



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### **List of issues to be taken up in connection with the consideration of the seventh periodic report of Ukraine, adopted by the Committee at its 106th session (15 October–2 November 2012)**

##### **Constitutional and legal framework within which the Covenant is implemented (art. 2)**

1. Please provide information on the direct application of the provisions of the Covenant by the domestic courts, including reference to any relevant case law. Please also indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol. In particular, please provide detailed information on measures taken to ensure full compliance with the Committee's Views in communications No. 1412/2005, *Butovenko v. Ukraine* and No. 1535/2006, *Shchetka v. Ukraine*.
2. Please provide updated information on the mandate of the Parliamentary Human Rights Commissioner and on the steps taken to ensure its independence (including financially) and effective functioning, particularly on its capacity to investigate individual complaints and to take measures to remedy the attested violations. In this connection, please provide statistics on the number and type of complaints received and resolved since 2006 and the remedies provided to the victims. Please also clarify whether the Commissioner's decisions are binding for the authorities and indicate what measures have been taken to ensure that the complaints submitted remain confidential.

##### **Non-discrimination, equality between men and women, prohibition of advocacy of national, racial or religious hatred and rights of minorities (arts. 2, 3, 20, 26 and 27)**

3. Please indicate whether the State party plans to include in the Constitution the right to equality and non-discrimination for all, but not just for citizens. Please also clarify whether the Law on the principles of preventing and combating discrimination adopted on 6 September 2012 (a) addresses discrimination in all areas of life; (b) defines direct and indirect, as well as de facto and de jure discrimination; (c) contains a comprehensive list of grounds for discrimination, including discrimination based on sexual orientation and gender identity; (d) provides for remedies to victims of discrimination and (e) establishes a mechanism for the effective implementation of its provisions in practice.
4. Please comment on information before the Committee that women are still underrepresented in high-level elected and appointed bodies, and account for 8.1 per cent of parliamentarians, while no women are represented among the 25 appointed governors, and that according to official statistics for January 2012 a salary gap of 25 per cent exists between men and women. In this respect, and further to the information supplied by the State party (CCPR/C/UKR/7, paras. 28-36), please indicate whether the draft law ensuring

equal opportunities for women and men in the electoral process (CCPR/C/UKR/7, para. 28) and the Draft State Gender Equality Programme (2011-2015) have been adopted, and, if so, provide information on their implementation and the results achieved. Please indicate the steps the State party has taken to enhance the representation of women in all legislative and executive bodies and to give effect to the principle of equal remuneration for men and women for work of equal value.

5. In light of reports about attacks and discrimination against lesbian, gay, bisexual or transgender (LGBT) persons, including violence, threats, illegal arrests and extortion by law enforcement bodies please outline the steps taken to combat discrimination and social exclusion of LGBT persons. Please provide information on the status of the following draft laws and explain whether these laws are compatible with the Covenant: (a) draft law No.10290, that bans the “promotion” of homosexuality; (b) draft law No. 8711 (adopted by the parliament at first reading on 2 October 2012), concerning the ban imposed on any production or publication of products “promoting” homosexuality, which provides for fines or deprivation of liberty of up to five years.

6. With regard to the information provided in paragraphs 261-266 (CCPR/C/UKR/7), please provide further information on the progress achieved in the implementation in practice of the Law “On Amending Several Laws of Ukraine on the Rights of Persons with Disabilities” adopted on 22 December 2011, including on the penalization of those responsible for the failure to ensure the rights of persons with disabilities.

7. Please respond to reports that hate speech, threats and violence against foreigners, members of ethnic groups, religious and national minorities, including racial profiling by law enforcement bodies, still occur throughout the country, and that the perpetrators of the most serious hate crimes are committed by a movement of skinheads driven by extreme nationalist and racist ideology. Please indicate whether any concrete measures have been taken to prevent the registration and functioning of such groups and monitor constantly their activities, and report on the results achieved. Please report on any results following the implementation of the Plan of Action to Combat Xenophobia and Racial and Ethnic Discrimination for the period 2010-2012. Please also explain the limited number of prosecutions and convictions under article 161 of the Criminal Code compared with the number of suspected racially motivated attacks that are qualified as hooliganism, and provide additional information on the remedies available to victims of violence and discrimination based on ethnic, religious, or linguistic grounds. Please also report on the outcome of the investigations initiated into the following incidents: (a) the September-October 2011 identity checks in Lviv, targeting Roma, and resulted in alleged arbitrary detentions and beatings of Roma individuals; (b) the violent police raid on a Roma settlement in Uzgorod on 11 January 2012, when law enforcement officials reportedly used tear gas and rubber batons; (c) the burning to the ground of a Roma settlement in Kiev on 31 May 2012.

8. According to information before the Committee, a series of assaults and attacks against Jehovah's Witnesses remain unpunished. Please indicate the measures taken to investigate and bring to justice the perpetrators: (a) of physical assaults in Kremenchuk, Stryi, Mykulyntsi, Ternopil and Rokytno towns; (b) of the desecration to houses of worship of Jehovah's Witnesses in 2008 and 2009, including in Yenakievo and Vuhlehirsk towns, and other vandalism attacks committed from October 2010 to December 2011 (c) of the interference in the worship activities of Jehovah's Witnesses in Voznesensk by the neo-fascist organization “Skhoron ezh Sloven” (Unification of Slavs), as well as of the physical attacks against Jehovah's Witnesses by two orthodox priests in June 2008 and April 2009.

9. Please provide information on any legal and policy measures aimed at facilitating access of Roma to personal documents and at improving the situation of Roma in terms of access to education, health care, housing, and employment. Please indicate the measures taken to counter discrimination against Crimean Tatars, including the adoption of a legal

framework regulating property restitution issues and payment of adequate compensation, and clarify whether the State party intends to adopt specific legislation regarding the rights of indigenous people, as well as the draft law on the restoration of rights of persons formerly deported on the basis of ethnic origin.

**Violence against women, including domestic violence (arts. 3, 7 and 26)**

10. Please provide updated statistics on the number of complaints lodged by victims of domestic violence, of persons prosecuted and convicted, as well as on the remedies provided to the victims. With reference to paragraph 90 of the report (CCPR/C/UKR/7), please indicate whether the draft Act amending the Family Violence Prevention Act has been adopted and whether it: (a) broadens the definition of "domestic violence"; (b) abolishes the reference to victim's behaviour as a potential form of impunity; (c) introduces the notion of restraint orders; (d) provides for criminalization of domestic violence and for sanctions that target specifically the perpetrators and not the family as a whole. Please outline any other concrete measures addressing the problem of domestic violence against children and provide information on their impact (CCPR/C/UKR/7, paras. 242-245).

**Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment, liberty and security of person, treatment of persons deprived of their liberty (arts. 6, 7, 9 and 10)**

11. Please clarify whether any of the cases of deaths in custody listed in paragraph 7 of the Committee's previous concluding observations (CCPR/C/UKR/CO/6) have been resolved. Please also provide statistics on the number of cases of death in custody since 2006 and on the measures taken to investigate, prosecute and convict those responsible, including in the cases of Ihor Indilo and Tamaz Kardava.

12. Please provide information on the measures taken to ensure that people who use drugs are not subjected to arbitrary arrest, disproportionate punishment on discriminatory grounds, torture and ill-treatment by law enforcement officials, especially in light of the amendments introduced by the Ministry of Health Order No. 634 of 29 July 2010 to the Ministry of Health Order No. 188 of 2 August 2000.

13. Please comment on the limited number of investigations and actual convictions under article 127 despite the high number of complaints of torture and ill-treatment received (CCPR/C/UKR/7, paras. 76-80), and provide updated information on the number of reported cases of torture and ill-treatment, the investigations and prosecutions initiated, the number of actual criminal convictions and the compensation awarded. What practical steps have been taken to guarantee the right of inmates to submit complaints and to ensure that complainants are not subject to reprisals?

14. In light of the Committee's previous concluding observations (CCPR/C/UKR/CO/6, para. 7), please provide information on the steps taken to set up an independent police complaints mechanism and indicate whether videotaping of interrogations of criminal suspects was made mandatory. Please also outline any concrete measures taken to reform the General Prosecutor's Office in order to ensure its independence and impartiality.

15. Please provide further information on the public monitoring of detention facilities by oversight committees (CCPR/C/UKR/CO/6/Add.1, para. 2; CCPR/C/UKR/7, paras. 52 and 61-65), including on their mandate and independence, and provide statistics on the number of prison visits, of interviews held with detainees, of complaints received, and the number of violations attested and remedied.

16. Please provide information on the current situation of prison overcrowding (CCPR/C/UKR/CO/6, para. 11; CCPR/C/UKR/7, para. 119), including statistical data and any further measures that have been adopted to address this issue. In light of the information provided in paragraph 128 (CCPR/C/UKR/7), please provide statistics on the

application of alternative sanctions aimed at reducing prison population (CCPR/C/UKR/CO/6, para. 11), as well as information on non-custodial alternative measures to pretrial detention (CCPR/C/UKR/7, paras. 112-114), including statistics on their application.

**Elimination of slavery and servitude (art. 8)**

17. Please provide information on the implementation in practice of the Law on Combating Trafficking in Human Beings of 15 October 2011, as well as on the results achieved since the adoption of the State Programme on Combating Trafficking in Human Beings for the period up to 2015. Please indicate the number of reported cases of human trafficking on an annual basis, disaggregated by gender, age and country of origin, as well as the number of investigations, prosecutions, and convictions (in particular under article 149 of the Criminal Code). Please provide information on the victims' access to effective remedies and reparation, including compensation and rehabilitation, as well as any counter-trafficking measures. Please also outline any other concrete steps taken to eliminate forced labour, in particular child labour, and provide information on the sanctions applicable to perpetrators, as well as the remedies available to victims (CCPR/C/UKR/7, paras. 106-111).

**Right to a fair trial, independence of judiciary (art. 14)**

18. Please provide updated information on concrete steps that have been taken to reform the judiciary (CCPR/C/UKR/7, paras. 15-23), particularly in such areas as the court system, the competence of the Supreme Court, the procedures and criteria related to the selection, appointment and dismissal of judges, the application of disciplinary measures against them, as well as the safeguards in place to ensure the impartiality and independence of judges from any outside pressure, including of political nature. Please also indicate the novelties introduced by the new Criminal Procedure Code regarding fair trial guarantees.

19. Please comment on reports of abusive prosecutions, harassment, and other forms of pressure on lawyers (including fiscal pressure and closure of the Bar association to which they belong), in particular against those involved in sensitive cases. Please outline the concrete measures taken to protect them against such attacks and ensure their independence from any pressure. Please indicate whether the new law on the Bar has been adopted and, if so, outline the concrete action taken to give effect to its implementation in practice.

20. Please provide updated information on the progress made towards the reform of the juvenile justice system (CCPR/C/UKR/7, paras. 130-131), including on the steps taken to give effect to the measures referred to in paragraph 131 of the report. Please also indicate existing alternative measures to deprivation of liberty for juvenile offenders and the steps taken, if any, to develop and strengthen them.

**Refugees and asylum seekers (arts. 7, 9 and 13)**

21. According to information available to the Committee, the State party continued to expel or deport aliens to countries where they faced a risk of torture or ill-treatment, without a proper determination of their claims and without the possibility of appeal against negative decisions, despite the Committee's recommendation to the contrary (CCPR/C/UKR/CO/6, para. 9). Please provide information on the measures taken to ensure the effective protection against refoulement in practice. Please comment on the information before the Committee that authorities at border points deny entry to persons expressing the need for refugee protection, exposing them to refoulement.

22. Please provide information on the implementation of the Law on Refugees and Persons who are in Need of Complementary and Temporary Protection of 8 July 2011 (Law No. 3671-VI) in practice. What measures have been taken to ensure well-founded

decisions in the refugee status determination procedures and adequate procedural safeguards, including free legal assistance and translation/interpretation services? Please indicate whether the State party intends to extend the short time limit for filing appeals against negative decisions and to grant suspensive effect to such appeals. Please provide statistics, on an annual basis, on the number of people seeking asylum and on the number of cases in which asylum is granted. Please clarify whether sufficient space in temporary accommodation centres is available, whether any services to facilitate the asylum seekers' integration into society are provided, such as language courses, social assistance, or employment assistance, and indicate the measures taken by the State party to improve the detention conditions of asylum seekers, including by the use of alternative measures to detention.

**Freedom of religion and belief, freedom of expression and association, right of peaceful assembly (arts.2, 18, 19, 21 and 22)**

23. Please provide updated information on the status of the following draft laws (CCPR/C/UKR/7, para. 184): (a) draft law on the relations between the State and religious faiths; (b) draft law on amendments to the Freedom of Conscience and Religious Organizations; (c) draft law on returning worship-related property to religious organizations.

24. Please indicate whether the State party has taken any steps to amend its legislation (CCPR/C/UKR/7, para. 187) in order to 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 (CCPR/C/UKR/CO/6, para. 12). Please provide information on the justifications for the differentiation in the length of civilian service compared with that of military service, in particular indicating whether such differentiation is based on reasonable and objective criteria. Please also provide information on the total number of applications for alternative service based on conscientious objection and the number of those resolved positively.

25. Please comment on reports that the Religious Center of Jehovah's Witnesses faced an illegal seizure of a portion of its property and that authorities have consistently failed to allocate land to Crimean Tatars for the construction of a Soborna (Assembly) Mosque, and indicate any measures taken by the State party to remedy the situation.

26. Please indicate the measures taken to guarantee, in practice, the right to freedom of expression. Please indicate whether the following draft laws have been adopted and, if so, provide information on their implementation in practice and their compliance with the Covenant and the Committee's general comment No. 34: (a) the law amending existing legislation with a view to strengthening safeguards for freedom of speech and countering censorship (CCPR/C/UKR/7, para. 202); (b) the law on the protection of the professional activity of journalists (para. 203); (c) the law amending legislation on ensuring media ownership transparency (para. 206); (d) the draft defamation law adopted at first reading by the parliament in September 2012, providing for prison terms of up to five years.

27. Please comment on information before the Committee that journalists have been subjected to threats, harassment and intimidation, that independent broadcast media was under pressure and experienced problems in keeping their licenses or had had their activity interrupted, and that human rights defenders were subject to harassment and sometimes faced arrest, detention and violence. Please provide updated information (a) on the progress in criminal cases instituted against Aleksey Pukach and Leonid Kuchma for the murder of Mr. Gongadze (CCPR/C/UKR/7, para. 213); (b) on the outcome of criminal proceedings in the cases referred to by the State party in its further information of 21 August 2009 on the implementation of concluding observations (CCPR/C/UKR/CO/6/Add.2, p. 8); (c) on the outcome of investigation into the disappearance of the editor of "Novy Stil" newspaper who has been missing since August 2010.

28. Please indicate whether the draft Act on organizing and holding peaceful events has been adopted (CCPR/C/UKR/7, para. 216), and whether it complies with the Covenant. Please also provide information on its implementation in practice, including on sanctions provided for violations of the right of peaceful assembly and their application in practice.

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