



**STATEMENT Coalition of organisations dealing with the protection of the rights of victims of armed aggression against Ukraine, on the Draft Law on Amendments to Certain Laws of Ukraine on Ensuring the Exercise of the Right to Acquire and Retain Ukrainian Citizenship (Reg. No. 11469)**

On 7 August 2024, the Verkhovna Rada of Ukraine registered the Draft Law on amendments to certain laws of Ukraine on ensuring the exercise of the right to acquire and retain Ukrainian citizenship (Reg. No. [11469](#)).

On 17 December 2024, the Verkhovna Rada of Ukraine adopted the draft law in the first reading.

Earlier, the President of Ukraine had already submitted to the Parliament a draft law on certain issues in the field of migration regarding the grounds and procedure for acquiring and terminating Ukrainian citizenship (Reg. No. [10425](#)), which was never submitted for consideration in the first reading. Instead, some of the provisions of Draft Law No. 11469 duplicate the provisions of Draft Law No. 10425.

In February 2024, the Coalition of Organisations already [expressed warnings](#) about the shortcomings of this draft law, emphasising the significant risks of violating citizenship rights for residents of the temporarily occupied territory (hereinafter — TOT) of Ukraine, stateless persons, their children, children of persons with complementary protection and children of asylum seekers in Ukraine.

Draft Law No. 11469 proposes amendments to the Laws of Ukraine “On Citizenship of Ukraine”, “On Immigration”, “On the Legal Status of Foreigners and Stateless Persons”, “On Ensuring the Functioning of the Ukrainian Language as the State Language”, which, as stated in the explanatory note, are aimed at improving the legal framework for the functioning of the citizenship institution in Ukraine, as well as ensuring the national interests of Ukraine in ensuring the exercise of the right to acquire and retain Ukrainian citizenship.

The aims and objectives of the draft law are to update the legal regulation of Ukrainian citizenship in view of the need to ensure national security and national interests of Ukraine, to preserve the unity of the Ukrainian community, and to reduce the negative

consequences of the demographic crisis in Ukraine as a result of the armed aggression of the Russian Federation against Ukraine.

**Despite the importance of improving Ukraine's citizenship legislation, the changes proposed by the draft law will have a direct negative impact on the possibility of acquiring Ukrainian citizenship for stateless persons and those at risk of statelessness, undocumented Ukrainian citizens from the TOT of Ukraine, refugees, persons in need of complementary protection, asylum seekers and their children.**

**The text of the draft law as proposed creates unreasonable risks of deprivation of Ukrainian citizenship of persons residing in the TOT of Ukraine, given the targeted policy of the Russian Federation to impose Russian citizenship by denying access to basic vital services in the medical, social, educational and professional spheres, restricting freedom of movement, labour and property rights, denying humanitarian aid, depriving personal freedom, and forcible mobilisation. Below is a detailed description of the key risks contained in Draft Law No. 11469.**

**1. Unreasonable narrowing of the circle of persons who can acquire Ukrainian citizenship.** Certain provisions of the draft law on acquisition of Ukrainian citizenship by birth and territorial origin narrow the circle of persons entitled to acquire citizenship under the current version of the Law. At the same time, the draft law does not contain any amendments to Article 7 of the Law of Ukraine “On Citizenship of Ukraine” that would guarantee the acquisition of Ukrainian citizenship by children born on the territory of Ukraine, if such children would otherwise become stateless.

At the same time, if the draft law is adopted, children of persons with complementary protection will lose the current opportunity and will not be able to acquire citizenship by birth (Article 7) and territorial origin (Article 8), as the category of “persons in need of complementary protection” is not included in the categories of persons “who have permanently resided on the territory of Ukraine” in accordance with Article 1, paragraph 10 of the draft law. Similarly, children of persons who have applied for recognition as refugees or persons in need of complementary protection in Ukraine (children of asylum seekers) may lose the right to acquire citizenship by territorial origin (Article 7), as their parents are not considered foreigners who have permanently resided in Ukraine in accordance with Article 1, paragraph 10, of the Draft.

In addition, Article 8 of the draft law provides for the possibility of acquiring Ukrainian citizenship by stateless persons by territorial origin only if they were born on the territory of Ukraine before 24 August 1991. Such amendments deprive persons of the right to acquire citizenship by territorial origin in case of their permanent residence, residence of their relatives in a certain territory that became the territory of Ukraine in accordance with the Law of Ukraine “On the Succession of Ukraine”, or in other territories that were part of the Ukrainian People's Republic, the West Ukrainian People's Republic, the Ukrainian State, the Ukrainian Socialist Soviet Republic, Carpathian Ukraine, the Ukrainian Soviet Socialist Republic (Ukrainian SSR) at the time of their birth or during their permanent residence.

The introduction of an examination on the fundamentals of the Constitution of Ukraine, the history of Ukraine and an examination to determine the level of proficiency in the state language, as well as the establishment of fees for passing the examinations, under Article 8 of the draft law, may significantly limit the possibility of stateless persons recognised

under Article 6-1 of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, who are mostly from vulnerable categories of the population, often lack any education and are illiterate or have limited literacy skills.

If the draft is adopted, such proposals **would violate the norms of international and national law of Ukraine.**

In particular, in accordance with Article 22(3) of the Constitution of Ukraine, when adopting new laws or amending existing laws, it is not allowed to narrow the content and scope of existing rights and freedoms. The Constitutional Court of Ukraine in its Decision No. 5-p/2018 dated 22 May 2018 noted that in accordance with paragraph 1 of part one of Article 92 of the Constitution of Ukraine, human rights and freedoms and guarantees of these rights and freedoms are determined exclusively by the laws of Ukraine. However, in defining them, the legislator can only expand, not narrow, the content of constitutional rights and freedoms and establish mechanisms for their implementation. Therefore, the provisions of part three of Article 22 of the Constitution of Ukraine should be understood in such a way that when adopting new laws or amending existing laws, it is not allowed to narrow the content and scope of existing constitutional human rights and freedoms, if such narrowing leads to a violation of their essence.

According to Article 26 of the Constitution of Ukraine, foreigners and stateless persons legally residing in Ukraine enjoy the same rights and freedoms and bear the same responsibilities as citizens of Ukraine (with the exceptions established by the Constitution, laws or international treaties of Ukraine).

According to Article 1 of the Convention on the Reduction of Statelessness (1961), which is part of the national legislation of Ukraine, a Contracting State shall confer its nationality on a person born in its territory who would otherwise be stateless.

According to Article 7 of the Convention on the Rights of the Child (1989), which is part of the national legislation of Ukraine, a child must be registered immediately after birth and from the moment of birth has the right to a name and to acquire a nationality, as well as, as far as possible, the right to know their parents and the right to their care.

In September 2022, the UN Committee on the Rights of the Child reiterated its recommendation given to Ukraine in 2011 regarding the need to amend citizenship legislation to simplify access to citizenship for children who would otherwise be stateless.

This recommendation has remained unimplemented by Ukraine for over a decade, as evidenced by the current version of Article 7 of the Law of Ukraine “On Citizenship of Ukraine”. The changes proposed by the draft law only complicate the access of children of stateless persons and children of asylum seekers to Ukrainian citizenship.

At the same time, one of the key recommendations of [the Shadow report on Chapter 23 “Justice and Fundamental Rights” of the European Commission’s report on Ukraine in 2023](#) in the section “Protection of Fundamental Rights and Freedoms” in the area of citizenship is to amend the Law of Ukraine “On Citizenship of Ukraine” to grant the right to acquire Ukrainian citizenship to all children born on the territory of Ukraine who do not acquire another citizenship at birth.

With regard to the right to acquire citizenship for children of asylum seekers, the courts have repeatedly found unlawful the inaction of the State Migration Service of Ukraine and its territorial units in proceedings on applications and submissions on Ukrainian citizenship from their parents (cases 640/25338/19, 640/15887/20, 320/12900/21).

Thus, the adoption of the draft law will lead to the loss of the current right to citizenship, which is currently enjoyed by certain categories of foreigners and stateless persons, as well as their children.

**2. The grounds for refusal of Ukrainian citizenship violate the principle of legal certainty.** The draft law proposes to abolish the grounds for refusal of Ukrainian citizenship, such as the commission of a crime against humanity or genocide, which seems **at least unreasonable**. Instead, it is proposed to define a person “*who poses a threat to national interests, national security, protection of public order, sovereignty and territorial integrity of Ukraine*” as not eligible for Ukrainian citizenship. This ground is formulated in violation of the principle of legal certainty, as neither the draft law nor the current legislation of Ukraine provides a definition of the concept of “*a person who poses a threat to national interests, national security, protection of public order, sovereignty and territorial integrity of Ukraine*”, nor does it establish criteria and evidence for the existence of such a “*threat to national interests, national security, the protection of public order, sovereignty, and territorial integrity of Ukraine*”. This, in turn, creates a precondition for unlimited discretion in interpreting the grounds for denying an individual Ukrainian citizenship.

In [the Report](#) of the Venice Commission No. 512/2009 “On the Rule of Law” (The Rule of Law Checklist), adopted at the 86th plenary session on 25-26 March 2011), the Venice Commission, outlining key aspects of the rule of law, concluded that decisions on legal rights should be based on clear and understandable rules of law, not on will or discretion. Thus, the lack of specification and assessment of such grounds for refusal of citizenship contradicts the rule of law principle enshrined in Article 8 of the Constitution of Ukraine.

**3. Creating a threat of losing Ukrainian citizenship for Ukrainian citizens living in the TOT of Ukraine.** Article 19 of the draft law expands the grounds for the loss of citizenship, in particular, the grounds for *voluntary acquisition by a citizen of Ukraine of the citizenship of a state recognised by the Verkhovna Rada of Ukraine as an aggressor or occupying state, or citizenship (nationality) of a state not included in the list of states whose citizens (nationals) acquire Ukrainian citizenship under a simplified procedure, if at the time of such acquisition they have reached the age of majority.*

At the same time, the definition of the concept of voluntary acquisition of citizenship of another state as ‘all cases when a citizen of Ukraine, in order to acquire citizenship (nationality) of another state, had to submit an application or petition for such acquisition in accordance with the procedure established by the national legislation of the state whose citizenship (nationality) was acquired, except for the case provided for in part six of Article 5 of the Law of Ukraine “On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine”, as well as in the case of acquisition by a citizen of Ukraine who was illegally deported from the temporarily **occupied territory of Ukraine of the citizenship of a state recognised by the Verkhovna Rada of Ukraine as an aggressor or occupying state**, does not take into

account the interests of Ukrainian citizens who reside in the TOT of Ukraine and are forced to apply for the citizenship of the aggressor state in order to physically survive and exercise their rights and freedoms.

First, this exception does not cover all [practices](#) of imposing Russian citizenship in the TOT of Ukraine. Thus, according to part six of Article 5 of the Law of Ukraine “On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine”, the forced automatic acquisition of Russian Federation citizenship by Ukrainian citizens residing in the temporarily occupied territory is not recognised by Ukraine and is not a ground for the loss of Ukrainian citizenship. At the same time, the concept of “forced automatic” acquisition of Russian citizenship is not defined by Ukrainian legislation. This creates a situation where this provision of the Law may apply to the non-recognition of citizenship obtained in the temporarily occupied territory of Crimea (where the imposition of citizenship by the Russian Federation took place in this manner), but does not actually cover the practice of forcing Russian citizenship in the occupied territories of Donetsk and Luhansk regions, which included the deportation of Ukrainian citizens to obtain Russian passports to the territory of the Russian Federation.

Second, it is impossible to talk about the voluntary acquisition of Russian citizenship under occupation, when the aggressor country uses various means of intimidation and coercion to force Ukrainian citizens living in the TOT of Ukraine to obtain Russian citizenship. This includes restrictions on freedom of movement, access to humanitarian, social and medical assistance, deprivation of property ownership, and ultimately the threat of expulsion as a foreign citizen and/or deprivation of personal liberty. Such actions of the aggressor country constitute a violation of Article 45 IV of the Convention on the Laws and Customs of War on Land and its annex, which prohibits forcing the inhabitants of the occupied territory to swear allegiance to the enemy state. This prohibition covers both the military oath and the transfer of citizenship. Despite the fact that the Russian Federation tries to imitate the voluntary nature of citizenship acquisition by maintaining formal procedures (e.g., by requiring an application, sometimes by recording the recitation of the Russian oath), these procedures have nothing to do with procedures designed to ensure the exercise of the right to voluntary acquisition of citizenship. Therefore, the submission of an application for a passport cannot be a sign of the voluntary nature of the acquisition of Russian citizenship in the TOT of Ukraine, even if it occurred with the submission of an application.

Therefore, the second paragraph of part 1 of Article 19 of the draft law, which defines the circumstances under which citizenship is not considered voluntary, needs to be clarified to state that citizenship acquired in the temporarily occupied territory of Ukraine is not considered voluntary, as well as the acquisition by a citizen of Ukraine, who was illegally deported from the temporarily occupied territory of Ukraine, of the citizenship of a state recognised by the Verkhovna Rada of Ukraine as an aggressor or occupying state, except in cases where the acquisition of the citizenship of a state recognised by the Verkhovna Rada of Ukraine as an aggressor or occupying state is used for the purpose of propaganda of war, public support of armed aggression against Ukraine, as well as in cases where such a person terminates the citizenship of Ukraine in accordance with the procedure established by this Law.

Another rather dubious ground for deprivation of Ukrainian citizenship is “the use of a foreigner's passport on the territory of Ukraine by an adult citizen of Ukraine who has



citizenship (nationality) of a foreign state, which results in threats to national security and/or national interests of Ukraine”. The grounds formulated in this way contradict the principle of legal certainty, as the draft law does not define the criteria and circumstances under which the use of a passport document may endanger the national security and/or national interests of Ukraine, which in turn is a precondition for unreasonable discretion and creates a risk of unreasonable deprivation of citizenship.

Similarly, in terms of the grounds for the loss of Ukrainian citizenship, the draft law proposes to establish that such grounds include, in particular, “*the entry into force of a court verdict of guilty against persons convicted in Ukraine for committing a crime against the foundations of national security of Ukraine*”. Thus, the draft law actually establishes an additional punishment for committing a crime under the Criminal Code of Ukraine (hereinafter — the CCU), which violates the requirements of part three of Article 3 of the CCU, according to which the criminal unlawfulness of an act, as well as its punishability and other criminal law consequences, are determined only by this Code.

The draft law also lists as an additional ground for deprivation of Ukrainian citizenship **the participation of a Ukrainian citizen in armed aggression against Ukraine as part of the armed forces of a state recognised by the Verkhovna Rada of Ukraine as an aggressor or occupying state, or which is in an armed conflict (war) with Ukraine or has contributed to the commission of armed aggression against Ukraine**. At the same time, such a formulation of the grounds for deprivation of citizenship does not take into account the circumstances of Russia's systematic violation of international humanitarian law, which, among other things, includes the use of coercion against Ukrainian citizens in the occupied territory to perform military service and/or forced mobilisation into armed formations, in particular through coercion to sign a contract to create the illusion of “voluntariness”. Persons who joined such groups under coercion are [victims](#) of an international crime. Only the voluntary participation of Ukrainian citizens in such armed groups, proven in court, should be considered a ground for the loss of Ukrainian citizenship.

**4. Disproportionate restrictions on immigration permits outside the quota.** The amendments to the provisions of the Law of Ukraine ‘On Immigration’ proposed by the draft law stipulate that an immigration permit outside the quota is granted to one of the spouses if the other spouse is a deceased citizen of Ukraine, a member of the Armed Forces of Ukraine, other military formations established in accordance with the laws of Ukraine and special purpose law enforcement agencies, the State Transport Special Service, the State Service for Special Communications and Information Protection of Ukraine (regardless of the length of marriage valid at the time of death) — in case of applying for an immigration permit during martial law or no later than within 6 months from the date of its termination or cancellation.

Thus, the proposed wording leaves out children/parents of deceased (fallen) military personnel, despite the fact that they all belong to relatives of the first degree of kinship, and therefore, their non-inclusion in the list creates conditions of uncertainty in the legal status of these categories of persons on the territory of Ukraine. At the same time, taking into account the intensity of the military operations taking place on the territory of Ukraine, we believe that a permit for immigration outside the quota should also be granted to a spouse/children/parents if a citizen of Ukraine is declared missing or deceased by a court.

It should be noted that the categories of military personnel whose death gives rise to the possibility of immigration outside the quota do not include members of the National Guard of Ukraine, which is inconsistent with the provisions of paragraphs 9, 10 of part 2 of Article 4 of the Law “On Immigration”, which provide enhanced legal protection to this category of persons.

In addition to these risks, it is worth noting that the draft law proposes to supplement Article 2 of the Law of Ukraine “On Citizenship of Ukraine” with a new principle “determining the legal regime of simultaneous citizenship (nationality) of two or more states, taking into account the national security and national interests of Ukraine”. This principle of “multiple citizenship” is not consistent with the principle of single citizenship provided for in paragraph 1 of part 1 of Article 2 of the Law “On Citizenship of Ukraine”, which is not changed by the draft law.

In order to achieve legal certainty and avoid legal conflicts, it is advisable to harmonise these principles and determine how the new approach of “multiple citizenship” will be implemented in the context of Ukraine's current citizenship legislation.

After the draft law passed the first reading, a significant number of amendments were submitted to it, including those that raise reasonable doubts about their expediency and validity.

Thus, the responsible Committee received proposals to supplement the draft law with provisions restricting the rights to hold certain positions in state authorities, local self-government bodies, and to carry out independent professional activities for persons holding the citizenship of the aggressor state or a state that does not recognise the territorial integrity and sovereignty of Ukraine or the illegality of encroachments on the territorial integrity and sovereignty of Ukraine, in particular voted against the United Nations General Assembly Resolution 68/262 of 27 March 2014 on the territorial integrity of Ukraine and/or voted against at least one of the Resolutions of the Eleventh Emergency Special Session of the UN General Assembly on Russia's aggression against Ukraine under the Uniting for Peace mechanism. It is also proposed that the law may establish other restrictions on the rights of mentioned persons.

The proposed approach to restricting the rights of citizens depending on their citizenship (nationality) of certain countries is unreasonable, contradicts the principle of equality of constitutional rights and freedoms of citizens (Article 24 of the Constitution of Ukraine), as it unreasonably shifts the responsibility for voting against the UN General Assembly Resolutions of certain states to their citizens (nationals) who do not participate in the adoption of these political decisions.

**Taking into account these shortcomings, the Draft Law on Amendments to Certain Laws of Ukraine on Ensuring the Exercise of the Right to Acquire and Retain Ukrainian Citizenship (Reg. No. 11469) needs to be significantly revised.**

**If adopted in its current version, the draft law will create significant risks of violations of citizenship rights for residents of the temporarily occupied territory of Ukraine, as well as stateless persons, persons in need of complementary protection, their children and children of asylum seekers in Ukraine.**

**14 February 2025**

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