



ПОСТІЙНЕ ПРЕДСТАВНИЦТВО УКРАЇНИ  
ПРИ ВІДДІЛЕННІ ООН ТА ІНШИХ  
МІЖНАРОДНИХ ОРГАНІЗАЦІЯХ У ЖЕНЕВІ

MISSION PERMANENTE DE L'UKRAINE  
AUPRES DE L'OFFICE DES NATIONS UNIES ET  
DES AUTRES ORGANISATIONS  
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The Permanent Mission of Ukraine to the United Nations Office and other International Organizations in Geneva presents its compliments to the Secretariat of the Committee on Enforced Disappearances – the Office of the United Nations High Commissioner for Human Rights and, with reference to the Note Verbale CED/2018/SP/De/Gd of 6 December 2018, has the honour to transmit herewith the comments by the authorities of Ukraine to the Draft Guiding Principles for the Search for Disappeared Persons.

The Permanent Mission of Ukraine avails itself of this opportunity to renew to the Secretariat of the Committee on Enforced Disappearances – the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Enclosed: as stated, on 2 pages.



Geneva, 13 February 2019

**Secretariat of the Committee on Enforced Disappearances -  
Office of the United Nations  
High Commissioner for Human Rights**

Geneva

## **Comments of the Ministry of Internal Affairs of Ukraine to the Draft Guiding Principles for the Search for Disappeared Persons**

There are no proposals of general nature of the Ministry of Internal Affairs (MoIA) and National Police of Ukraine (NPU) to the contents of the Draft Guiding Principles for the Search for Disappeared Persons (hereinafter referred to as the Draft).

The legal basis of investigative activities in Ukraine is the Constitution of Ukraine, the Criminal Code of Ukraine, the Criminal Procedure Code of Ukraine, the Laws of Ukraine On National Police, On Operational Investigative Activities and On the Legal Status of the Disappeared Persons, relevant international treaties of Ukraine, other laws of Ukraine, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine, and as well as the acts and regulations of the MoIA issued hereto.

The principles set forth in the Draft are currently the basis for implementation of international legal norms by Ukraine, as well as development of national legal framework in the field of searches for disappeared persons.

In particular, principle 2 has been implemented by the adoption on July 12, 2018 of the Law of Ukraine On the Legal Status of Disappeared Persons (hereinafter - the Law) that defines the legal status of persons who have disappeared, provides legal regulation of relations related to the establishment and registration, the search and social protection of such persons and their relatives.

At the same time, the Criminal Code of Ukraine has been amended with Article 146<sup>1</sup> (Enforced Disappearance) which fundamentally adds to the clarity, consistency and comprehensiveness of organization and conduct of search activities aimed at locating the disappeared person in each individual case.

For the purpose of implementation of the Law, the NPU drafted the resolutions of the Cabinet of Ministers of Ukraine “On Approval of the Procedure for maintaining the Unified Register of Persons, disappeared under special circumstances”, “On Approval of the procedure for establishment and activity of search groups”. The draft resolution of the Cabinet of Ministers of Ukraine “On the Establishment of the Commission on Persons, disappeared under Special Circumstances” has been also developed and agreed by the NPU.

The specified draft documents regulate issues related to the grounds for collection, accumulation, storage, use of information about persons disappeared under special circumstances, record of information required for the effective search of persons, as well as taking of measures to search for indicated persons, their remains, search and fixation of burial places of disappeared persons, withdrawal and removal of bodies (remains) of deceased persons. The adoption by the Government of the above-mentioned draft resolutions will serve the implementation of such principles as 6, 7, 8 and 9 envisaged by the Draft.

Principle 6 is widely used in drafting a new version of the Instruction on organization of searching persons trying to evade the administration of justice, investigating judge or court, execution of criminal punishment; disappeared persons



and other persons in cases specified by law, as well as identification of unidentified corpses, which will comprehensively regulate the investigative activities.

Paragraph 8 of principle 6 of the Draft has been fully implemented in Ukraine as the Central Register of Human Genetic Signs is successfully functioning in the State Forensic Expert Center of the MoIA.

Principle 11 envisaged by the Draft is directly enshrined in the Ukrainian legislation and is primarily regulated by Article 9-2 of the Law of Ukraine on Operational Investigative Activity.

Moreover, a particular attention is paid to the search of disappeared persons belonging to the most vulnerable categories, in particular children, women, representatives of ethnic and cultural groups, etc. The procedure of organizing and conducting search activities of this category of persons fully corresponds to the differential approach provided for in principle 14 of the Draft.

Taking into account the above-mentioned, the positive practice of harmonization of guidelines for the search for disappeared persons envisaged by the Draft with the regulatory and practical activities in searching for disappeared persons will continue to be further implemented in Ukraine.

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