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LEGAL REGULATION OF THE STATUS OF STATELESS PERSONS IN UKRAINE: EUROPEAN STANDARDS AND THE NEED FOR LEGISLATIVE REFORM

ANNOTATION. *Introduction.* The legal status of stateless persons represents one of the most acute gaps in Ukrainian migration law. As a successor state to the Soviet Union, Ukraine inherited a combination of competing nationality laws, administrative gaps, and large-scale population displacement that left thousands of people without legal identity. According to official data of the State Migration Service (SMS), as of 30 April 2024, 5,394 stateless persons were registered as permanent residents of Ukraine and 964 as temporary residents. UNHCR, however, estimates the total number of stateless and persons of undetermined nationality at approximately 35,000, indicating the scale of those who remain entirely outside official registration.

Summary of the main results of the study. The article examines Ukraine's legal framework for stateless persons against the benchmarks of the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, the European Convention on Nationality, and EU member state practice. Five systemic gaps are identified: a critically low practical recognition rate despite the operationalisation of the Statelessness Determination Procedure (SDP) in 2021; burdensome consular certificate requirements imposed through administrative practice rather than legislative mandate; absence of a dedicated statelessness identity document; legislative regression following the September 2023 amendments; and new statelessness risks generated by Russia's systematic passportization policy in occupied territories. Comparative analysis of statelessness determination procedures in Spain, Hungary, Moldova, Latvia and France, as well as the case law of the European Court of Human Rights, serves as the basis for the reform proposals.

Conclusion. Five concrete legislative reforms are proposed: ratification of the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession; elimination of the consular certificate requirement for SDP applications; introduction of a combined statelessness status identity card; a statutory provision that prior removal orders do not bar the grant of a residence permit to a recognised stateless person; and a facilitated naturalisation track. These reforms are grounded in Ukraine's existing international obligations under the 1954 and 1961 Conventions and are necessary both for human rights compliance and for Ukraine's EU accession agenda under Chapter 23.

KEY WORDS: *statelessness; stateless persons; statelessness determination procedure; 1954 Convention; EU accession.*

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Problem Statement. The condition of statelessness, defined under Article 1(1) of the 1954 Convention Relating to the Status of Stateless Persons as the state of a person "who is not considered as a national by any State under the operation of its law", represents one of the most acute forms of legal vulnerability recognised in international law [1, Art. 1(1)].

Stateless persons exist without nationality, without identity documents in many cases, and without access to the full range of rights that citizenship ordinarily confers. UNHCR currently reports more than 4.2 million registered stateless individuals worldwide while acknowledging that the true figure is substantially higher [2].

Ukraine presents a particularly complex case. As one of the fifteen successor states of the Soviet Union, it inherited a combination of competing nationality laws, administrative gaps, and population displacements that left thousands of people in legal limbo. According to official SMS data, as of 30 April 2024, Ukraine registered 5,394 stateless persons holding permanent residence and 964 holding temporary residence [3]. UNHCR, however, estimates the total number of stateless and persons of undetermined nationality at approximately 35,000, the gap reflecting those entirely absent from official records [4]. Following Ukraine's accession to the two core UN statelessness conventions in January

2013 [5; 6], the country undertook binding international obligations. The introduction of a Statelessness Determination Procedure (SDP) in 2021 marked a significant legislative milestone [7]. Yet implementation has exposed persistent structural and procedural deficiencies that demand systematic analysis.

Review of Research. The international legal dimension of statelessness has been comprehensively examined in Laura van Waas's monograph "Nationality Matters: Statelessness under International Law" [8], the foundational scholarly reference in the field. The edited volume by van Waas and Edwards [9] extends this analysis within the broader framework of international law. Ukraine-specific scholarship includes: analysis of protection gaps for stateless and forcibly displaced persons in Ukraine and abroad, conducted by Van Thillo [10]; and documentation of the practical challenges facing stateless persons in Ukraine, conducted by Ivashuk, Kordonets and Kanics [11]. Ukrainian legal scholarship has addressed statelessness predominantly within the broader context of migration law. A comprehensive comparative study encompassing the post-2021 SDP mechanism, the consequences of armed conflict, and EU accession reform prospects has not previously been conducted. The present article aims to fill this gap.

Objective of the Research. The article aims to provide a systematic analysis of Ukraine's legal regulation of statelessness against international and European standards, to identify structural gaps in legislation and its application, and to develop concrete legislative reform proposals. The comparative legal method, documentary analysis, and legal modelling constitute the primary research methodology.

Presentation of the Main Material.

1. The International and European Legal Framework

The international legal architecture governing statelessness rests on two complementary instruments. The 1954 Convention is primarily a protection document: it does not oblige states to grant nationality to stateless persons, but requires that they be afforded a minimum package of rights at their place of habitual residence. These rights (employment, education, social security, housing, freedom of movement, identity papers, and travel documents) are structured in analogy with the rights of refugees under the 1951 Convention [1, Arts. 13-30]. The Convention also requires states to facilitate the naturalisation of stateless persons [1, Art. 34]. The 1961 Convention on the

Reduction of Statelessness operates as a prevention instrument: it obliges states to embed safeguards in their nationality laws to prevent statelessness from arising at birth, principally through the obligation to grant nationality to a child born on the territory who would otherwise be stateless [6, Art. 1], and later in life, through restrictions on permissible grounds for deprivation or renunciation of nationality where the result would be statelessness [6, Arts. 7-8]. At the European level, the European Convention on Nationality (1997) and the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession (2006) supplement the universal instruments [12]. Ukraine has ratified the 1954 and 1961 Conventions [5; 6] and the European Convention on Nationality, but has signed and not ratified the 2006 Council of Europe Convention. This partial accession is itself a gap with direct relevance to the occupied territories question, discussed below.

UNHCR's interpretive guidance (particularly the 2014 Handbook on the Protection of Stateless Persons [13] and the Good Practices Papers on establishing SDPs, supplement the treaty framework. According to UNHCR, statelessness determination is best fulfilled through a dedicated SDP that is fair, efficient, and easily accessible; recognition must be accompanied by a right to residence and to travel documentation. Van Waas and Edwards clarify that while the 1954 Convention does not explicitly require a right of residence, such residence is a necessary condition for the fulfilment of the Convention's object and purpose, a position shared by the overwhelming majority of states with established SDPs [9, pp. 111–120].

2. Ukraine's Domestic Legal Framework

Ukraine's primary legislative instruments governing statelessness are the Law "On Citizenship of Ukraine" No. 2235-III of 2001 [14] and the Law "On the Legal Status of Foreigners and Stateless Persons" No. 3773-VI of 2011, as amended [15]. The legislative milestone was Law No. 693-IX of 16 June 2020 [16], which formally introduced the Statelessness Determination Procedure into Ukrainian law. Implementing bylaws (Cabinet of Ministers Resolution No. 317) were adopted on 24 March 2021 [7], and the SDP became fully operational in May 2021. UNHCR welcomed this development, noting that Ukraine became the twenty-first country in the world, and the fifteenth in Europe, to establish a dedicated SDP [18]. The SDP's key features include: an application-based procedure administered by the State Migration Service; the right to apply regardless of lawfulness of stay on Ukrainian

territory; a shared burden of proof between applicant and decision-maker; and the possibility of ex officio initiation [15, Art. 4, as amended by Law No. 693-IX; 27]. The legal consequences of recognition follow a two-stage pathway: upon recognition, the applicant receives a temporary residence permit (TRP) valid for one year and renewable; after two continuous years on TRP, a permanent residence permit (PRP) valid for ten years becomes available; after five years of PRP (seven years in total from recognition), naturalisation is accessible. Recognised stateless persons holding a TRP or PRP have the right to work without a separate work permit, to access education, and to certain social services.

3. Five Systemic Gaps in Implementation and Protection

3.1. Critically low recognition rate. The most striking evidence of the SDP's practical limitations is the stark disparity between the estimated stateless population and those who have successfully completed the procedure. By the date of Russia's full-scale invasion on 24 February 2022, only 55 persons had received a TRP through the SDP while approximately 1,000 applications were pending [10]. By September 2023, only 790 persons had been granted a TRP [12]. Against the SMS figure of 6,358 registered stateless residents [3] and UNHCR's estimate of some 35,000 total [4], this recognition rate cannot be considered consistent with the object and purpose of Law No. 693-IX or the 1954 Convention.

3.2. Burdensome consular certificate requirements. A major practical obstacle is the requirement, developed not from the text of the Law itself but through SMS administrative practice, that applicants produce certificates from consulates of states where they were born or previously resided, confirming the absence of that state's nationality [10]. This creates a paradox: those least likely to obtain such documentation are precisely those most likely to be genuinely stateless. Since February 2022, the problem has been compounded by the suspension of Russian and Belarusian diplomatic operations in Ukraine, making consular confirmation impossible for applicants with links to those countries.

3.3. Absence of a dedicated statelessness identity document. The existing two-stage structure (SDP recognition followed by a separate TRP application) means that recognition does not of itself confer the documentation needed to access most rights and public services. As Van Thillo has documented, the two-stage structure means that "newly recognised individuals can only obtain a temporary residence permit and

there is no specific ID card confirming statelessness status," effectively relegating recognised stateless persons to a category equivalent to ordinary foreign nationals despite long-term ties to Ukraine [10].

3.4. Legislative regression following the September 2023 amendments. Amendments adopted in September 2023 tightened the conditions for obtaining a residence permit following recognition and obliged persons documented as stateless before the introduction of the SDP in 2021 to undergo the full procedure in order to renew existing permits.

A related problem concerns pre-existing forced return orders: a recognised stateless person of Georgian origin was denied a TRP on the basis of an unenforced deportation order issued before the person could access the SDP. Since stateless persons frequently lack the travel documents needed to execute a removal order, the combination of a deportation order and absence of travel documents creates indefinite legal limbo that current legislation does not resolve.

3.5. New statelessness risks generated by passportization. Russia's systematic policy of passportization in occupied Ukrainian territories: the issuance of Russian passports under expedited and effectively coercive procedures, has been characterised by Evan Harary in *Opinio Juris* as "effective denationalization": while those subjected to passportization generally remain Ukrainian citizens in law, the destruction of their Ukrainian identity documents and their inability to prove Ukrainian citizenship creates a condition that "resembles that of stateless people" [19]. Presidential Decree of the Russian Federation (April 2023) formally designated residents of occupied territories who had not accepted Russian citizenship as "foreigners or stateless persons" and authorised their potential deportation. OHCHR has documented systematic discriminatory measures implemented by Russian occupation authorities, including denial of humanitarian aid, removal of children, and coercion to accept citizenship under threat [20].

Draft Law No. 11469, submitted to the Verkhovna Rada in January 2024, proposes new grounds for deprivation of Ukrainian nationality, including acquisition of the nationality of the "aggressor state." Human rights coalitions have warned this could create new cases of statelessness among residents of occupied territories subjected to forced passportization without genuine choice [21].

4. Comparative European Practice

A comparative survey of European states reveals that Ukraine's SDP, while sound in legal

design, falls short of best practice in several key areas [24; 25]. Spain and Moldova represent the most generous models: upon recognition, applicants automatically receive indefinite leave to remain, rather than annually renewable permits, alongside full access to education, healthcare, housing, and social security on the same basis as nationals [24]. Hungary has embedded a statutory duty to inform potential applicants of the SDP's existence, including during asylum or immigration proceedings, a feature absent from Ukrainian law [24].

France and Latvia demonstrate that evidentiary burdens can be effectively managed without consular certificate requirements: the competent authority bears the primary responsibility for documentary investigations, while the applicant need only provide whatever materials are available. On travel documents, the 1954 Convention imposes a direct obligation on states to issue travel documents to stateless persons on their territory [1, Art. 28]. Several European jurisdictions, including Belgium and the Netherlands, issue a combined statelessness identity and travel document upon the conclusion of the SDP itself, without a separate residence-permit application.

ECtHR jurisprudence reinforces these standards. In *Hoti v. Croatia*, the Court held that Croatia had violated Article 8 ECHR by failing to provide an effective and accessible regularisation procedure for a stateless long-term resident. The Court found it incompatible with the Convention to impose on a stateless person administrative requirements that, by virtue of statelessness, the person is incapable of fulfilling [23, paras. 117-131]. In *Kuric and Others v. Slovenia*, the Grand Chamber found that administrative inaction resulting in effective statelessness through erasure from the population register constitutes a violation of Article 8 ECHR [23, paras. 350-360]. Both precedents are directly applicable to Ukraine's situation, where administrative practice is generating de facto exclusion from the SDP for persons unable to produce consular documentation.

5. A Framework for Legislative Reform

Based on the analysis above, five reform priorities are identified. Each is grounded in Ukraine's existing treaty obligations and supported by the practice of at least two European states.

Reform 1: Ratification of the Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession (2006). Ukraine has signed but not ratified this instrument. Ratification would provide an

additional legal framework for resolving nationality issues that will inevitably arise during the liberation and reintegration of occupied territories, a process certain to generate complex documentation challenges. Ukraine's EU accession obligations under Chapter 23 support expedited ratification.

Reform 2: Elimination of the consular certificate requirement as a condition for SDP application acceptance. The current SMS administrative practice of conditioning acceptance on prior consular confirmation is incompatible with the text of Law No. 693-IX and inconsistent with UNHCR's guidance on shared burden of proof [13, p. 52, para. 147]. The Law should be amended to explicitly prohibit refusal of application acceptance on grounds of absent consular documentation, and to place the duty of conducting consular enquiries on the SMS rather than the applicant.

Reform 3: Introduction of a combined statelessness status identity card. The two-stage structure should be replaced by a single-stage procedure in which SDP recognition automatically confers a combined statelessness status card functioning simultaneously as an identity document and a temporary residence permit. This model, adopted in Spain, Moldova and Hungary, eliminates the documentation gap between recognition and access to rights.

Reform 4: Statutory provision that prior forced return or deportation orders do not bar the grant of a residence permit to a recognised stateless person. The legislative gap should be closed by an explicit statutory norm recognising the fundamental contradiction between an unenforced removal order and the absence of travel documents needed to execute it. This reform aligns Ukrainian law with the principle affirmed in *Hoti v. Croatia* that states must not impose on stateless persons administrative requirements that their legal status makes impossible to fulfil, and that positive obligations under Article 8 ECHR require effective and accessible regularisation mechanisms for stateless long-term residents [23].

Reform 5: Facilitated naturalisation track for stateless persons with a reduced residence period and waiver of language requirements. Ukraine's current seven-year pathway to naturalisation (two years TRP + five years PRP) is inconsistent with the 1954 Convention's obligation to facilitate naturalisation "as far as possible" [1, Art. 34]. The Law should introduce a dedicated naturalisation track for stateless persons: a minimum of five continuous years of residence from SDP recognition, exemption from

language testing for persons demonstrating long-term residence in Ukraine, and waiver of the naturalisation fee for those able to demonstrate financial hardship.

Additionally, Ukrainian law should be amended to explicitly provide that acquisition of Russian nationality through passportization procedures in occupied territories does not constitute grounds for deprivation of Ukrainian nationality, consistent with existing Article 19 of the Law on Citizenship, which already exempts persons "forcibly naturalised" by Russia. This provision should be broadened to cover all coercive passportization scenarios and should establish an expedited re-documentation procedure for persons whose Ukrainian identity documents have been destroyed or confiscated in occupied territories.

Conclusions.

Ukraine has made genuinely significant progress on statelessness in recent years. The adoption of Law No. 693-IX in 2020 and the operationalisation of the SDP in 2021 ended decades of legislative inaction and placed Ukraine among European states with dedicated statelessness protection mechanisms, an achievement that should not be understated, particularly given the conditions of ongoing armed conflict. Yet the gap between legal design and practical implementation remains wide. The five systemic gaps identified in this article are: a

recognition rate starkly disproportionate to the estimated stateless population; administratively imposed consular certificate requirements that contradict the text of the Law itself; a two-stage structure that creates a documentation gap between recognition and access to rights; legislative regression introduced by the September 2023 amendments; and an entirely new dimension of statelessness risk generated by Russian passportization in occupied territories, together indicate that Ukraine's legislative framework requires substantive reform.

The five reform proposals advanced here are not aspirational: they are grounded in Ukraine's existing treaty obligations under the 1954 and 1961 Conventions and the European Convention on Nationality. Each has been implemented by at least two European states. The EU enlargement process, with its Chapter 23 benchmarks on fundamental rights, provides a further institutional incentive for accelerated reform.

Ultimately, the legal regulation of statelessness is not merely a technical migration law question. It concerns the fundamental human right to a legal identity. For the tens of thousands of persons in Ukraine who currently exist without documentation, in the words of one SDP applicant, "in the shadows": the reforms proposed in this article represent the difference between legal existence and legal invisibility.

СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

1. Convention Relating to the Status of Stateless Persons (adopted 28 September 1954, entered into force 6 June 1960) 360 UNTS 117. URL: https://treaties.un.org/doc/Treaties/1960/06/19600606%2001-49%20AM/Ch_V_3p.pdf (date of access: 01.02.2026).
2. УВКБ ООН. Глобальні тенденції: вимушене переміщення у 2022 році. Женева, 2023. URL: <https://digitalibrary.un.org/record/4016251?v=pdf> (дата звернення: 01.02.2026).
3. В Україні проживають понад 5 тисяч осіб без громадянства – міграційна служба. Укрправа Життя. 24.06.2024. URL: <https://life.pravda.com.ua/society/v-ukrajini-prozhivayut-ponad-5-tisyach-osib-bez-gromadyanstva-migraciyna-sluzhba-302298/> (дата звернення: 01.02.2026).
4. УВКБ ООН в Україні. Особи без громадянства. URL: <https://www.unhcr.org/ua/en/stateless-persons> (дата звернення: 01.05.2026).
5. Конвенція про статус апатридів 1954 року: ратифікована Верховною Радою України. Набрала чинності для України 25 квітня 2013 р. URL: https://zakon.rada.gov.ua/laws/show/995_361 (дата звернення: 01.02.2026).
6. Convention on the Reduction of Statelessness (adopted 30 August 1961, entered into force 13 December 1975) 989 UNTS 175. URL: https://legal.un.org/ilc/texts/instruments/english/conventions/6_1_1961.pdf
7. Про затвердження Порядку розгляду заяв та проведення співбесід із особами з метою їх визнання особами без громадянства : постанова Кабінету Міністрів України від 24 березня 2021 р. № 317. URL: <https://zakon.rada.gov.ua/laws/show/317-2021-%D0%BF> (дата звернення: 01.02.2026).
8. van Waas L. Nationality Matters: Statelessness under International Law. Antwerp : Intersentia, 2008. 504 p. URL: [chrome-extension://efaidnbmnnpbpcjpcglclefindmkaj/https://files.institutesi.org/Nationality_Matters.pdf](https://files.institutesi.org/Nationality_Matters.pdf)
9. van Waas L., Edwards A. (eds). Nationality and Statelessness under International Law. Cambridge : Cambridge University Press, 2014. P. 111–120. URL: <https://doi.org/10.1017/CBO9781139506007>
10. Van Thillo C. Persistent Gaps in Protection: Stateless and Forcibly Displaced in Ukraine and Abroad. Statelessness and Citizenship Review. 2024. Vol. 6(1). P. 88–123. DOI: <https://doi.org/10.35715/scr6001.115>
11. Ivashuk O., Kordonets O., Kanics M. The Forgotten Victims of War: Ukraine's Stateless. Forced Migration Review. 2023. No. 72. P. 37–38. URL: <https://www.fmreview.org/ukraine/ivashuk-kordonets-kanics/> (дата звернення: 01.05.2026).
12. Конвенція про громадянство (ETS № 166). Рада Європи, 6 листопада 1997 р.; Конвенція Ради Європи про запобігання безгромадянству у зв'язку з правонаступництвом держав (ETS № 200, 19 травня 2006 р.). URL: <https://rm.coe.int/168007f2c8> (дата звернення: 01.02.2026).

13. УВКБ ООН. Довідник із захисту осіб без громадянства. Женева, 2014. С. 52, абз. 147. URL: https://www.unhcr.org/ch/sites/ch/files/legacy-pdf/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf (дата звернення: 01.02.2026).
14. Про громадянство України : Закон України від 18 січня 2001 р. № 2235-III (зі змінами). URL: <https://zakon.rada.gov.ua/laws/show/2235-14> (дата звернення: 01.02.2026).
15. Про правовий статус іноземців та осіб без громадянства : Закон України від 22 вересня 2011 р. № 3773-VI (зі змінами). URL: <https://zakon.rada.gov.ua/laws/show/3773-17> (дата звернення: 01.02.2026).
16. Про внесення змін до деяких законодавчих актів України щодо визнання особою без громадянства : Закон України від 16 червня 2020 р. № 693-IX. URL: <https://zakon.rada.gov.ua/laws/show/693-20> (дата звернення: 01.02.2026).
17. УВКБ ООН в Україні. Тематичне оновлення щодо безгромадянства. Квітень 2021. URL: <https://nansen-refugee.be/wp-content/uploads/2022/04/Statelessness-Update-2021-UNHCR-Ukraine-EN-UP.pdf> (дата звернення: 01.02.2026).
18. УВКБ ООН. UNHCR Welcomes New Ukrainian Statelessness Law Set to End Legal Limbo for Thousands. Прес-реліз, липень 2020. URL: <https://www.unhcr.org/us/news/briefing-notes/unhcr-welcomes-new-ukrainian-statelessness-law-set-end-legal-limbo-thousands> (дата звернення: 01.02.2026).
19. Harary E. In Ukraine, Russian Passportization Generates Effective Denationalization. *Opinio Juris*. 4 January 2024. URL: <https://opiniojuris.org/2024/01/04/in-ukraine-russian-passportization-generates-effective-denationalization> (дата звернення: 01.02.2026).
20. УВКПЛ ООН. Вимушене переміщення з окупованих Росією територій України: 24 лютого 2022 — 31 грудня 2025. Доповідь УВКПЛ, березень 2026. URL: <https://ukraine.ohchr.org/en/Forced-displacement-from-territory-of-Ukraine-occupied-by-the-Russian-Federation> (дата звернення: 01.02.2026).
21. Коаліція організацій. Заява щодо законопроекту № 11469. Лютий 2025. URL: <https://www.vplyv.org.ua/archives/9806> (дата звернення: 01.02.2026).
22. ЄСПЛ. Хоті проти Хорватії. Заява № 63311/14. 26 квітня 2018. Пп. 111–131. URL: <https://hudoc.echr.coe.int/fre?i=001-182448> (дата звернення: 01.02.2026).
23. ЄСПЛ. Курич та інші проти Словенії (Велика палата). Заява № 26828/06. 26 червня 2012. Пп. 350–360. URL: <https://hudoc.echr.coe.int/eng?i=001-111634> (дата звернення: 01.02.2026).
24. Bianchini K. A Comparative Analysis of Statelessness Determination Procedures in 10 EU States. *International Journal of Refugee Law*. 2017. Vol. 29. No. 1. P. 42–83. DOI: <https://doi.org/10.1093/ijrl/eex009>
25. Bianchini K. Identifying the Stateless in Statelessness Determination Procedures and Immigration Detention in the United Kingdom. *International Journal of Refugee Law*. 2020. Vol. 32. No. 3. P. 440–471. URL: <https://doi.org/10.1093/ijrl/eeaa036>
26. Quiñones P. Breaking the Presumption That Applicants of Statelessness Determination Procedures Are Foreign. *Statelessness and Citizenship Review*. 2021. Vol. 3. No. 1. P. 59–92. DOI: <https://doi.org/10.35715/SCR3001.114>
27. Manzotti C. Nationality Status Determination in Asylum Procedures under the CEAS and the Potential Impact of the «New Pact on Migration and Asylum». *International Journal of Refugee Law*. 2023. Vol. 35. No. 2. P. 193–222. DOI: <https://doi.org/10.1093/ijrl/eead006>

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ПРАВОВЕ РЕГУЛЮВАННЯ СТАТУСУ ОСІБ БЕЗ ГРОМАДЯНСТВА В УКРАЇНІ: ЄВРОПЕЙСЬКІ СТАНДАРТИ ТА НЕОБХІДНІСТЬ ЗАКОНОДАВЧИХ РЕФОРМ

АНОТАЦІЯ. *Вступ.* Правовий статус осіб без громадянства є однією з найгостріших прогалин українського міграційного законодавства. У спадок від СРСР, Україна отримала поєднання конкуруючих законів про громадянство, адміністративних прогалин та масових переміщень населення, що залишили тисячі людей без правової ідентичності. За офіційними даними Державної міграційної служби, станом на 30 квітня 2024 року на обліку перебували 5 394 особи без громадянства, що проживають в Україні на постійній основі, та 964 тимчасово. УВКБ ООН при цьому оцінює загальну кількість осіб без громадянства та осіб із невизначеною національністю приблизно у 35 000, що свідчить про масштаб недокументованих осіб.

Короткий зміст основних результатів дослідження. У статті аналізується правова база України щодо осіб без громадянства на відповідність стандартам Конвенції 1954 року про статус апатридів, Конвенції 1961 року про скорочення безгромадянства, Європейської конвенції про громадянство та практикам держав-членів ЄС. Виявлено п'ять системних прогалин: критично низький рівень практичного визнання, незважаючи на запровадження Процедури визнання особою без громадянства (ПВОБ) у 2021 році; обтяжливі консульські вимоги, запроваджені через адміністративну практику; відсутність єдиного посвідчення статусу; законодавча регресія після поправок вересня 2023 року; нові ризики безгромадянства внаслідок систематичної паспортизаційної політики Росії на окупованих територіях. Порівняльний аналіз ПВОБ та практика ЄСПЛ слугують основою для реформних пропозицій.

Висновок. Запропоновано п'ять конкретних законодавчих реформ: ратифікацію Конвенції РЄ про запобігання безгромадянству у зв'язку з правонаступництвом держав; скасування вимоги консульської довідки для подачі заяв на ПВОБ; запровадження єдиного посвідчення статусу особи без громадянства; законодавчу норму

про те, що попередні постанови про видворення не є підставою для відмови у видачі посвідки визнаному апатриду; та спрощений шлях до натуралізації. Ці реформи спираються на чинні зобов'язання України за Конвенціями 1954 та 1961 років і є необхідними як для захисту прав людини, так і для виконання вимог вступу до ЄС у рамках Глави 23.

КЛЮЧОВІ СЛОВА: безгромадянство; особи без громадянства; процедура визнання особи без громадянства; Конвенція 1954 року; євроінтеграція; окуповані території; паспортизація; законодавча реформа.

REFERENCES

1. Convention Relating to the Status of Stateless Persons. (1954). 360 UNTS 117. URL: https://treaties.un.org/doc/Treaties/1960/06/19600606%2001-49%20AM/Ch_V_3p.pdf
2. UNHCR. (2023). Global Trends: Forced Displacement in 2022. Geneva: UNHCR. URL: <https://digitallibrary.un.org/record/4016251?v=pdf>
3. Ukrpravda Zhyttia. (2024, June 24). V Ukraini prozhyvaiut ponad 5 tysiach osib bez hromadianstva – mihratsiina sluzhba [Over 5,000 stateless persons live in Ukraine — migration service]. URL: <https://life.pravda.com.ua/society/v-ukrajini-prozhivayut-ponad-5-tysiach-osib-bez-gromadyanstva-migraciyna-sluzhba-302298/> (In Ukrainian)
4. UNHCR Ukraine. (2023). Stateless persons. URL: <https://www.unhcr.org/ua/en/stateless-persons>
5. Convention Relating to the Status of Stateless Persons 1954. (Ratified by Ukraine; entered into force 25 April 2013). URL: https://zakon.rada.gov.ua/laws/show/995_361 (In Ukrainian)
6. Convention on the Reduction of Statelessness. (1961). 989 UNTS 175. URL: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://legal.un.org/ilc/texts/instruments/english/conventions/6_1_1961.pdf
7. Cabinet of Ministers of Ukraine. (2021). Pro zatverdzhennia Poriadku rozghliadu zaiavy ta provedennia spivbesid iz osobamy z metoiu yikh vyznannia osobamy bez hromadianstva [On approval of the procedure for considering applications and interviewing persons for the purpose of recognising them as stateless persons]: Resolution No. 317 of 24 March 2021. URL: <https://zakon.rada.gov.ua/laws/show/317-2021-%D0%BF> (In Ukrainian)
8. van Waas, L. (2008). Nationality matters: Statelessness under international law. Intersentia. URL: [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://files.institutesi.org/Nationality Matters.pdf](chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://files.institutesi.org/Nationality%20Matters.pdf)
9. van Waas, L., & Edwards, A. (Eds.). (2014). Nationality and statelessness under international law. Cambridge University Press. URL: <https://doi.org/10.1017/CBO9781139506007>
10. Van Thillo, C. (2024). Persistent gaps in protection: Stateless and forcibly displaced in Ukraine and abroad. *Statelessness and Citizenship Review*, 6(1), 88–123. URL: <https://doi.org/10.35715/scr6001.115>
11. Ivashuk, O., Kordonets, O., & Kanics, M. (2023). The forgotten victims of war: Ukraine's stateless. *Forced Migration Review*, 72, 37–38. URL: <https://www.fmreview.org/ukraine/ivashuk-kordonets-kanics/>
12. European Convention on Nationality, ETS No. 166 (1997); Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, ETS No. 200 (2006). URL: <https://rm.coe.int/168007f2c8>
13. UNHCR. (2014). Handbook on the protection of stateless persons. Geneva: UNHCR. URL: https://www.unhcr.org/ch/sites/ch/files/legacy-pdf/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf
14. Verkhovna Rada of Ukraine. (2001). Pro hromadianstvo Ukrainy [On citizenship of Ukraine]: Law No. 2235-III of 18 January 2001 (as amended). URL: <https://zakon.rada.gov.ua/laws/show/2235-14> (In Ukrainian)
15. Verkhovna Rada of Ukraine. (2011). Pro pravovyi status inozemtsiv ta osib bez hromadianstva [On the legal status of foreigners and stateless persons]: Law No. 3773-VI of 22 September 2011 (as amended). URL: <https://zakon.rada.gov.ua/laws/show/3773-17> (In Ukrainian)
16. Verkhovna Rada of Ukraine. (2020). Pro vnesennia zmin do deiakykh zakonodavchykh aktiv Ukrainy shchodo vyznannia osoboiu bez hromadianstva [On amendments to certain legislative acts of Ukraine concerning recognition as a stateless person]: Law No. 693-IX of 16 June 2020. URL: <https://zakon.rada.gov.ua/laws/show/693-20> (In Ukrainian)
17. UNHCR Ukraine. (2021). Statelessness Update — April 2021. URL: <https://nansen-refugee.be/wp-content/uploads/2022/04/Statelessness-Update-2021-UNHCR-Ukraine-EN-UP.pdf>
18. UNHCR. (2020, July). UNHCR welcomes new Ukrainian statelessness law set to end legal limbo for thousands. URL: <https://www.unhcr.org/us/news/briefing-notes/unhcr-welcomes-new-ukrainian-statelessness-law-set-end-legal-limbo-thousands>
19. Harary, E. (2024, January 4). In Ukraine, Russian passportization generates effective denationalization. *Opinio Juris*. URL: <https://opiniojuris.org/2024/01/04/in-ukraine-russian-passportization-generates-effective-denationalization>
20. OHCHR. (2026, March). Forced displacement from territory of Ukraine occupied by the Russian Federation, 24 February 2022 – 31 December 2025. URL: <https://ukraine.ohchr.org/en/Forced-displacement-from-territory-of-Ukraine-occupied-by-the-Russian-Federation>
21. Coalition of Organisations. (2025, February). Statement on Draft Law No. 11469. URL: <https://www.vplyv.org.ua/archives/9806>
22. ECtHR. (2018, April 26). *Hoti v. Croatia*, App No 63311/14. URL: <https://hudoc.echr.coe.int/fre?i=001-182448>
23. ECtHR. (2012, June 26). *Kuric and Others v. Slovenia* (Grand Chamber), App No 26828/06. URL: <https://hudoc.echr.coe.int/eng?i=001-111634>
24. Bianchini, K. (2017). A comparative analysis of statelessness determination procedures in 10 EU States. *International Journal of Refugee Law*, 29(1), 42–83. URL: <https://doi.org/10.1093/ijrl/eex009>
25. Bianchini, K. (2020). Identifying the stateless in statelessness determination procedures and immigration detention in the United Kingdom. *International Journal of Refugee Law*, 32(3), 440–471. URL: <https://doi.org/10.1093/ijrl/eeaa036>
26. Quiñones, P. (2021). Breaking the presumption that applicants of statelessness determination procedures are foreign. *Statelessness and Citizenship Review*, 3(1), 59–92. URL: <https://doi.org/10.35715/SCR3001.114>
27. Manzotti, C. (2023). Nationality status determination in asylum procedures under the CEAS and the potential impact of the «New Pact on Migration and Asylum». *International Journal of Refugee Law*, 35(2), 193–222. URL: <https://doi.org/10.1093/ijrl/eead006>

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