



Ukrainian Parliament
Commissioner
for Human Rights

**Ukrainian Parliament Commissioner for
Human Rights**

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**Shadow report
of the Ukrainian Parliament Commissioner for Human Rights on the status of
implementation of recommendations made to Ukraine under the Universal
Periodic Review**

Third circle

Brief description of the institution

Ukrainian Parliament Commissioner for Human Rights (established in 1998) is an independent constitutional body exercising parliamentary control over the observance of all human rights and fundamental freedoms in Ukraine (at the moment there is no specialized NHRIs in Ukraine). The Commissioner has a national status. The whole territory of Ukraine falls within the jurisdiction of the Commissioner.

The Commissioner is elected and appointed by the Parliament of Ukraine.

The Commissioner is not accountable to any public body or official. According to Article 4 of the Law 'On the Ukrainian Parliament Commissioner for Human Rights' (Law on the Ombudsman), the Commissioner shall be independent of other state bodies and officials in the exercise of his or her functions. The authority of the Commissioner cannot be terminated or restricted in the event of expiration of term of the authority of the Parliament of Ukraine or its dissolution (self-dissolution), declaration of martial law or the state of emergency in Ukraine or in its separate areas.

Interference from bodies of state power, bodies of local self-government, associations of citizens, enterprises, institutions, organizations, irrespective of their forms of ownership, their officials and officers into the activity of the Commissioner is prohibited (Article 20 of the Law on the Ombudsman).

The Office of the Ombudsman of Ukraine exercises functions of the National preventive mechanism, antidiscrimination body, personal data protection body, body of control over observance of the right to petition (under the Law of Ukraine 'On petitions of citizens') and the right to access to public information (under the Law of Ukraine 'On access to public information').

The Ombudsman of Ukraine is accredited with 'A' status by the International Co-ordinating Committee of National Human Rights Institutions for the Protection and Promotion of Human Rights (re-accredited in 2014).

Recommendations 97.46, 97.128, 97.129, 97.130 (2nd cycle)

1. The above mentioned recommendations, in fact, are reflected in the *Action plan for the implementation of the National human rights strategy for the period up to 2020* (approved by the Decree of the Cabinet of Ministers of Ukraine No. 1393-p of November 23, 2015). The expected results of implementation of the Strategy are set out in the relevant paragraphs of the Action plan on the Strategy (58 - 61).

2. At the same time, the monitoring of the state of implementation of the *National human rights strategy* and its *Action plan*, conducted by the Office of the Ombudsman of Ukraine and civil society organizations in November 2016, demonstrates the activities of the Ministry of Health of Ukraine have been insufficient. The following issues have remained without due attention:

- implementation of the compulsory state medical social insurance of the population;
- ensuring of an adequate level of access to primary medical assistance, especially in rural areas, assisting in the re-equipment of medical facilities;
- reorganization of the network of medical facilities taking into account the real needs of the population of the relevant administrative-territorial unit in specific types of medical assistance and medical services;
- improving the procurement of medicines, vaccines and medical products in order to eliminate risks that may negatively affect the treatment of low-income groups of the population.
- recommendations on the adoption of response measures for the proper implementation of the Action plan by public authorities which were submitted to the Government of Ukraine.

Recommendations 97.16, 97.43, 97.133, 97.134 (2nd cycle)

3. In order to ensure the realization of the rights, meet the needs of persons with disabilities on an equal basis with other citizens and improve their living conditions in accordance with the Convention on the Rights of Persons with Disabilities, in August 2012 a State Programme "National Action plan for the implementation of the Convention on the Rights of Persons with Disabilities for the period up to 2020" was approved. However, most provisions of legislative and regulatory acts in the sphere of ensuring the constitutional rights of persons with disabilities remain purely declarative, as a significant part of these rights are not fully implemented in practice. This is due to the fact that such persons are not provided with proper conditions for a full-fledged way of life in accordance with their individual capabilities, abilities and interests.

4. The results of the Commissioner's monitoring in this area are reflected in the Ombudsman's Shadow Report on the status of implementation of the UN Convention on the Rights of Persons with Disabilities, submitted to the UN

Committee on the Rights of Persons with Disabilities and considered at the 14th session of the Committee in Geneva on 19-20 August 2015. The text of the report can be found at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fNHS%2fUKR%2f21337&Lang=en.

5. It should be noted that since then the situation has not significantly improved, that, among other things, is due to the deterioration of the financial and economic situation in the country and events in Eastern Ukraine.

Rights of internally displaced persons

6. Recommendations submitted within the 2nd cycle of the Universal periodic review for obvious reasons didn't include issues of observance of human rights in Ukraine connected to occupation of Crimea by the Russian Federation and the armed conflict in the East of Ukraine. However these tragic events led to the most large-scale internal displacement in Europe since the World War II and significantly influenced ensuring the rights and freedoms of a considerable part of the population of Ukraine.

7. Therefore necessity of inclusion of recommendations concerning issues of internally displaced persons (IDPs) within the 3rd cycle of UPR, in particular on what the state have to do to ensure strict observance of human rights and fundamental freedoms of IDPs and citizens who remain on temporarily occupied territories of the Donetsk and Lugansk regions not controlled by the Government of Ukraine, is obvious.

8. The Commissioner for Human Rights considers that for achievement of this purpose the Government of Ukraine needs to undertake in a first-priority order measures for implementation of mechanisms aimed at realization of rights and freedoms by all citizens of Ukraine irrespective of their place of residence, including IDPs and persons living on temporarily occupied territory of the Donetsk and Lugansk regions. Establishment of mechanisms of implementation of the rights to social protection, provision of pensions, participation in local elections is being particularly urgent.

9. It is necessary to undertake the following measures as well:

- to elaborate with participation of all categories of the population, to adopt and implement the national strategy aimed at solution of the main issues connected to mass internal displacement of people (provision of housing, compensation of damage for the lost, damaged property, employment of IDPs, using services: social, administrative, in the sphere of medical care and education);

- to undertake necessary measures for timely bringing of government rules and regulations concerning IDPs in compliance with amendments adopted at the legislative level;

- to consider the possibility of strengthening institutional capacities of authorities at local level because of increase in their functional load connected to

mass displacement in order to ensure proper provision of services to the population and implementation of their human rights;

- to provide regular training to both employees of central and local offices of public authorities and employees of local self-government institutions on human rights issues and proper law-enforcement practice for the purpose of preventing cases of inadequate ensuring of the rights of citizens, including IDPs;

- restrictions in implementation of the rights, connected to temporary occupation of a part of the territory of Ukraine and the armed conflict, shall be minimum essential; especially it concerns restrictions for citizens in case of their movement to the occupied territory or in the opposite direction, crossing the contact line between the occupied territories and the main territory of Ukraine, transportation of things of private use, food and medicines.

The rights of the persons involved in anti-terrorist operation in the East of Ukraine

10. Issues of ensuring the rights of the military personnel and staff of police military units and law enforcement bodies in peace time are rather accurately settled by the legislation of Ukraine.

11. At the same time the crisis situation which began in 2014 has showed a certain unavailability of the state and its institutes as regards proper protection of the rights of "citizens in shoulder straps" who participate in activities for the protection of sovereignty and territorial integrity of Ukraine. In particular the issue of protection of the rights of new subjects, namely, the mobilized military personnel, participants of anti-terrorist operation (combatants and disabled veterans), family members of the deceased military personnel required settlement.

12. With respect thereto since March, 2014 activities on relevant improvement of the national legal system have been undertaken. A number of necessary measures were taken by the state, however the following issues still urgently need a legislative regulation:

- 1). Provision of a status of war veterans to persons – members of paramilitary troops which weren't a part of official military units, and also to citizens who voluntarily together with divisions of military units and law enforcement bodies were directly involved in anti-terrorist operation (volunteers).

- 2). Fixing a lump-sum allowance in case of battle or other death, injury or wound, disease or disability of persons of the rank and file and command staff of the civil defense service at the level which is assigned to the servicemen and the police officers.

- 3). Bringing national legislation on privileges to veterans of war (combatants, participants of war, disabled veterans) into compliance with real financial capacities of the state (now specific privileges and guarantees foreseen by laws aren't provided in connection with impossibility of their financial provision).

The right to personal data protection, the right to access to public information. Establishment of the position of Information commissioner on observance of the right to information

13. These matters were not mentioned within the 2nd cycle of UPR, however their significance has essentially raised since 2014 due to adoption of the new legislation of Ukraine and the practice for its implementation.

14. The rights to personal data protection, to access to public information and publication of information important for the society shall be fundamental human rights guaranteed by the Constitution of Ukraine (articles 32 and 34), Convention for the protection human rights and fundamental freedoms (articles 8 and 10), General human rights declaration (articles 12 and 19), the International covenant on civil and political rights (articles 17 and 19).

15. To ensure realization and protection of these rights there was adopted Law of Ukraine «On access to public information» No. 2939-VI of 13.01.2011 (entered into force on 09.05.2011) and the Law of Ukraine «On personal data protection» No. 2297-VI dated 01.06.2010 (entered into force on 01.01.2011).

16. Control functions over observance of these rights were granted to the Ombudsman of Ukraine. The reason of this was the fact that in accordance with the international standards such a control shall be performed by a body which is independent from the bodies of state power. At the moment of adoption of the decision on transfer of the mentioned functions the Office of the Ombudsman of Ukraine was the best choice. However, exercise of an effective control in this sphere in accordance with all international standards is impossible within the framework of the Ombudsman's mandate.

17. Establishment of a special position – the Information commissioner for observance of the right to information (including issues of publication of information important for the society) and personal data protection has been a generally accepted and efficient European practice. Therewith, the relevant body shall be independent from other branches of state power, as well as it shall have a set of minimum powers (authorities), in particular the right to issue mandatory instructions in order to prevent or remedy violation of the right to information, to get access to information, including the classified one.

18. Understanding the importance of the rights to access to information and personal data protection in a democratic society and taking into account the EU integration course of Ukraine which stipulates implementation of international standards, in the sphere of human rights in particular, it appears expedient to establish a specific institute of the Information commissioner. However, establishment of such an institute which would meet international standards to the maximum extent, requires that its status is enshrined in the Constitution of Ukraine, as such a body shall be independent from all branches of state power to ensure an effective performance of control over observance of these human rights.

Observance of the rights of the child

Recommendations 97.39, 97.40, 97.42, 97.128 (2nd cycle)

19. Recommendations, provided to Ukraine within the framework of the second cycle of the UPR and aimed at the effective implementation of the national

programme "National action plan for the implementation of the UN Convention on the rights of the child" for the period up to 2016, have not been fully implemented. The annual action plan was untimely approved by the Government which made it difficult to procure necessary medicines to children suffering from orphan diseases and ensure operative therapy for children with disabilities, particularly with permanent hearing impairments, those requiring implantation, etc.

Recommendation 97.130 (2nd cycle)

20. Over the past few years, the situation with the vaccination of children has remained extremely difficult in Ukraine. Vaccines, used for mandatory vaccinations, must be procured centrally and paid from the state budget of Ukraine. However, during 2015, vaccines were not procured; their procurement was carried out only in the spring of 2016. Substantially, the Ministry of Health of Ukraine did not exercise control over the timely supply of vaccines to children's polyclinics and maternity hospitals. This situation did not contribute to the proper immunization of children.

Recommendations 97.42, 97.126, 97.127 (2nd cycle)

21. The Law of Ukraine "On General Secondary Education" states that the reorganization and liquidation of educational institutions of communal ownership is carried out under a decision of the session of a local council. Thus, the opinion of the territorial community is not taken into account while taking such important decisions.

22. In addition, the reduction in financing of education and science in last years has jeopardized the provision of quality and accessible educational services in the sphere of education, as it has led to a reduction in the network of educational institutions, inappropriate transportation of children to educational institutions in rural areas and the untimely provision of children with schoolbooks.

23. Only during the summer 2016, 223 general educational institutions were liquidated and other 147 stopped their activities.

24. Therefore, there is a high probability that the closure of educational institutions will jeopardize the ensuring of the right of children to free secondary education, guaranteed by the Constitution of Ukraine.

Recommendations 97.115, 97.116 (2nd cycle)

25. The *Governmental Action plan for the implementation of the Concept for the development of criminal justice for minors in Ukraine* is mainly focused on work with children who have already committed an offense. That is why it needs to be refined in the area of improving the system of preventing juvenile crimes, implementing effective legal proceedings with regard to juvenile offenders, establishing an effective system of the rehabilitation of juvenile offenders, as well as the protection of children who have been victims and witnesses to a crime.

Gender Equality and Combating Domestic Violence

Recommendations 97.11, 97.31, 97.47, 97.48, 97.52, 97.54, 97.76, 97.77, 97.78, 97.85 (2nd cycle)

26. Recommendations on the necessity of ratification of the Istanbul Convention, improvement of legislation on combating domestic violence and issues of ensuring equal rights and opportunities for women and men have not been fully implemented.

27. The level of representation of women in the political life of the country remains low. According to the Ombudsman of Ukraine, the Parliament of Ukraine is composed of 371 men and 52 women (12%). At the same time, only 5 parliamentary committees (out of 27) are headed by women.

28. The Ombudsman of Ukraine is convinced that the introduction in 2015 of amendments to the Law of Ukraine "On political parties of Ukraine" is a positive step towards ensuring the proper representation of women in the Parliament of Ukraine. The mentioned law provides for the allocation of 10% of the annual volume of state financing of political parties between those parties where the number of MPs of the same gender does not exceed two-thirds of the total number of elected deputies from this party.

29. In addition, a disproportion in the remuneration of women and men remains a problem in Ukraine. According to the State Statistics Service of Ukraine, in the period from January to September 2016, the level of remuneration of women was 25.7% lower than that of men (4301 UAH and 5789 UAH per month respectively). At the same time, there is a high difference in the remuneration of workers employed in industry (the average monthly salary of women is 4672 UAH, men - 6247 UAH), postal and courier activities (2462 UAH against 4162 UAH per month); financial and insurance activities (8459 UAH against 13250 UAH per month).

30. It should also be noted that the difference in the level of remuneration in industry is associated with the statutory restrictions on women's employment in underground work. While the existence of a significant remuneration gender gap in the sphere of financial and insurance activities, where a large number of women are present, is unjustified.

Recommendations 97.47, 97.48 (2nd cycle)

31. Concerning the issue of implementation of gender approach in all poverty alleviation programmes it should be noted that in 2016 the Poverty Reduction Strategy was approved by Decree of the Cabinet of Ministers of Ukraine No. 161-p. In particular, the Action plan for 2016-2017 for the implementation of this Strategy, approved by the Cabinet of Ministers of Ukraine on 08 August 2016 No. 573-p. provides for:

- training on gender equality issues for trade union workers of enterprises, institutions and organizations, involving them in exercising control over the observance of gender equality in collective agreements, as well as the

representation of women on decision-making positions and ensuring gender equality in remuneration (subparagraph 1 of paragraph 28);

- drafting of recommendations for employers on mechanisms for ensuring gender equality (subparagraph 2 of paragraph 28).

32. At the same time, it is premature to evaluate the effectiveness of the implementation of the Poverty Reduction Strategy, in particular the reduction of poverty among women and men, especially among the rural population.

Recommendations 97.11, 97.77 (2nd cycle)

33. It should be noted that Ukraine has not ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) yet, despite the fact that a draft law on its ratification was submitted to the Parliament of Ukraine by the President of Ukraine on 14th of November 2016 (registration number 0119).

34. At the same time, on 17th of November 2016 the Parliament of Ukraine adopted in the first reading the draft laws of Ukraine "On preventing and combating domestic violence" (registration No. 5294 of 20 October 2016) and "On amendments to some laws of Ukraine in connection with the ratification of the Istanbul Convention"(registration No. 4952 of 02.11.2016). This is a positive step towards the preparation for ratification of the above mentioned Convention.

35. The Ombudsman of Ukraine notes as a positive moment that over the past four years Ukraine has adopted a number of regulatory acts aimed at combating human trafficking, including the *Order on payment of a lump sum benefit to persons – victims of human trafficking* (Decree of the Cabinet of Ministers of Ukraine of 25 July 2012 No. 660). The payment of the benefit is carried out by the executive authorities on a lump sum basis in the amount of three subsistence minimums for the relevant category of persons (children under six, children aged from 6 to 18, persons who are able to work, and disabled persons).

36. It should be noted that according to the Office of the International Organization for Migration in Ukraine, the number of women victims of human trafficking for the last four years is estimated at 1,667. One of the reasons why trafficking in women has been spread is the difficult economic situation of the victims, especially in rural areas, limited employment opportunities and an unawareness of job opportunities abroad, ignorance of migration legislation, insufficient or distorted awareness of the causes of human trafficking, and how not to be trapped.

Observance of the principle of equality and non-discrimination

Recommendations 97.26, 97.27, 97.28, 97.55 (2nd cycle)

37. It should be noted that, in comparison with 2012-2013, the situation in the sphere of combating discrimination in Ukraine has generally improved.

38. Furthermore, the above mentioned recommendations regarding the need for adoption of anti-discrimination legislation have been generally implemented.

39. In particular, in 2012 the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On the Principles of Prevention and Combating Discrimination in Ukraine" which defines the concepts of direct, indirect and other forms of discrimination, establishes a list of grounds on which discrimination is prohibited and identifies subjects vested with powers to prevent and combat discrimination.

40. However, the legislation in force requires further improvement and harmonization with international standards, in particular with respect to the list of grounds on which discrimination is prohibited, as well as liability for discrimination.

41. It should be noted that in order to bring Ukrainian legislation in line with international standards in this sphere in November 2015 the Verkhovna Rada of Ukraine registered a draft Law of Ukraine "On amendments to some legislative acts of Ukraine" (as to harmonization of legislation in the sphere of prevention and combating discrimination with the law of the European Union" (registration number 3501), which, inter alia, envisages the extension of the list of forms of discrimination, the regulation of the issue of administrative liability for discrimination, as well as the decriminalization of discrimination. At the moment, the draft law is being prepared for the second reading in the Verkhovna Rada of Ukraine.

42. In addition, the inclusion of separate sections on prevention and combating discrimination in the National Human Rights Strategy and the Action plan for its implementation for the period up to 2020 shows greater attention to discrimination issues on behalf of the state.

Recommendations 97.18, 97.25, 97.70, 97.71, 97.72, 91.73; Recommendations 97.30, 97.59, not accepted by Ukraine (2nd cycle)

43. During the reporting period all draft laws which relate to prohibition and establishment of responsibility for the so-called homosexuality propaganda were revoked, disapproved or excluded from consideration by the Parliament of Ukraine. At the same time it is worth stating that the Law of Ukraine «On principles of prevention and combating discrimination in Ukraine» does not establish the features of sexual orientation and gender identity as protected ones, however it prohibits discrimination under an open list of features.

44. At the same time, in 2015 the Law of Ukraine was adopted "On amending the Code of labor laws of Ukraine as regards harmonization of legislation in the sphere of prevention and combating discrimination with the law of the European Union". This law for the first time in Ukraine establishes at the legislative level a prohibition of discrimination under the features of sexual orientation and gender identity in the sphere of employment.

45. Besides, the Actions plan on implementation of the National human rights strategy prescribes adoption of a number if regulatory acts aimed at improvement of the situation with observance of the rights of LGBT in Ukraine, including amendments to the Constitution about inclusion of the sexual orientation

into the list of protected features under which discrimination is prohibited, as well as amendments to the Criminal Code of Ukraine in order to provide for a punishment for crimes, committed under the motives of intolerance under the features of sexual orientation and trans sexuality, submission of a draft law on civil partnership for opposite-sex and same-sex couples and others.

Rights of persons with disabilities

Recommendation 97.16 (2nd cycle)

46. As regards ensuring of equal opportunities for people with disabilities it is worth mentioning that after ratification of the Convention on the rights of persons with disabilities (hereinafter – CRPD) the state has adopted a number of laws and regulatory legal acts in the area of education, healthcare, employment, rehabilitation, ensuring removal of architectural barriers, transport, information etc. But in most cases for the reason of the lack of control and progress monitoring, insufficient financing, declarative nature of provisions and formal attitude of officials these legislative initiatives have not been implemented. A significant drawback is the fact that the aspects of «disability» are usually not included into all directions of the state policy and are being considered separately. The last adopted document taking into account a part of provisions of the CRPD is the Action plan on implementation of the National human rights strategy. They have high hopes for this document.

Recommendation 97.133 (2nd cycle)

47. The level of compliance with this recommendation concerning implementation of the legislation and other measures on protection of the rights of persons with disabilities, in particular providing enough financing for projects aimed at creation of barrier-free environment for people, as well as providing disabled children with the equal access to education in general educational institutions, unfortunately, remains too low at present. This first of all relates to the sphere of education: education of children with disabilities in general educational schools, especially children with significant disorders and complex disability. The main reason of this is underfunding. Besides, the gaps in the legislation in force permit commissioning of new facilities not conforming to the barrier-free requirements. There are also no programs aimed at development of the existing infrastructure.

Recommendation 97.134 (2nd cycle)

48. As regards the need in adoption of the national program on implementation of provisions of the Convention on the rights of persons with disabilities it is worth mentioning that the resolution of the Cabinet of Ministers of Ukraine No. 706 of 01.08.2012 approves the State special-purpose program «National action plan on implementation of the Convention on the rights of

persons with disabilities» for the period up to 2020, providing for a number of activities to implement the Convention.

49. Therewith the Action plan does not cover a significant number of provisions of the Convention important for Ukraine, for example activities on the rights of women with disabilities are not envisaged. Another problem is undue performance of even those activities that are stipulated by this Action plan.

Rights of national minorities

Recommendations 97.38, 97.57, 97.63, 97.64, 97.66, 97.136 (2nd cycle)

50. A positive step in the sphere of investigation and reporting of hate crimes by law enforcement authorities was establishment in 2015 of the National contact point on the issues of combating hate crimes under the Chief investigation department of the National police of Ukraine. The main task of the National contact point shall be combating violent expressions of intolerance, as well as performance of institutional control on the permanent basis over the investigation of hate crimes.

51. At the same time, notwithstanding the policy of the government, aimed at prevention of intolerance crimes, the problem of conducting correct qualification of such crimes remains topical, as well as full and objective investigation of hate crimes by the bodies of the National police.

52. Besides, the results of monitoring conducted by the Ombudsman of Ukraine show that the problem of ensuring the rights of Roma national minority remains burning. This minority is still one of the most vulnerable social groups, having restricted access to education, medicine, social services, issuance of documents, employment and exposed to systematic stigmatization and discrimination.

53. Therewith it is worth mentioning that despite the approval of the Action plan on implementation of the Strategy for protection of the Roma national minority and their integration into the Ukrainian society for the period up to 2020, adopted in 2013, the situation with observance of the rights of Roma people in Ukraine has not changed significantly.

Recommendations 97.136, 97.137, 97.138, 97.139 (2nd cycle)

54. While evaluating progress in implementation of these recommendations in terms of ensuring the right to education in the languages of the national minorities, it is worth mentioning that the Constitution of Ukraine and the Law of Ukraine «On principles of state language policy» guarantee the right to education in the languages of national minorities. At the same time tough economic environment in Ukraine because of the armed conflict has negatively influenced observance of the rights of the representatives of national minorities in the sphere of education, in particular, education in the native language or studying the native language in the state and municipal educational institutions.

55. Therefore, in certain regions the number of educational institutions and classes with education in native languages of the national minorities reduced.

56. Besides it is worth mentioning that the Action plan on implementation of the National human rights strategy provides for amending of the Law of Ukraine «On education», as well as drafting of the Strategy of multilingual education, where multilingual education would be presented as one of the forms of education for the national minorities.

Prevention of torture and ill treatment in places of the deprivation of liberty

Recommendation 97.104

57. Since November 2012 (the date of establishment of the National Preventive Mechanism/NPM in Ukraine with the assignment of its functions to the Office of the Ombudsman of Ukraine) by December 31, 2016 the NPM staff conducted 1108 monitoring visits to places of the deprivation of liberty. Based on the results of the visits relevant recommendations were submitted to the state bodies in whose subordination are these places.

58. Currently, the penitentiary system is being reformed in Ukraine. The Ombudsman of Ukraine believes that in the process of this reforming it is necessary to focus not only on the level of the central administrative apparatus, but also directly on the level of penitentiary institutions with a view to ensuring the rights of persons held there. The most urgent problem today is the provision of proper conditions (communal-household) of detention in pretrial detention centers.

59. In addition, at the moment prisoners cannot expect to receive adequate medical care. The most effective solution to this problem will be the transfer of medical services in the penitentiary system from the Ministry of Justice of Ukraine to the specialized agency – the Ministry of Health of Ukraine.

Rights of migrants

Recommendations 97.2, 97.3, 97.4, 97.142, 97.143, 97.144, 97.145 (2nd cycle)

60. In 2013-2016 in Ukraine a number of important legislative acts in the sphere of migration were adopted. At the same time serious systematic problems remain open.

61. Ukraine remains one of the rare states among former Soviet Republics which has not yet adopted legislation on the status of apatrides and has not taken systematic and effective measures to regularize this vulnerable group of population. At the state level there are no true-to-fact statistics on stateless persons so we do not know the extent of this problem. However, numerous petitions to the Ombudsman of Ukraine from stateless persons and results of our monitoring show that the problem is widely spread in our country and requires an urgent in-depth study, implementation of relevant legislative measures and changes in application of the law in force.

62. The Ombudsman of Ukraine is seriously concerned about a shameful practice of bodies of the State Migration Service of Ukraine consisting in overruling their own and predecessors' decisions on admission to Ukrainian citizenship and granting of permanent residence permits, such decisions being adopted 5, 10, and sometimes 15 years ago (!). This issue was raised by the Ombudsman in her 2015 Annual Report but, unfortunately, during 2016 and 2017 the situation has not changed for the better. This practice is a gross violation of the principle of legal certainty and requirements of Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

63. As a result, instead of fulfilling its international commitments to overcome the problem of statelessness undertaken by Ukraine according to the 1954 Convention relating to the status of stateless persons and the 1961 Convention on the Reduction of Statelessness, the decisions of the State Migration Service of our state actually lead to an expansion in the number of stateless persons and persons living without any passport (identification) documents.