



**International covenant
on civil and
political rights**

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**Human Rights Committee
Eighty-eighth session
Geneva, 16 October - 3 November 2006**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

UKRAINE

1. The Committee considered the sixth periodic report submitted by Ukraine (CCPR/C/UKR/6) at its 2407th and 2408th meetings (CCPR/C/SR.2407 and 2408), held on 23 October 2006, and adopted the following concluding observations at its 2422nd meeting (CCPR/C/SR.2422), held on 2 November 2006.

A. Introduction

2. The Committee welcomes the State Party's timely submission of its periodic report, elaborated in conformity with the reporting guidelines. It expresses its appreciation for the dialogue with the State party delegation, as well as for the answers provided to the Committee. The State Party has attempted to provide concrete information on its implementation of the Covenant.

3. The Committee has benefited from the presence of two representatives of the Office of the Ombudsman, and notes the productive nature of the Ombudsman's recommendations, even though many are not yet implemented. However, the Committee regrets the absence of more extensive reporting from non governmental organizations (NGO) and the absence of broad representation from national human rights organizations prior to the dialogue with the State party.

B. Positive aspects

4. The Committee notes with satisfaction:

(a) The adoption of a statute seeking to promote equal rights and opportunities for women and men, on 8 September 2005, as well as a national plan of

action for 2001-2005 to improve the position of women in public life and to promote gender equality.

(b) The measures undertaken to combat the trafficking of women, such as legislation to prosecute and punish the offenders.

(c) The establishment of a witness protection programme.

(d) The publication, with the support of the United Nations Development Programme, of a compilation of Concluding Observations and Recommendations of the United Nations Treaty Bodies on Reports of Ukraine in the Area of Human Rights.

C. Principal subjects of concern and recommendations:

5. The Office of the Ombudsman lacks adequate resources for its work, even though it has key responsibilities, including processing complaints about serious problems, such as prison violence and ethnic discrimination. Many of the Ombudsman's reform proposals have not been acted upon by the legislature. (art. 2)

The State party should increase the resources of the Office of the Ombudsman, to enable it to carry out its work effectively, in particular, by increasing its capacity to investigate and remedy both individual complaints and systemic problems.

6. The Committee is concerned that article 64 of the Constitution of Ukraine is not consistent with article 4 of the Covenant.

The State party should ensure that its provisions concerning states of emergency are compatible with article 4 of the Covenant. In this regard, the Committee draws the attention of the State party to its general comment No. 29 (2001) on derogations during a state of emergency.

7. Some members of the police have mistreated persons arrested on criminal charges and persons held in detention, including the fatal beating of a 36-year-old man in Zhytomyr on 7 April 2005; the fatal beating of a man in the Kharkiv detention centre on 17 December 2005; and the death of Mykola Zahadhevsky in pre-trial detention in April 2004. The Committee notes the forthright admission of the Human Rights Ombudsman, on 11 October 2005, that acts of torture continue to occur in pre-trial detention facilities. (art. 6)

The State party should ensure the safety and proper treatment of all persons held in custody by the police, including measures necessary to guarantee freedom from torture and from cruel, inhuman or degrading treatment. The State party should consider the establishment of an independent police complaints mechanism, such as a civilian police review board, as well as the safeguard of videotaping the interrogation of criminal suspects. The State party should also provide for the independent inspection of detention facilities, with the authority to interview any inmates in private.

8. Criminal suspects have been held by the police for 72 hours as a “temporary preventive measure,” prior to being arraigned before a judge. This practice is incompatible with the right to be brought promptly before a judge. (art. 9)

The State party should limit the length of police custody and pre-trial detention, in a manner compatible with article 9 of the Covenant.

9. The State party has deported persons to countries where they face the risk of torture or cruel, inhuman or degrading treatment, without allowing them to file an appeal from the deportation order. The deportation of ten Uzbeks in February 2006 is one example of this practice. (arts. 7, 9 and 13)

The State party should not expel or deport aliens to any country where there is a risk of torture or ill-treatment, and should permit aliens to file an appeal from any first-instance deportation order before the deportation is carried out.

10. The State party has taken measures to combat domestic violence, including the adoption of a Domestic Violence Act and the establishment of crisis centres and medical and social rehabilitation centres for the victims. Nonetheless, the Committee remains concerned about the persistence of this serious crime. In addition, the centres are unavailable for women who are over the age of 35. The Committee is also concerned by the provision in the law regarding the behaviour of the victim and authorizing official warnings to be given to the victim of domestic violence about “provocative” behaviour. (arts. 7 and 26)

The State party should intensify its efforts to combat domestic violence, and ensure that social and medical centres for rehabilitation are available to all victims, regardless of their age and gender. It should also ensure that any notion of victim behaviour is not used as a form of impunity.

11. There is grave overcrowding in detention and prison facilities, and a lack of adequate sanitation, light, food, medical care, and facilities for physical exercise. The high incidence of HIV/AIDS and tuberculosis among detainees in facilities of the State party is also a cause for concern, along with the absence of specialized care for pre-trial detainees. (art. 10)

The State party should guarantee the right of detainees to be treated humanely and with respect for their dignity, particularly by relieving overcrowding, providing hygienic facilities, and assuring access to health care and adequate food. The State party should reduce the prison population, including by using alternative sanctions.

12. While the State party has announced plans to convert its armed forces to an all-volunteer basis, the right to conscientious objection against mandatory military service should be fully respected. Conscientious objection has been accepted only for religious reasons, and only for certain religions.

The State party should extend the right of conscientious objection against mandatory military service to persons who hold non-religious beliefs grounded in conscience, as well as beliefs grounded in all religions.

13. New recruits in the armed forces are still subject to the abusive practice of “hazing,” including acts of considerable violence, such as the hazing death of a soldier from the Zhytomyr region in January 2005. (arts. 7 and 18)

The State party should ensure that the practice of “hazing” in the armed forces is stopped, including by facilitating the intervention of the Ombudsman and the adoption of disciplinary measures.

14. Violent attacks against journalists, as well as the harassment of journalists, still pose a persistent threat to the freedom of the press. The Committee is concerned at the assassination of journalist Heorhiy Gongadze in November 2000, the killing of Ihor Alexandrov, director of the Donetsk regional television station, in 2001, and the death of Volodymyr Karachevtsev, head of the Melitopol independent journalists union, in December 2003. (arts. 6 and 19)

The State party should protect the freedom of opinion and expression, including the right to freedom of the press. The State party should vigorously investigate and prosecute attacks against journalists.

15. During the 2004 elections, students participating in a peaceful protest march to Kiev were arrested and detained *en masse*. (art. 21)

The State party should ensure that there are clear standards protecting the right of individuals to engage in peaceful assembly and to exercise the right of free expression.

16. Problems of anti-Semitism and impositions on Muslim religious activities persist in Ukraine. Members of the Jewish community have suffered physical assaults, including attacks on Jewish day school students, Yeshiva students, and a rabbi and his son in Kiev. The Committee also is concerned about the anti-Semitic activities of the Inter-Regional Academy of Personnel Management (MAUP). In addition, there are unresolved claims for restitution of Muslim religious property, including places of worship, and discrimination against the Tatar community in the Crimea. (arts. 20 and 26)

The State party should ensure that all members of ethnic, religious, or linguistic minorities are protected against violence and discrimination. The State party should provide robust remedies against these problems. The next periodic report of the State party should contain information on human rights training for the police, and on the investigation and prosecution of acts of private violence.

17. Despite the State party’s efforts to strengthen the independence and efficiency of the judiciary, corruption remains a persistent problem, and the process for appointment of judges is not transparent. (art. 14)

The State party should promote the integrity of the judiciary by providing adequate remuneration for judges and by establishing an independent body responsible for appointing, promoting and disciplining judges.

18. Despite the progress of the State party, the role of women in Ukraine is still restricted. There are few women in government, women generally earn less than men, and gender-discriminatory job advertisements are still used to recruit new employees. (art. 3 and 26)

The State party should continue to recruit women for public office, should prohibit and police discriminatory job advertisements, and should consider a legislative or administrative standard requiring equal pay for equal work.

19. The Committee sets 2 November 2011 as the date for the submission of the seventh periodic report of Ukraine. It requests that the sixth periodic report and these concluding observations should be published and widely disseminated to the general public of the State party, as well as to judicial, legislative and administrative authorities. The preparation of the seventh periodic report should draw upon the non-governmental organizations operating in the country.

20. In accordance with the Committee's rules of procedure, in particular, rule 71, paragraph 5, the State party should submit information, within one year, on the follow-up given to the Committee's recommendations in paragraphs 7, 11, 14 and 16 above. The Committee requests the State party to include information in its next periodic report on the other recommendations and on the implementation of the Covenant as a whole.
