

# Регіональний центр прав людини

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**Re: Call for inputs within OHCHR Report  
on protecting the rights of the child  
in humanitarian situations  
Human Rights Council resolution 34**

Dear Sir,

The Regional Center for Human Rights (RCHR) send you information on violation of children's rights guaranteed by the Article 8 of the Convention on the Rights of the Child and Article 15 UDHR.

The submission regards unilateral imposition of Russian citizenship on children who are Ukrainian nationals and the residents of the occupied territories (Crimea).

RCHR is a Ukrainian non-governmental human rights organization and analytic center that carries out activities on protection of human rights in context of occupation of Crimean Peninsula by the Russian Federation.

Yours faithfully,

A.Martynovska  
Chairperson of the Regional Center for Human Rights

*Annex 5 pages.*



**OHCHR Report on protecting the rights of the child in humanitarian situations**  
**Human Rights Council resolution 34**  
**Submission of the Regional Centre for Human Rights (Ukraine)**

**IMPOSITION OF COERCIVE CITIZENSHIP ON CHILDREN**  
**WHO ARE THE RESIDENTS**  
**OF THE OCCUPIED TERRITORY OF UKRAINE (CRIMEAN PENINSULA)**  
**BY THE RUSSIAN FEDERATION**

*Occupation of the Crimean Peninsula by the Russian Federation in early 2014 is one of the many humanitarian situations in today world.*

*Although there is no hot war in the Peninsula this situation created lots of violation of human rights. Some of them most painfully affect children due to their vulnerable situation.*

*This submission is focused on the issue of the nationality of children (Article 8 of the Convention on the Rights of the Child and Article 15 UDHR).*

*Briefly, several thousand children who are the Ukrainian nationals were declared Russian citizens since the beginning of the occupation. There are no remedies that could help to the residents of Crimea to avoid imposition of Russian citizenship.*

**International context**

Russia's presence in the Crimea is recognized by international law as a lasting occupation. The occupation regime imposes on the Russian Federation a number of obligations under the Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War of 12 August 1949. In particular, see the following documents:

- Resolution A/RES/68/262 adopted by the UN General Assembly on 27 March 2014 "Territorial integrity of Ukraine";
- European Parliament resolution 2016/2556(RSP) of 4 February 2016 on the human rights situation in Crimea, in particular of the Crimean Tatars;
- Resolution 2133 (2016) "Legal remedies for human rights violations on the Ukrainian territories outside the control of the Ukrainian authorities" adopted by the PACE on 12 October 2016;
- Resolution A/RES/71/205 adopted by the UN General Assembly on 19 December 2016 "Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)";
- Report on Preliminary Examination Activities 2016 of the Office of the Prosecutor of the International Criminal Court dated on 14 November 2016  
([https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-PE\\_ENG.pdf](https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-PE_ENG.pdf))

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**International standards**

Article 15 of the Universal Declaration of Human Rights guarantees the right of every person to a nationality, and also prohibits the arbitrary deprivation of the nationality or the right to change it.

Article 8 of the Convention on the Rights of the Child provides that States Parties must undertake to respect the right of the child to preserve his or her identity, including nationality ... without unlawful interference.

The classic case on nationality is the so-called case of *Nottebohm* reviewed by the International Court of Justice (*LIECHTENSTEIN v. GUATEMALA*, International Court of Justice (ICJ), 1955). In this case the Court drew a conclusion that today has become classic: “Naturalization is not a matter to be taken lightly. To seek and to obtain it is not something that happens frequently in the life of a human being. It involves his breaking of a bond of allegiance and his establishment of a new bond of allegiance. It may have far-reaching consequences and involve profound changes in the destiny of the individual who obtains it. It concerns him personally, and to consider it only from the point of view of its repercussions with regard to his property would be to misunderstand its profound significance. In order to appraise its international effect, it is impossible to disregard the circumstances in which it was conferred, the serious character which attaches to it, the real and effective, and not merely the verbal preference of the individual seeking it for the country which grants it to him.” (p. 24)

In its Advisory Opinion OC-4/84 of 19 January 1984 regarding the proposed amendments to the naturalization provision of the Constitution of Costa Rica the Inter-American Court of Human Rights noted that, despite the fact that it is traditionally accepted that the conferral and regulation of nationality are matters for each state to decide, contemporary developments indicate that international law does impose certain limits on the broad powers enjoyed by the states in that area. And thus the manners in which states regulate nationality matters cannot today be deemed within their sole jurisdiction; those powers of the state are also circumscribed by their obligations to ensure the full protection of human rights. The classic doctrinal position, which viewed nationality as an attribute granted by the state to its subjects, has gradually evolved to the point that nationality is today perceived as involving the jurisdiction of the state as well as human rights issues (para 32, 33).

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**Brief factual overview**

In early 2014, Russia committed an act of aggression against sovereign Ukraine and tried to annex part of its territory - the Crimean Peninsula. The beginning of the active phase of such actions should be considered the third decade of February.

After the occupation of the Crimean Peninsula the Russian Federation collectively naturalized the population of Crimea.

On 21 March 2014, Russian President Vladimir Putin signed the law on ratification of the Agreement and the Federal Constitutional Law no. 6-FKZ “On admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities of the Republic of Crimea and the City of Federal Importance Sevastopol” (hereinafter - the Law 6-FKZ).

According to Article 4 of the Law 6-FKZ “from the date of the admitting to the Russian Federation the Republic of Crimea and establishing within the Russian Federation the new constituent entities Ukrainian nationals and stateless persons who had been permanently residing in the Republic of Crimea and the City of Federal Importance Sevastopol were recognized as nationals of the Russian Federation, except for persons who within one month thereafter declared their willingness to retain their and (or) their minor children’s other nationality or remain stateless.”

Due to a number of objective reasons such as reducing the period for the submission of the application to 18 days; small number of operating offices of the Federal Migrating Service, which received applications; unwillingness of population to live as a foreigners with the relevant restrictions (related to employment, the right to social benefits, migration control, prohibition of participation in political activities and to be engaged in public life, etc.), in total, ca. 3500 persons filed applications “declaring their will to keep their and (or) their minor children’s other nationality or remain stateless” according to Russian semi-official data<sup>1</sup>.

The most vulnerable group of nationals of Ukraine who have suffered negative consequences of Russia’s actions on imposition of citizenship are children deprived of parental care. According to the Office of the Ukrainian Parliament Commissioner for Human Rights, as of 01.08.2014 there were 4228 of such children in Crimea. Since the beginning of the occupation the authorities of the Russian Federation took control over administration of the institutions that

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<sup>1</sup> See the Report of the Commissioner for Human Rights of the Russian Federation for 2014, p. 99.- Access mode: [http:// ombudsmanrf.org/www/upload/files/docs/appeals/doklad2014.pdf](http://ombudsmanrf.org/www/upload/files/docs/appeals/doklad2014.pdf) (date of reference: 01/11/2016).

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provided care for such children. On the grounds of “respecting the best interests of the child” in favor of these children there was not filed any application “declaring willingness to keep their existing ... other nationality.”<sup>2</sup>

Besides, children, born since the beginning of the occupation in the territory of the occupied Crimea, are automatically recognized as citizens of the Russian Federation by the occupying authorities. Thus, in accordance with art. 12 of the Federal Law "On the citizenship of the Russian Federation", a child acquires citizenship of the Russian Federation by birth, if at the date of the birth of the child both or the only parent have citizenship of the Russian Federation, (irrespective of the birthplace).

Consequently, children of those Crimean residents, who for some reasons didn't apply for retention of Ukrainian citizenship themselves, born after the beginning of the occupation, are recognized as citizens of the RF. For example, only in 2016 22944 children were born in the territory of the ARC (not including the city of Sevastopol).<sup>3</sup> Thus, the vast majority of them have acquired citizenship of the Russian Federation. There is no way to refuse to require Russian citizenship for new-born children in Crimea.

Formally having the possibility to choose a nationality, but not actually being able to make an informed choice because of lack of time, information, and other aforementioned circumstances, the nationals of Ukraine found themselves at a crossroads facing two equally bad options: to lose legal personality and become foreigners at home (and to be forced to leave Crimea as foreigners) or to refuse their own Ukrainian identity and swear allegiance to the aggressor state. Therefore, the situation has a negative impact on “new nationals” and children having Ukrainian identity, who will be obliged, for example, to serve in the Armed Forces of the Russian Federation, which, in turn, is in conflict with Ukraine, and to be brought up in loyalty to the Russian Federation. Special attention should be devoted to new-born children of Ukrainian nationality.

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<sup>2</sup> See the statement of Head of the Department on Observance of the Rights of the Child, Non-discrimination and Gender Equality A. Filipyshyna of 05/06/2015 submitted to the Secretariat of the Ukrainian Parliament Commissioner for Human Rights.- Access mode: <http://www.ombudsman.gov.ua/ua/all-news/pr/5615-sm-aksana-filipishina-prava-ditini-vkrimu-pochali-porushuvati-vid-samogo/> ; <http://health.unian.net/country/1085947-ukrainskim-detyam-sirotam-v-kryimuprinuditelno-prisvaivayut-rossiyskoe-grajdanstvo.html> (date of reference: 14/08/2017).

<sup>3</sup> Territorial body of the Federal State Statistics Service for the Republic of Crimea: [http://crimea.gks.ru/wps/wcm/connect/rosstat\\_ts/crimea/resources/82b297804103b457849b85a3e1dde74c/Родивши+ся+по+очередности+за+2016.pdf](http://crimea.gks.ru/wps/wcm/connect/rosstat_ts/crimea/resources/82b297804103b457849b85a3e1dde74c/Родивши+ся+по+очередности+за+2016.pdf) .

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In fact, Russia is making an army of Janissaries from Ukrainian children (boys from the occupied countries who were deprived their tribes and conscripted to serve in Ottoman infantry units against their natives).

*More detailed see review "Crimea Beyond Rules. Right to nationality (citizenship)" (available at Google Books for download for free).*

**Recommendations**

We would like to encourage international bodies:

- to pay attention to the situation with the citizenship of Ukrainian children in the Crimean Peninsula,
- to introduce special mechanism to preserve their Ukrainian identity,
- to condemn policy of the Russian Government regarding imposing of Russian citizenship on Crimean children of Ukrainian origin,
- to urge the Russian Government to stop imposition Russian citizenship on new-born children in the occupied territories;
- to urge the Russian Government to eliminate consequences of imposition Russian citizenship that was made since the beginning of the occupation of the Crimean Peninsula.