



Bill analysis

“On amendment to the statutory acts of Ukraine on identification of individuals for registration, issuing, exchange, invalidation, destruction of documents, that identify citizenship of Ukraine, identify a person or his/her special status” (reg. №6630)

On the 22nd of June 2017 on the official web-site of National security and defense council of Ukraine (NSDC) the statement of the secretary of NSDC Mr Oleksandr Turchynov was released. It is stated that there is the necessity of execution of thorough inspection of all those who request obtaining a biometric passport among the persons arriving from the occupied territories.

<http://www.rnbo.gov.ua/news/2801.html>).

The same day in the Supreme Council of Ukraine (the Parliament) the bill №6630 “On amendment to the statutory acts of Ukraine on identification of individuals for registration, issuing, exchange, invalidation, destruction of documents, that identify citizenship of Ukraine, identify a person or his/her special status” was registered (http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62109). According the explanatory note, the need for adoption of such a bill is due to the fact that in connection with the military aggression of the RF in non-controlled territory of Ukraine the information and materials on persons and documentation of their respective documents, which is managed by the State migration service (SMS) have been left.

The relevant information was used by the SMS to identify individuals when issuing documents confirming the citizenship of Ukraine, certifying the identity of a person or his/her special status. Absence of the possibility of the use of the indicated information reduces the reliability of the verification of information about a person in case of issuing biometric documents and complicates the performance of functions of the SMS. So, in fact, it concerns the Ukrainian citizens living or leaving the temporarily occupied territory of Ukraine and territories of Donetsk and Luhansk regions temporarily uncontrolled by the Ukrainian authorities.

The bill №6630 provides for amendments to a number of laws: "On the unified state demographic registry and documents affirming the citizenship of Ukraine, identifying a person or his/her special status," "On amendments to certain legislative acts of Ukraine regarding documents affirming the citizenship of Ukraine, identifying a person or his/ her special status aimed at liberalizing the European Union visafree regime for Ukraine "," On banks and banking activities " "On state registration of acts of civil status"," On the state register of voters "," "On information". In particular, these changes will relate to provision of access to a number of registries, databases of persons subject to identification procedures, grounds for disclosure of bank secrecy with respect to these persons, changes in terms of person verification, etc.

Below is a detailed analysis of the bill № 6630.

1. The deadline for the procedure of identifying a person is increased - from two to six months

So, according to Art. 10 of the Law of Ukraine "On the unified state demographic registry and documents confirming the citizenship of Ukraine, certifying a person or his/ her special status", currently, this term can not exceed two months. In addition, by the bill № 6630 it is proposed to establish additional requirements for the

submission of documents by those persons whose information is not provided (or access to which is absent) in existing databases and file cases of applications of the territorial bodies and territorial subdivisions of the Registry administrator or which can not be identified. In this case, these persons will be required to submit originals (in case of their absence, copies) of documents certifying the identity and confirming the citizenship of Ukraine and other documents, including a photograph (certificate of attestation, military id, driver's license, pension certificate, etc.). Verification of information about a person and documents submitted by him/her is executed on the basis of available state and single registers, other information bases owned by the state or enterprises, institutions (banking institutions) and organizations, including receiving a photo of a person's face. Therefore, the list of documents that can be demanded by workers of the SMS is not exhaustive, which opens up opportunities for abuse.

2. Obtainment of personal data about individuals during the identification process, verification, identification of a person from different sources, the list of which is not exhaustive, does not require additional consent for the obtainment and processing of his/ her personal data for the purposes of identification of a person. According to the proposed changes, state bodies, local governments, enterprises, institutions (banking institutions) and organizations are obliged to provide reliable information about the person within the time period established by the register administrator at the request. This norm means that the SMS will be able to receive any personal information, including sensitive personal data, from a variety of registers and databases owned by the state or enterprises, institutions (banking institutions) and organizations, including receiving facial image of a person. Simultaneously, the consent of a person to receive and process his/her personal data for the purpose of identification of the person, verification and establishing personal identification of a person for registration, issuing, exchange, invalidation and destruction of documents provided by this Law and the received information is not required.

3. Inability to identify a person who applied for a passport of a citizen of Ukraine, including for travelling abroad, will be the basis for not providing information about a person to the Unified Demographic Registry. In accordance with clause 2 of Art. 5 of the Law "On the unified state demographic registry and documents affirming the citizenship of Ukraine, identifying a person or his/her special status", there is already a norm according to which the grounds for refusal to submit information to the Register in case the applicant does not have the necessary documents that confirm the information for inclusion in the Register. However, it is proposed to add another reason for refusing to enter the data in the Register.

4. The bill provides for additional grounds for disclosure of bank secrecy in order to identify a person, verify and establish personal identification.

So, according to the proposed changes to Art. 62 of the Law "On Banks and Banking Activities", the manager of the Unified State Register of Demographic Registry at his written request for the purpose of identifying a person, verifying and establishing personal identification for the registration, issuing, exchange, invalidation and destruction of documents confirming the citizenship of Ukraine, certify a person or his/her special status, information on documents confirming the citizenship of Ukraine, certifying the person or his special status, registration number of the tax card's account, which an individual provided for service in banking institution, and available copies of documents containing photo image of face of an individual person and photo image of an individual (if available).

5. It is proposed to provide the administrator of the Unified Demographic Registry (ie State Migration Service - SMS) with access to several registers, namely: the State register of acts of civil status of citizens, the State register of voters, and the State register of insured persons upon request. Wherein, according to the current version of paragraph 3, clause 1 of Art. 10 of the Law of Ukraine "On the unified state demographic registry and documents affirming the citizenship of Ukraine, identifying a person or his/her special status," the Register Administrator within the limits of his powers, and solely for the purposes of identifying a person for the registering, issuing, exchange, invalidation and destruction of the prescribed by this law of the documents has the right to receive information from existing state and unified registers, other information bases, which are owned by the state or enterprises, institutions and organizations, in the established extent of information on a person. The register administrator also has the right to receive information from the registers of the territorial communities.

Conclusions: The bill № 6630 is such that to a large extent duplicates already existing and functioning norms of the Law (in the part of identifying persons using data from different registers and information bases). However, the proposed extension of the grounds for disclosure of banking secrecy is a disproportionate restriction of the right to privacy and is not a proper method to confirm the identity of the applicant. Lack of information on the procedure of verification, identification, establishing personal identification, and on exhaustive list of documents that is sufficient for entry information about a person to the Unified State Demographic Registry creates conditions for corruption. In addition, it is disproportionate and unfounded to extend the deadline for conducting a procedure for establishing a personal identification (from two to six months), which may significantly restrict the exercise of the right to freedom of movement enshrined in the Constitution of Ukraine.