence and continue to enhance awareness-raising efforts in order to sensitize members of the general public;**
- (e) **Compile and provide the Committee with disaggregated data on the number and nature of complaints, investigations, prosecutions and sentences handed down for acts of domestic violence, on the provision of redress to victims and on the difficulties experienced in preventing such acts.**

#### **Trafficking in human beings**

15. The Committee values the State Targeted Social Programme on combating trafficking in human beings, but is concerned that the State party remains a country of origin and transit for human trafficking, in particular for sexual and labour exploitation. It is also concerned that the crime of trafficking of human beings is not properly investigated, perpetrators are not

sanctioned, and victims are not provided with access to effective remedies and redress (arts. 2, 10, 12, 13 and 16).

**The State party should:**

- (a) **Continue taking measures to prevent and eradicate human trafficking, including vigorous enforcement of anti-trafficking legislation, and provide sufficient funds for the financing of the State Targeted Social Programme;**
- (b) **Enhance international cooperation to combat human trafficking, in particular for the purpose of sexual and labour exploitation, including through bilateral agreements, and monitor the impact;**
- (c) **Provide specialized training to the police, prosecutors and judges, immigration officers, the border police, community support officers and psychologists on effective prevention, investigation, prosecution and punishment of acts of trafficking, including on the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and continue nationwide awareness-raising and media campaigns about the criminal nature of such acts;**
- (d) **Promptly, effectively and impartially investigate, prosecute and punish trafficking in persons and related practices;**
- (e) **Provide effective remedy to all victims of the crime of trafficking, ensuring prompt and adequate psychological support, medical care, access to welfare benefits, adequate shelter and work permits, irrespective of their ability to cooperate in legal proceedings against traffickers;**
- (f) **Provide the Committee with comprehensive disaggregated data on the number of investigations, prosecutions and sentences handed down for human trafficking and on the provision of redress to the victims.**

**Asylum seekers and internally displaced persons**

17. The Committee is concerned at reports that persons in need of international protection do not have access to asylum procedures, including determination of refugee status, in accordance with international standards. It is also concerned about the unnecessary detention of asylum seekers, the short five-day limit for appealing against negative decisions and the lack of regular access to legal aid and interpreters. While taking note of the adoption of the law on internally displaced persons on 20 October 2014, the Committee is particularly concerned at the large number of internally displaced persons as a result of the annexation of Crimea and armed conflict in parts of the country (arts. 3, 14 and 11).

**The State party should:**

- (a) **Ensure that all persons applying for international protection have access to a fair refugee determination procedure and are effectively protected against refoulement;**
- (b) **Refrain from detaining asylum seekers for prolonged periods, use detention only as a measure of last resort for as short a period as possible, promote alternatives to detention and revise policy in order to bring it in line with the Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum Seekers and Alternatives to Detention issued by the Office of the United Nations High Commissioner for Refugees;**
- (c) **Consider increasing the time for filing appeals and ensure that rejected applicants are not deported immediately upon the conclusion of administrative**

- proceedings before they are able to submit an appeal against a negative asylum decision, and make available legal aid and interpreters;
- (d) **Take all the necessary measures, in accordance with international standards, to provide sufficient protection to all internally displaced persons.**

### **III. Special Procedures**

#### **Report of the Special Rapporteur on the human rights of internally displaced persons**

Mission to Ukraine (2 April 2015), [A/HRC/29/34/Add.3](#)

#### **Conclusions and recommendations:**

##### **Legislation**

**79. The Government must ensure that it complies fully with its obligations under international standards, including the Guiding Principles on Internal Displacement, for all those IDPs within its territories, and guarantee all their human rights without discrimination.**

**80. The adoption in October 2014 of the law on the rights and freedoms of internally displaced persons is welcomed, although some revisions may be required to bring it fully into line with international standards. It will enable more effective responses to the needs of IDPs, with appropriate budgets in place. Full and rapid implementation of the Law is now of paramount importance and the Government should establish a clear roadmap and implementation strategy to ensure that it takes effect without unnecessary delay.**

##### **Registration, data and needs assessment**

**81. Registration procedures are currently ad hoc and inadequate to meet the needs of IDPs, creating obstacles to their access to essential assistance, provision of social benefits and residence registration, inter alia. Registration should be harmonized for IDPs, with documentation for access to essential services and the chance to gain employment and livelihood opportunities, and to vote in elections.**

**82. Noting the lack of comprehensive data on the number, location and needs of IDPs, full registration and profiling, including a comprehensive needs assessment, are essential. This should extend to the many who are unregistered and not receiving government support with regard to housing, food and other essential needs. Data should also be gathered on the needs of families and communities hosting IDPs that may be significantly affected and also require assistance.**

##### **Preparedness structures, systems and institutions**

**83. It is evident that there is no coherent coordination mechanism with, and between, national and regional administrations. Frontline services are mostly provided by volunteers, civil society and regional administration authorities, with the support of UNHCR. Registration systems are not harmonized. There is an inadequate organized response to the internal displacement situation in Ukraine.**

**84. Responsibility and coordination across government ministries, agencies and services is currently unclear and inadequate to respond effectively to the situation. Now that**

legislation is in place, systems, processes and institutional mechanisms should be improved to ensure that assistance can be quickly provided to IDPs, who commonly have few, if any, financial resources and are dependent on continuing access to their pensions and other benefits.

85. On the basis of the Law on IDPs, priorities must include: a harmonized and coordinated registration process to be used both regionally and nationally; clearly defined responsibilities for issues related to displaced persons and support for them under the general leadership of a dedicated government body; and the establishment of long-term planning and a national strategy to address the short-, medium- and long-term needs of IDPs and the need for durable solutions.

[...]

#### **Food, clothing, health care and education**

88. Addressing urgent needs in the area of provision of food, clothing, health care and education must be a high priority for national and regional governments to ensure the health and well-being of IDPs. Provision of essential assistance cannot be left to voluntary contributions from the general public or non-governmental organizations as has been commonplace in the response in some regions to date.

89. A coordinated, government-led assistance strategy, in cooperation with regional authorities, and United Nations and other international entities as appropriate, is required to ensure that adequate food, clothing and other essential non-food items are provided in a systematic and timely manner. This is especially important in winter and for children, the elderly, persons with disabilities and other particularly vulnerable persons.

90. While primary health-care needs are being met, including psychosocial care, free access to medicines must be provided for all IDPs who lack resources. The specific health-care needs of pregnant women, the elderly and disabled persons must be given a high priority. Access to education for internally displaced children has largely been facilitated. However, specific challenges include access to kindergarten places, ensuring all children are attending school, and assisting students to find places to continue higher education courses without additional costs.

#### **Particularly vulnerable groups**

91. Specific attention should be given to the situation of particularly vulnerable groups, including the elderly, persons with disabilities, pregnant women and others who are poorly equipped to cope with displacement, distressed or vulnerable to illness. A comprehensive needs assessment should be conducted in each displacement location.

92. Particular attention should also be given to those IDPs belonging to marginalized groups or minorities such as Roma to ensure that all have equal access to assistance and support services and that no discrimination exists with regard to their seeking and gaining assistance. Lack of documentation should not be a criteria for denying assistance and pro-active outreach to such population groups should be undertaken.

#### **Discrimination and stigmatization**

93. Discrimination or stigmatization of any kind targeted against IDPs on account of their situation, identity or political or other affiliation must be addressed immediately.

## **Detention/filtering of internally displaced persons**

**94. Allegations of civil and political rights violations by the armed groups and Ukrainian forces, including volunteer battalions, require independent investigation. All sides must conform to all human rights standards in the treatments of IDPs, including ensuring that they are free from arbitrary arrest and detention, torture and any ill-treatment. Equally, it is important to ensure freedom of movement and residence for IDPs, including their potential secure return to their places of origin.**

[...]

## **Achieving durable solutions**

**96. Consideration of relevant durable solution options must be included in national laws and policies for IDPs and addressed at the earliest possible stage. National and regional authorities should establish integrated planning informed by displacement dynamics and ensure that urban development and upgrading plans, as well as poverty reduction plans, include aspects specific to internal displacement. It is imperative that the authorities ensure full participation of IDPs in processes that address durable solutions, and undertake consultation with communities and neighbourhoods to address their broader concerns.**

**97. Ukraine is encouraged to learn from the experience of similar situations, including in the Balkans and Caucasus regions, where internal displacement has become protracted. It is vital to ensure that short-term or transitional solutions, for example regarding accommodation, do not become permanent. Lessons can be learned to help Ukraine put in place vital policies, frameworks, support structures and programmes to move towards a situation in which many IDPs can return safely to their homes or find alternative durable solutions.**