**AN INPUT TO THE GUIDELINES ON THE EFFECTIVE IMPLEMENTATION OF THE RIGHT TO PARTICIPATE IN PUBLIC AFFAIRS AS ESTABLISHED IN HUMAN RIGHTS COUNCIL RESOLUTION 33/22**

The NGO “Regional Center for Human Rights” (RCHR), the NGO “Ukrainian Helsinki Human Rights Union” (UHHRU), the NPO “Right to Protection” (R2P) and the NGO “Crimean Tatar Resource Center” (CTRC) strongly support the initiative of the Office of the United Nations High Commissioner for Human Rights in conducting consultation process to prepare effective and practical recommendations on the implementation of the right to participate in political and public affairs.

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

**UHHRU** is all-Ukrainian Association of Public Organizations, a non-profit and non-partisan organization, engaged in protection of human rights and fundamental freedoms in courts, the authorities and bodies of local self-government; providing legal assistance to people in defending their rights; ongoing monitoring of human rights observance in Ukraine and informing the public about human rights abuse; human rights research, including regular monitoring of draft laws and legal acts, as well as preparing and lobbying our own legislative initiatives, etc.

**R2P** is a Ukrainian not-for profit organization operating in close partnership with the global NGO HIAS, one of the world’s oldest refugee aid organizations. R2P is dedicated to protecting refugees and vulnerable migrants – the IDPs, the stateless and those at risk of statelessness and the undocumented.

**CTRC** is a non-governmental organization that informs the public about human rights violations in the occupied Crimea. The activities of the organization are focused on consultation and protection of the rights of citizens from the occupied Crimea, development of recommendations to the legislation of Ukraine in the sphere of rights and freedom.

This submission describes the impact of armed conflict in Ukraine on the violation of the right to participate in public affairs and highlights the issues, which should be resolved to cease the breach of internally displaced persons’ rights.

**Overview**

In February 2014, the Russian Federation committed an act of aggression and annexed the territory of the Crimean peninsula. Since then the Crimean peninsula has been occupied by the Russian Federation. After the annexation of the Crimean peninsula, pro-Russian separatists (“the Donetsk People’s Republic” and “the Luhansk People’s Republic”) seized control of over a dozen towns and cities in Eastern Ukraine and held illegal referendums for independence.

In April 2014, Ukrainian government began so called “Antiterrorist operation”, which led to escalation of violence between government forces and pro-Russian separatists.

Due to these events, an estimate number of 1,800,000 people as of October 2017 had to flee their homes in Crimea and Donbas regions and move to Ukrainian government-controlled territory.[[1]](#footnote-1) The figure may be even higher as many internally displaced persons (hereinafter – “IDPs”) chose not to register their status due to their fear of negative effects on relatives or to property in their home regions.

Recommendations given to Ukraine within Universal Periodic Review in 2012 could not include consequences of war in Ukraine. But in the context of implementing recommendations No. 97.50 to pay more attention to awareness raising of Ukrainian citizens on their rights and the involvement of the society in making important decisions, No. 97.24 to ensure full compliance of the legislation with international obligations of Ukraine and No. 97.59 to continue efforts to combat discrimination, - the state of political rights of citizens of Ukraine worsened significantly since 2014. No effective efforts were undertaken to improve the situation of IDPs’ political rights since the beginning of the conflict. In 2017 Ukraine received a recommendation 6.34 to fully implement its 2015 National Human Rights Strategy, including with respect to protecting the rights of IDPs.

**International standards**

Article 25 of the International Covenant on Civil and Political Rights recognizes the right of every citizen to participate in the conduct of public affairs, to have access to public service, to vote and to be elected during elections in his/her country.[[2]](#footnote-2) In General Comment 25, the Human Rights Committee has emphasized the duty of a State to ensure that people entitled to vote are able to exercise that right.[[3]](#footnote-3)

Under Principle 22(1)(d) of the Guiding Principles on Internal Displacement, the right of IDPs to participate in public affairs cannot be discriminated on the basis of their displacement.[[4]](#footnote-4) Moreover, Principle 29(1) reaffirms the right of IDPs "to participate fully and equally in public affairs at all levels".[[5]](#footnote-5)

Even though the right to vote may be subject to certain restrictions, they shall be objective and reasonable.[[6]](#footnote-6) In particular, the absence of a permanent residence should not prevent an otherwise qualified person from being registered as a voter.[[7]](#footnote-7)

**A brief description of situation with the exercise of a right to participate in public affairs by the IDPs in Ukraine**

The ability of IDPs to participate in political affairs of their country comprises an essential part of integration. States should take special measures to encourage equal participation of IDPs in public affairs.

Ukrainian legislation provides the right to participate in public affairs for all citizens, who are as old as 18 years old.[[8]](#footnote-8) According to the Law of Ukraine ‘On ensuring of rights and freedoms of internally displaced persons’ IDPs enjoy the same rights and freedoms as other citizens of Ukraine, including the right to participate in public affairs, in national and local elections.

However, the Law “On the Local Elections” as of July 14, 2015, has deprived the IDPs of voting right on the local elections due to their current places of residence. Particularly, in the parliamentary elections in October 2014, all IDPs (about 500 000 people as of October 2014), had no right to elect a deputy of the Verkhovna Rada of Ukraine in majority district at the new place of residence. In October 2015 in local elections, 1,345,100 IDPs did not participate in the election and failed to elect local councils deputies.[[9]](#footnote-9)

Therefore, people, whose permanent residence is in occupied Crimea or in the territories of the Luhansk and Donetsk regions controlled by illegal armed groups, are deprived of their voting rights.

Attorneys of the NGO “Regional Center for Human Rights” had filed application *Selygenenko and Others v. Ukraine* (No. 24919/16) to the European Court of Human Rights claiming the discrimination in the enjoyment of the rights of the IDPs from the Crimean peninsula guaranteed by the domestic law on local elections. Later, application by Terekhova, which refers to the violation of the same rights, was included to the proceedings. This case was submitted to the ECtHR by the UHHRU lawyers. The Court communicated this application to the Government of Ukraine and requested it to submit its observations until 11 January 2018. The applications refer to discrimination of IDPs under Article 1 of Protocol 12 to the Convention.

However, the primary issue at stake is the ability of 1,800,000 IDPs to exercise their right to participate in public affairs.

In 2017, R2P participated in preparation of a draft law on Amendments to Certain Laws of Ukraine Related to Electoral Rights of Internally Displaced Persons and Other “Mobile” Groups of Ukrainian Citizens together with other NGOs in the working group of the Ministry of Temporarily Occupied Territories and Internally Displaced Persons. The Draft Law was registered with the Parliament 27 of March 2017 under the number 6240.

**Recalling that, we recommend to establish in the Draft Guidelines the necessity to create favourable conditions for equal participation of IDPs in the public affairs of national and local importance.**

Thank you for your consideration,

NGO “Regional Center for Human Rights”,

NGO “Ukrainian Helsinki Human Rights Union”,

NPO “Right to Protection” (R2P),

NGO “Crimean Tatar Resource Center”

1. UNHCR, Fact Sheet on Ukraine, October 2017, available at: http://reporting.unhcr.org/sites/default/files/UNHCR%20Ukraine%20Fact%20Sheet%20-%20October%202017.pdf [↑](#footnote-ref-1)
2. UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, Article 25. [↑](#footnote-ref-2)
3. HRC, CCPR General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote), The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service, 12 July 1996, CCPR/C/21/Rev.1/Add.7 [hereinafter – General Comment No. 25]. [↑](#footnote-ref-3)
4. UN High Commissioner for Refugees (UNHCR), Guiding Principles on Internal Displacement, 22 July 1998, ADM 1.1,PRL 12.1, PR00/98/109, Principle 22(1)(d) [hereinafter - Guiding Principles on Internal Displacement]. [↑](#footnote-ref-4)
5. Guiding Principles on Internal Displacement, Principle 29(1). [↑](#footnote-ref-5)
6. General Comment No. 25. [↑](#footnote-ref-6)
7. OSCE, Existing Commitments for Democratic Elections in OSCE Participating States, 6 October 2003, available at: http://www.osce.org/odihr/elections/13956. [↑](#footnote-ref-7)
8. Constitution of Ukraine, 28 June 1996, Article 70. [↑](#footnote-ref-8)
9. Current state of the rights and freedoms of internally displaced persons in Ukraine, Universal Periodic Review of United Nations Twenty-eighth session of the UN Human Rights Council on Universal Periodic Review available at: [http://krymsos.com/files/e/b/ebf2a71-upr-idp-eng.pdf]. [↑](#footnote-ref-9)