INTERIM STAKEHOLDERS' REPORT

FOR THE INTERIM REPORTING OF UKRAINE

ON THE STATUS OF IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

(Report of VII series, 2011)

The report is submitted by the Coalition of Human Rights Organizations on monitoring the implementation of international obligations by Ukraine.

Kyiv 2016

Коаліція з протидії дискримінації в Україні
La Strada Ukraine
ЦППР Центр політико-правових реформ
Відродження міжнародний фонд INTERNATIONAL RENAISSANCE FOUNDATION
IRF Institute for Religious Freedom
Українська Гельсінська Спілка з прав людини

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Institute for Religious Freedom (IRF) – Human Rights NGO that promotes the exercise of rights to freedom of conscience, religion, opinion and other related human rights, prepares expert recommendations and legislative initiatives, promotes the interfaith dialogue, conducts monitoring, distributes information on religious situation in Ukraine and worldwide.
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Coalition for Combating Discrimination was founded in 2011 as an all-Ukrainian non-governmental public advocacy initiative for the joint promotion of the ideas of equality and non-discrimination in Ukraine.
Coalition's main objectives:

1) assistance to the adoption of comprehensive anti-discrimination law, designed to develop the regulatory and procedural framework for combating discrimination in Ukraine;
2) unification of national terminology in the field of combating discrimination, in accordance with international principles;
3) promotion of inclusion into national legislation of explicitly defined anti-discriminatory features that meet the requirements aligned with the times;
4) promotion of knowledge and skills of individuals from various social and professional groups in the area of anti-discrimination advocacy initiatives.

www.antidi.org.ua

"La Strada-Ukraine" – Ukrainian public non-profit organization, which since 1997 has been working for ensuring gender equality, preventing all forms of gender-based violence, particularly domestic violence, combating human trafficking and ensuring children's rights, contributing to the implementation of international human rights standards into all aspects of life of society and the state. In 2004 "La Strada-Ukraine" became a founding member of the association La Strada International which includes 8 organizations (Belarus, Bulgaria, Macedonia, Moldova, Netherlands, Poland, Ukraine, Czech Republic).

National "hot line" for the prevention of domestic violence, human trafficking and gender-based discrimination of "La Strada-Ukraine":
0 800 500 335 (free calls from stationary phones within Ukraine) or 386 (free from mobile phones)
National children's "hot line" of "La Strada-Ukraine" Center: 0 800 500 225 (free calls from stationary phones within Ukraine) or 772 (free from mobile phones)

Electronic "hot line" on combating child pornography in the Internet
internetbezpeka.org.ua, www.la-strada.org.ua
www.facebook.com/lastradaukraine
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International Renaissance Foundation (IRF) – a charitable organization that provides financial, information and consulting support to civil society institutions. IRF's mission is to promote the development of democratic open society in Ukraine without any monopoly on the truth, where the rule of law prevails and human rights and human dignity are essential social values, the needs of minorities and vulnerable groups are taken into account when making decisions.
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The Ukrainian Helsinki Human Rights Union (UHHRU) is the largest association of human rights organizations in Ukraine, which unites 29 human rights NGOs. The Union contributes to the development of a humane society based on respect for human life, dignity and the harmonious relationship between man, nature and the state through the creation of a platform for cooperation between members of the Union and the other members of the human rights movement.
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The Centre of Policy and Legal Reform (CPLR) is a Ukrainian think-tank founded at November 1996 that promotes reform in the law and politics of Ukraine. The mission of the CPLR is to support the implementation of the institutional reforms, which could provide the democracy, rule of law and proper governance in Ukraine. The CPLR's main policy areas are: constitutionalism, public administration, judiciary, criminal justice.
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Introduction

1. On 8-9 June 2013 the United Nations Human Rights Committee considered the 7th periodic report submitted by Ukraine in regard to the implementation of the International Covenant on Civil and Political Rights, and on 23 July 2013 at the 3002nd meeting (CCPR/C/SR.3002) the Committee took the concluding observations. Following the review was given about 43 recommendations related to such areas as the access to fair justice, antidiscrimination and antiracism, ensuring gender equality and freedom of speech, the prevention of ill-treatment and domestic violence, the eradication of human trafficking.

2. According to the rules of procedure of the Committee, the state within one year should have provided information on the implementation of the recommendations of the Committee on ensuring effective legal remedies, protection of the LGBT community rights, prevention of torture and ill-treatment, avoidance of political pressure on the activities of judges (paras. 6, 10, 15, 17 of the concluding observations). Reviewing the information was planned for March 2015, in the course of the 113th session of the Committee. However, even after the second reminder from the Committee (9 June 2015) Ukraine did not provide any response.

3. Given this situation, the Coalition of Human Rights Organizations on monitoring the implementation of international obligations by Ukraine analyzed legislative initiatives and the operating results of the government authorities in order to prepare an alternative interim report. The level of specificity and urgency of recommendations of Ukrainian government, worded in the report, was assessed taking into account developments of the UN experts[1] and the United Nations Development Program in Ukraine[2].

1 Edward R. McMahon, University of Vermont (US) with the support of UPR Info: UPR Info's Database of recommendations and VP. Comprehensive help guide, http://www.upr-info.org/database/files/Database_Help_Guide.pdf; http://www.upr-info.org/database/files/Database_Action_Category.pdf

2 Kolyshko Svitlana, UNDP in Ukraine

Implementation of paras. 5–6 of the Concluding Observations[3]

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"5. The State party should take measures to ensure that judges and law enforcement officers receive adequate training to enable them to apply and interpret domestic law in the light of the Covenant and disseminate knowledge of the provisions of the Covenant among lawyers and the general public to enable them to invoke its provisions before the courts. The State party should include in its next periodic report detailed examples of the application of the Covenant by domestic courts and access to remedies provided for in the legislation for individuals claiming a violation of the rights contained in the Covenant".

4. According to information posted on the official website of the National School of Judges, the training programs for judges and court staff do not pay special attention to the study of the provisions of the International Covenant on Civil and Political Rights. Training programs include only topics related to the study of the European Convention on Human Rights and practices of the European Court of Human Rights. No statistical information in regard to references to the provisions of the Covenant in judicial decisions made by judges is available.

"6. The State party should reconsider its position in relation to Views adopted by the Committee under the First Optional Protocol. It should take all necessary measures to establish mechanisms and appropriate procedures, including the possibility of reopening cases, reducing prison sentences and granting ex gratia compensation, to give full effect to the Committee's Views so as to guarantee an effective remedy when there has been a violation of the Covenant, in accordance with article 2, paragraph 3, of the Covenant".

5. According to part 4 of Article 55 of the Constitution of Ukraine, after exhausting all domestic legal remedies, everyone has the right to appeal for the protection of his or her rights and freedoms to the relevant international judicial institutions or to the relevant bodies of international organisations of which Ukraine is a member or participant. At the same time, due to the lack of clarity in legislation and law enforcement practice, decisions of non-judicial bodies of international organizations, the competence of which has been recognised by Ukraine (including resolutions of the UN Human Rights Committee, the UN Committee against Torture, the UN Committee on the Elimination of Racial Discrimination, the UN Committee on the Elimination of Discrimination against women) are not mandatory. At the same time possibility to review the prison sentence as a compensation measure for the established violation of the Covenant is not envisaged by national law.

3 Report prepared by Roman Kuibida and Tetiana Ruda, Centre of Policy and Legal Reform

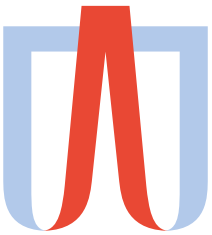
6. To resolve this issue, a Draft Law "On amendments to some legislative acts of Ukraine concerning the enforcement of decisions of international organizations for the protection of human rights" has been submitted to the Parliament [4]. The Draft Law proposes to specify that the grounds for review of judicial decisions by the Supreme Court may be not only the decisions of the international judicial institution (in particular, of the European Court of Human Rights), but also the relevant decision of the authority of the international organization, which established Ukraine's violation of international obligations when resolving the case in court. At the same time for the 9 months of 2015 this Draft Law has not been considered at the plenary session.

7. Interagency Working Group on the development of preventive and compensatory means of protection against improper detention conditions and during the execution of punishment in Ukraine (October 2015). As part of this work on the basis of the Subcommittee of the Verkhovna Rada of Ukraine on activities of the State Penitentiary Service of Ukraine Draft Law has been created providing for the establishment of penitentiary judges, who will be able to reduce the term of imprisonment as compensation in the case of establishment of ill-treatment or detention in inappropriate conditions [5]. However, the Draft Law does not provide for reduction of the term of imprisonment in respect of taking decisions establishing violations of the Covenant (e.g. Article 10 of the Covenant).

4 Draft Law "On amendments to some legislative acts of Ukraine concerning the enforcement of decisions of international organizations for the protection of human rights" of 19 May 2015 No. 2907.

5 Draft Law "On Preventive and Compensatory Measures to Victims of Ill-Treatment", http://www.euam-ukraine.eu/ua/public_information/news/872/

Implementation of para. 7
of the Concluding Observations[6]



УКРАЇНСЬКА ГЕЛЬСІНСЬКА
СПІЛКА З ПРАВ ЛЮДИНИ

"The State party should provide the Office of the Commissioner for Human Rights with additional financial and human resources commensurate with its expanded role, to ensure fulfillment of its current mandated activities and to enable it to carry out its new functions effectively. It should also establish regional offices of the Commissioner for Human Rights, as planned".

8. The order of the Cabinet of Ministers of Ukraine of 23 November 2015 No. 1393-r "On approval of the National Action Plan on implementation of the National Human Rights Strategy for the period until 2020" provided for important measures to strengthen the capacity of the Ukrainian Parliament Commissioner for Human Rights. For example, these include "the development and submission for consideration by the Cabinet of Ministers of Ukraine of the Draft Law on increasing the efficiency of the national preventive mechanism by providing additional powers to ensure the implementation of its recommendations; determination of the powers in regard to the initiation of bringing to disciplinary and other responsibility of officials guilty of ill-treatment and on the possibility of use other first response measures binding for the relevant officials" (paragraph 9.1 of the Action Plan);

9. Strengthening the capacity of the NPM is especially important in light of the amendments regarding the functions of the public prosecutor's office made by the Draft Law "On Amending the Constitution of Ukraine (as to justice)" which was adopted in the first reading in Parliament. The public prosecutor's office will no longer have the "prison supervision" function according to the Draft Law. However, the public prosecutor's office continues to perform this function until the entry into force of the law on the establishment of twofold system for regular inspections of prisons. Twofold system for inspections of prisons means internal and external inspections (Rule 83 of the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules). At present, internal prison inspections are carried out by the State Penitentiary Service of Ukraine (SPS), but formally Ukraine still does not have regular external inspections. According to experts, this function could be entrusted to the National Preventive Mechanism (NPM) by converting its department of penitentiary issues in a kind of inspectorate on prison issues. This will require additional funding, which would come from the released resources through the abolition of the "prison supervision" function of the public prosecutor's office.

10. Notwithstanding the above, no action to implement the said provisions of the Action Plan that provide for strengthening the legal and financial capacity of the Ombudsman have not been taken so far.

6 Report prepared by: Oleh Martynenko and Alla Blaha, UHHRU experts; Vadym Chovhan, independent expert

11. The budget program of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights in 2015 included the 239 employees and the total expense budget of 29 mio 40 thous. UAH[7]. Regional offices of the Secretariat were opened only in 4 regions (Lviv, Dnipropetrovsk, Zhytomyr, Rivne regions), where regional representatives of the Commissioner – public servants with the Commissioner's mandate worked. The lack of state funding was partially compensated by the establishment of the institute of **regional coordinators of interaction with the public** – local public activists, having certificates signed by the Commissioner and acting based on written instructions of the Commissioner[8]. These regional coordinators act within the responsibilities of employees of regional offices in 16 regions. At that the responsibility of regional coordinators included not only the territory of the region of their location, but also neighbouring regions having no coordinators – public servants. The institute of **regional coordinators of interaction with the public** is funded not at the expense of the state budget, but with the support of the United Nations Development Programme in Ukraine and International Renaissance Foundation[9].

12. In 2016, the Commissioner for Human Rights has presented the Strategic plan of activity for 2016-2017[10], which involves building the institutional capacity of the Secretariat of the Commissioner, in particular through expanding the network of regional offices. The Strategy provides for the presence of Commissioner's office in each region, where two representatives will work – regional representative of the Commissioner (public servant with the Commissioner's mandate and direct communication with Kyiv Office), and regional coordinator of the Commissioner from among the public, who will participate in coordination of communications with local representatives of civil society organizations. Opening of the first 10 new regional offices is planned for 2016. That said the budget of the Secretariat of the Ombudsman has been increased by a small amount of 1 mio 601 thous. UAH maintaining the previous number of the personnel of 239 people[11].

7 http://www.ombudsman.gov.ua/ua/page/secretariat/informatsiya-pro-finansovo-gospodarsku-diyalnist-sekretariatu/
8 "Regulation on the regional offices of the Ukrainian Parliament Commissioner for Human Rights", approved by order of the Ukrainian Parliament Commissioner for Human Rights of 19 February 2013 No. 14/02-13
9 http://www.ombudsman.gov.ua/ua/page/secretariat/regionalni-predstavnicztva-upovnovazhenogo/regionalni-koordinatori.html
10 http://www.ombudsman.gov.ua/ua/all-news/pr/23216-wh-prezentovano-onovlenij-strategichnij-plan-diyalnosti-upovnovazhenogo-n/
11 http://www.ombudsman.gov.ua/ua/page/secretariat/informatsiya-pro-finansovo-gospodarsku-diyalnist-sekretariatu/

Implementation of para. 8
of the Concluding Observations[12]

Коаліція з протидії дискримінації в Україні

"The State party should further improve its anti-discrimination legislation to ensure adequate protection against discrimination in line with the Covenant and other international human rights standards. The State party should explicitly list sexual orientation and gender identity among the prohibited grounds for discrimination and provide victims of discrimination with effective and appropriate remedies, taking due account of the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant. It should also ensure that those responsible for discrimination bear administrative, civil and criminal responsibility in appropriate cases".

13. At present prerequisites for the modern legal system in Ukraine, which would prohibit discrimination, enable victims of violations to restore their rights and receive compensation and even the preconditions for the development of public policies to prevent and combat discrimination have been created. However, the gaps in this array of legislation and strategic documents that do not allow the system to work effectively still exist.

14. Adopted in 2012, the Law of Ukraine "On the Basis of Preventing and Combating Discrimination"[13], along with other legislative acts forms the basis of the system of preventing and combating discrimination. Although anti-discrimination Law itself and other legislative acts require improvement. Despite the comments of the national and international experts, certain legislative shortcomings have not been resolved yet.

15. When developing the basic Law in 2012 and amending it in 2014, lawmakers have not taken care of: inclusiveness of the Law (broad list of signs that would explicitly name most discriminated groups in Ukraine), effective mechanism to appeal discrimination and the relevant amendments to other legislative acts already existing in Ukraine at that moment to ensure the consistency of the work of the legislative system and for avoidance of legal conflicts.

16. Indeed, in response to recommendations from international institutions, the legislation gives the definition of discrimination, direct and indirect and other forms, contains a list of features on which discrimination is prohibited, but because of lack of attempts to bring legislation into harmony, at present different legislative acts not only contain different lists of features (Constitution, anti-discrimination law and the Criminal Code are not consistent with each other), various laws contain different definition of discrimination,

12 Report prepared by Irene Fedorovych, the No Borders Project of the non-profit organization Social Action Centre, who is a member of the Coalition.

13 http://zakon4.rada.gov.ua/laws/show/5207-17

which may lead to legal uncertainty (the definition of discrimination, for example, in the anti-discrimination law significantly differs from the definition of discrimination in the Law of Ukraine "On Ensuring Equal Rights of Women and Men").

17. On the other hand the anti-discrimination law still contains no definition of multiple discrimination or discrimination by association, does not explain the term "prohibition of victimization". These significant amendments may be made if Parliament passes the Draft Law No. 3501 in second reading in 2016.

18. But even proposed Draft Law does not address the issue of inclusiveness of the list of features and does not offer to enshrine the attributes of "sexual orientation", "gender equality" and "health condition". Attribute "status of internally displaced person" was added only to the Law of Ukraine "On Ensuring the Rights and Freedoms of Internally Displaced Persons" in 2015 (Article 14 of the Law of Ukraine on prohibition of discrimination of IDPs). There were no relevant amendments to the anti-discrimination law.

19. Therefore, today discrimination is prohibited by the Constitution (guarantee of equality of citizens according to a certain list of attributes, which differs from the same in the anti-discrimination law); the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Men and Women"[14] and the Law of Ukraine "On the Fundamentals of Social Protection of Disabled Persons in Ukraine"[15], and in particular fields – the Law of Ukraine "On Advertising"[16], the Law of Ukraine "On Employment of Population"[17], the Labour Code of Ukraine, etc. Also, differences in treatment are prohibited by the Criminal Code of Ukraine.

20. In addition to differences between the lists of attributes contained in all the above mentioned laws, they also give different definitions of what is discrimination. Draft Law No. 3501 suggested, apart from additional forms of discrimination, the use of terms "reasonable accommodation" and "denial of reasonable accommodation" within the meaning given in Article 2 of the UN Convention on the Rights of Persons with Disabilities, thus restricting the use of this form of discrimination only to cases where the matter relates to a violation against people with disabilities, while "reasonable accommodation" is a protection necessary not only on the grounds of disability, but also on the grounds of sex, age, religious beliefs and so forth.

21. Although in May 2014 the Verkhovna Rada adopted amendments to the anti-discrimination law which corrected some shortcomings (e.g., the definition of forms of discrimination were improved and expanded, positive actions, the mechanism of their implementation and monitoring the implementation were defined, the list of powers of the Ukrainian Parliament Commissioner for Human Rights was expanded and the Civil Procedure Code was complemented with the principle of transferring the burden of proof); in November 2015 sexual orientation was added to the list of attributes in the Labour Code (the old version, the new revision of the Code awaiting the consideration in the Verkhovna Rada does not contain this feature); Draft Law No. 3501 suggests amendments to the Administrative Code of Ukraine (setting the system of fines for discrimination and partial removal of discrimination from the Criminal Code of Ukraine); other issues remain unresolved. So, all the problematic procedural moments (bodies authorized to consider and impose penalties, jurisdiction only at the place of commission of the violation, the period for consideration of the complaint) remain unsettled, all the attributes (omission of

14 http://zakon4.rada.gov.ua/laws/show/2866-15
15 http://zakon4.rada.gov.ua/laws/show/875-12
16 http://zakon2.rada.gov.ua/laws/show/270/96-вр
17 http://zakon2.rada.gov.ua/laws/show/5067-17

sexual orientation, gender identity, health condition) are not mentioned, the exhaustive definition of reasonable accommodation is not provided, definitions of different forms of discrimination in the various laws are not harmonized etc.

22. Discussion on making amendments to the list of attributes in the Constitution of Ukraine (today the Constitutional Assembly that prepares the text of the new Constitution operates in Ukraine) also proved that the Ukrainian lawyers are not ready to understand the essence of the phenomenon of discrimination, do not use the standards developed at the international level, and are not ready to frank discussion that protection against discrimination is guaranteed to every person regardless of his characteristics. The new draft of the Constitution did not include such attributes as "disability", "health condition", "sexual orientation" and "gender identity".

23. From viewpoint of authors of the report, neglecting the interests/protection of LGBT persons both when developing amendments to the new Constitution and in Draft Law No. 3510 does not contribute to overcoming homophobia in society. In abstracto, the position of legislators based on the non-recognition of the rights of a particular group and manipulation of public opinion under the guise of morality issues is unacceptable in a democratic society.

24. Another unresolved issue which leads to legal uncertainty and significantly "deters" potential claimants is the lack of proper regulation of discrimination appeal procedure. So Article 16 of anti-discrimination law states that "persons found guilty of violating the legislative requirements on preventing and combating discrimination shall bear civil, administrative and criminal responsibility", while only the Criminal Code sets out clear penalties for discrimination (or rather for "direct or indirect restriction of rights or granting direct or indirect privileges to citizens based on ..." with a closed list of attributes – Article 161 of the Criminal Code of Ukraine). In the case where a person wishes to appeal directly to the court with a complaint of discrimination, this can be done within the framework of civil or administrative proceedings, however, neither the Civil Code nor the Code on Administrative Offences contain any relevant articles and penalties against the offender.

25. Another way to appeal discrimination in a complaint to the law enforcement agencies and, respectively, a criminal case under Article 161 of the Criminal Code[18]. This way is the least effective, because apart from the disproportionality of penalties it entails the need of proving the motive of commission of an offence which is not always possible for cases on discrimination.

26. The only attempt to amend Article 161 of the Criminal Code in recent years (except for drafting Law No. 3501 in late 2015), was the introduction to the list of atrributes of "disability" in July 2014. Authors of the legislative initiative focused their attention only on how to formally expand the list of features, despite the assessment of the effectiveness of the pre-application of Article 161 and the matter of "proportionality of punishment".

27. Draft Law No. 3501 proposes to exclude Part 1 of Article 161 of the Criminal Code and introduce administrative responsibility for violation of anti-discrimination legislation instead, granting the Verkhovna Rada Commissioner for Human Rights, who, according to legislation, already is the body responsible for the compliance with the legislation in the field of preventing and combating discrimination, the right to consider complaints and

18 Article 161 as amended by Law No. 1707-VI of 05 November 2009; amended in accordance with Law No. 1519-VII of 18 June 2014

impose fines. The only questions arising from the proposed amendments are the issues of jurisdiction (Draft Law proposes to consider complaints only at the place of commission of an offence); term for considering complaints no longer than 3 months and the issue of capability of the machinery of the Ukrainian Parliament Commissioner to consider such complaints effectively and in a timely manner, especially when it comes to complaints from Ukrainian regions, so as representatives of the Commissioner are not present in every region.

28. Among other problematic issues of Ukrainian legislation the necessary changes to the Criminal Code of Ukraine remain neglected. Indeed, Articles 115, 121, 122, 126 and others regarding the so-called "hate crimes" define these offences as those committed only based on "racial, national or religious intolerance", making it impossible to effectively investigate and the appropriately classify such offences, if committed based on other grounds, for example, crimes motivated by hatred towards LGBT persons.

Implementation of para. 9
of the Concluding Observations[19]

"The State party should step up its efforts to achieve equitable representation of women in Parliament and at the highest levels of the Government within specific time frames, including through temporary special measures, to give effect to the provisions of the Covenant. It should adopt a State program for equal rights and opportunities of women and men and other measures aimed at ensuring gender equality, and effectively implement them".

29. During the presentation in September 2013 at the 68th session of the UN General Assembly of the National Report "Millennium Development Goals. Ukraine – 2013"[20] it was stated that ensuring gender equality was impossible. Despite the forward-looking statements and the course towards European integration the actual situation since then has not changed. The problem of gender equality and gender integration remains relevant for Ukraine both in traditional spheres as well as taking into account the humanitarian policy in response to the military aggression of the Russian Federation. Stereotypes regarding the role and place of women in family and society remain mainstream, as well as dissemination of sexist and discriminatory advertising

The main issues in respect of equal rights and opportunities for women and men

30. Currently, Ukraine has failed to overcome the negative effects of administrative reform in 2010, when the Ministry of Family, Youth and Sports was disbanded and its functions transferred to other central executive bodies. At present, unified structure of the local state administrations and local government bodies, which would be responsible for ensuring equal rights and opportunities for women and men, does not exist. At the same time, there are towns and districts that do not have the commissioner for equal rights and opportunities for women and men or consultative and advisory bodies, and the problems on overcoming gender-based discrimination there are either not addressed at all, or the work is carried out formally.

31. As a result of reduced functionality of the division of the Ministry of Social Policy of Ukraine responsible for gender policy for almost three years (2011 – autumn 2013) the State Programme for Ensuring Gender Equality in Ukraine has not been adopted and, therefore, there were neither allocations for its implementation, nor financing to support ensuring equal rights and opportunities for women and men.

19 Report prepared by: Levchenko Kateryna, President of public organization "La Strada-Ukraine", Doctor of Juridical Science, Professor; Lehenka Maryna, Director of the Department of Legal, Social and Humanitarian Aid of public organization "La Strada-Ukraine", lawyer.

20 http://www.undp.org/content/dam/ukraine/docs/PR/MDGs%20Progress%20Report%20Ukraine%202013%20eng.pdf

32. The Expert Council on gender-based discrimination was to operate under the Ministry of Social Policy of Ukraine, which is the coordinating body for the formulation and implementation of gender policy in Ukraine, but it has not been functioning since 2013. The functions on the assessment of facts containing gender-based discrimination were accepted by public organizations (Women's Information Consultative Center), and on the initiative of "La Strada – Ukraine" "hot line" for the prevention of all forms of gender-based violence and discrimination was opened. Since February 2016 it has been operating according to 24/7 mode.

33. The order of the Cabinet of Ministers of Ukraine of 21 November 2013 No. 1002-r approved the the State Program on Ensuring Equal Rights and Opportunities for Men and Women for the period until 2016, and funding its activities from the state budget began in 2014 [21]. Its amounts and sources of funding included: from the state budget – 1268.51 thous. UAH, from local budget – 1787.13 thous. UAH, from other sources (foreign funds, grants, etc.) – 2841.5 thous. UAH. In this regard, seminars and training activities on gender budgeting issues were held in many regions, but they, unfortunately, have not become the routine practice.

34. Adopted on 27 March 2014 the Law of Ukraine "On prevention of financial catastrophe and creating conditions for economic growth in Ukraine"[22] substantially increased the risks of poverty for women. Indeed, these initiatives provide for reducing the number of public sector employees (social workers in particular) and refusal to increase the minimum wage for one year, which will have the strongest impact on the rate of remuneration in the public sector. Given that the share of employed women in many branches of public sector amounts to 70-90%, mostly women will face the risks of poverty. There are also risks of increasing poverty of Roma women, women with special needs and internally displaced women from the AR of Crimea, the occupied territories, who constitute the majority from among nearly 1.5 million internally displaced persons (IDPs).

35. Equal rights and opportunities of women and men in acquiring education are provided in Art. of the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Men and Women", and under the Ministry of Education the working group on gender equality was created. In more than 20 higher educational institutions centres of gender education have been established. They are functioning on a voluntary basis.

36. At the beginning of the 2013/14 academic year in higher education institutions of I-IV levels of accreditation 52.3% of girls were studying: in HEI of I-II levels of accreditation – 54.7%, in HEI of III-IV levels of accreditation – 51.9%. In institutions of the system of vocational technical training the ratio of girls and boys is 60/40 respectively. However, at the stage of professional training the gender occupational segregation begins to manifest. Indeed, at the beginning of the 2013/14 academic year male students constitute the majority in higher education institutions in subject areas of the production sphere, and the girls prevail in higher education institutions belonging to the non-production sphere.

Status of legislation in respect of equal rights and opportunities for women and men

37. Most provisions of the Ukrainian legislation are gender-neutral or protectionist towards women, which does not contribute to the achievement of gender equality, the elimination

21 http://zakon0.rada.gov.ua/laws/show/717-2013-%D0%BF
22 http://zakon4.rada.gov.ua/laws/show/1166-18

of gender disparities and alignment of the status of women and men in those fields where any of them may experience discrimination. At the same time Inter-Factional Parliamentary Association "Equal Opportunities" has been functioning in recent years.

38. Overcoming problems with countering the gender-based violence, trafficking in human beings is reflected in the National Human Rights Strategy[23] and the National Action Plan on the implementation of the National Human Rights Strategy[24].

39. Since 2014 on the initiative of public organizations the National Action Plan for the implementation of the UN Security Council resolution No. 1325 "Women. Peace. Security" has been drafted. As on February 2015 a draft Plan agreed with the central executive authorities, has been submitted to the Government. Ukraine is the first country to prepare such Plan.

Ensuring equal access of women and men to participation in political life

40. Ukrainian legislation entitles women and men to have equal access to decision-making structures and decision-making process. In particular, Article 24 of the Constitution expressly provides that "Equality of the rights of women and men is ensured: by providing women with opportunities equal to those of men, in public and political, and cultural activity...". Equal suffrage right is provided by Part 5 of Article 3 of the Law of Ukraine "On Elections of People's Deputies of Ukraine", which provides for prohibition of privileges or restrictions of candidates for deputies "on the grounds of ... sex ... or other characteristics". On 16 October 2013 parliamentary hearings on "Ensuring Equal Rights and Opportunities for Men and Women. Problems and Efficient Mechanisms of their Resolution" were held, allowing for intensification of efforts to achieve the said strategic objectives.

41. However, the representation of women in public and political life at present is very low – 55% of women voters are represented only by 11% of women in Parliament. As a consequence, women have limited opportunities to influence decisions affecting their lives, lives of their communities and the whole country.

42. On 14 July 2015, simultaneously with the adoption of the new law on local elections, another addition to the law on political parties was made with respect to the quota for local elections: "Statute of a political party shall contain the following information: ...the size of the quota, which determines the minimum level of representation of women and men in the electoral list of candidates for MPs of Ukraine from the party in the national constituency, candidates for deputies of local councils in multi-member constituencies and must be at least 30 per cent of candidates in the list". This provision is progressive, but has no direct influence on the formation of electoral lists. Should a party fail to add quota requirement to its statute or violate such statute provision, it shall not be a reason for refusal to register its list of candidates. Nevertheless, on 25 October 2015 local elections were the first in Ukraine with gender quotas in electoral legislation were held.

43. According to the official website of the Central Election Committee, from among 123 parties participating in local elections only in 23 (17.4%) cases the central bodies of the parties were headed by women or women were among the leaders of the parties. On average, the level of representation of women in the lists in the regional councils in Ukraine amounted to 29.6%. The quota requirement was observed only in 195 lists of 318. From among 394

23 http://www.president.gov.ua/documents/5012015-19364
24 http://zakon3.rada.gov.ua/laws/show/501/2015

candidates for the mayor's office in Kyiv and cities – centers of regions there were only 57 women (14.7%). Most women were self-nominated candidates – 30 of 57, or 52.6%. The percentage of self-nominated women candidates was higher than the percentage of men candidates – 52.6% compared to 40%. Based on these statistics, women show a high interest in participating in politics.

International cooperation in the sphere of observance of equal rights and opportunities for women and men

44. Ensuring gender equality and equal opportunities for women and men and antidiscrimination are the objectives of cooperation, set out in the Association Agreement between Ukraine and the EU, "political part" of which was signed in March 2014, as well as in Action Plan on Visa Liberalization between Ukraine and the EU. In December 2015 the EU adopted a decision on the abolition of the visa regime. At present in Ukraine the process of preparing the Istanbul Convention for ratification continues. It is carried out in the framework of the Council of Europe Action Plan for Ukraine for 2011-2014.

Implementation of para. 10
of the Concluding Observations[25]

Коаліція з протидії дискримінації в Україні

"While acknowledging the diversity of morality and cultures internationally, the Committee recalls that all States parties are always subject to the principles of universality of human rights and non-discrimination. The State party should therefore state clearly and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or transexuality, or hate speech, discrimination or violence against persons because of their sexual orientation or gender identity. The State party should provide effective protection to LGBT persons and ensure the investigation, prosecution and punishment of any act of violence motivated by the victim's sexual orientation or gender identity. It should also take all necessary measures to guarantee the exercise in practice of the rights to freedom of expression and assembly of LGBT persons and defenders of their rights. The State party should also amend order No. 60 and other laws and regulations with a view to ensuring that: (1) the compulsory confinement of persons requiring a change (correction) of sex in a psychiatric institution for up to 45 days is replaced by a less invasive measure; (2) any medical treatment should be provided in the best interests of the individual with his/her consent, should be limited to those medical procedures that are strictly necessary, and should be adapted to his/her own wishes, specific medical needs and situation; (3) any abusive or disproportionate requirements for legal recognition of a gender reassignment are repealed. The Committee finally urges the State party not to permit the two draft bills "on propaganda of homosexuality" to become law".

45. Ukraine is facing an acute problem of protecting minorities from violence (due to racism, religious or ethnic intolerance, homophobia, etc.) and bringing the perpetrators to responsibility. Most of the violent crimes committed based on racism or homophobia still are not recognized as those having racist or homophobic grounds. Based on the results of monitoring[26] conducted by public organizations, the actual number of cases of racist violence cannot even be compared to the small number of attacks, which have been classified under Article 161 (there is no public statistics on other articles of the Criminal Code, moreover, monitoring data of public organizations and information provided by law enforcement agencies in response to information requests are not the same). It is worth paying attention to the fact that in most cases a racist or homophobic component is excluded from the general picture, and it does not even fall under investigation of law enforcement agencies.

25 Report prepared by Irene Fedorovych, the No Borders Project of the non-profit organization Social Action Centre, who is a member of the Coalition.

26 According to the monitoring data of the National Minority Rights Monitoring Group, see more information here: http://eajc.org/data//file/Xenophobia_in_Ukraine_2014.pdf

46. Most victims of hate crimes (natives of Africa, Central and South-East Asia, the Caucasus, as well as people with appearance non-traditional for Ukrainian society and LGBT persons) do not inform law enforcement agencies about attacks. First of all it occurs due to the lack of confidence in the system and fear of re-victimization, while migrants are afraid of questions about "documents and visa" and LGBT people – of disclosure of their sexual orientation[27].

47. The response law of enforcement agencies on cases of hate crimes, obviously both for victims and for civil society experts, indicates their unwillingness to assess manifestations of racism as such and to investigate them properly with appropriate classification. The only progress in this regard is the appointment of a contact person on hate crimes in the Ministry of Internal Affairs and respectively – the promise to appoint regional contact persons in each region of Ukraine, which is the result of cooperation between Ukraine and the OSCE/ODIHR.

48. Other activities on prevention and combating manifestations of racism and other forms of intolerance in Ukraine, especially at the institutional level, remain non-systemic and mostly ineffective. Operation of Inter-Agency Working Group on the Prevention of Racial Discrimination has not been resumed, as well as no attempt was made to create a new body that would coordinate the work of the central authorities and the Parliament. Separate subdivisions dealing with the issues of equality and non-discrimination have been established only in the Ministry of Social Policy. What about the issue of gender equality, all other central authorities, as well as their regional offices, do not conduct any systematic work to combat and prevent discrimination. This, in our opinion, is primarily caused by the lack of unified and clear anti-discrimination policy in the state.

49. Also there were neither clarifications, nor initiatives of the central executive authorities on implementing certain provisions of the anti-discrimination law and exercise of powers by local public authorities in accordance with the powers specified in the Law and with social necessity. In assessing the knowledge of representatives of public authorities and local government bodies and determining their preliminary awareness of the existence of the Law, its separate provisions and understanding of their own responsibility, instructors of the educational program for employees of public authorities and local government bodies[28] within the framework of the project "Achieving equality: a common approach to improving the equality and non-discrimination"[29], noted that: public officials and representatives of local government bodies have relatively low level of understanding of the phenomenon of discrimination. In addition, it is necessary to strengthen the awareness of employees of public authorities and local government bodies of the problem of discrimination and its separate manifestations in regard to each group. It indicates the need to develop a unified national strategy or policy in this field, because civil servants in Ukraine still do not understand the need for local initiatives and do not know how to implement them without appropriate order from the relevant ministry.

27 More information about hate crimes against LGBT and reasons due to which such cases are not reported to law enforcement agencies and/or are not registered by the police is presented in the report of the human rights organization "Nash Mir" (Our World) for 2014, available here: http://www.gay.org.ua/publications/lgbt_ukraine_2014-u.pdf

28 Trainings were held in five cities of Ukraine – Vinnytsia, Kherson, Uzhghorod, Zhytomyr and Dnipropetrovsk, more information about the educational program see here: http://noborders.org.ua/pro-nas/novyny/zaproshujemo-na-navchalni-zahody/

29 http://antidi.org.ua/ua/activity/projects/300-dosiahnennia-rivnosti-uchasnytskyi-pidkhid-do-stanovlennia-rivnosti-ta-nedyskryminatsii-v-ukraini

50. The only systemic document in this field remains the Strategy for Preventing and Combating Discrimination in Ukraine for 2014 – 2017[30], created and approved in December 2013 by the office of the Verkhovna Rada Commissioner for Human Rights. It was developed by the office in close cooperation with civil society institutions.

51. It is important to note the initiative of the state in adopting the National Human Rights Strategy (approved by the Decree of the President of Ukraine of 25 August 2015)[31] and the National Action Plan on the implementation of the National Human Rights Strategy, approved by the Order of the Cabinet of Ministers of Ukraine of 23 November 2015. At present, central authorities prepare their vision of the steps to achieve the objectives set out in the Strategy and Action Plan. However, the fact that the measures provided for in the said two documents are not included in the State Budget 2016 gives rise to concern.

52. The important point is the lack of clear regulation of peaceful assemblies in Ukraine and respectively – of legal resolution of problems related to "March for Equality" (Kyiv-Pride) in 2013-2015. Each time, in response to the notice of the March, Kyiv City Administration[32] and Kyiv City Police considered preventing the March to be their duty, instead of eliminating its impediments and ensuring the safety of participants. Such actions of authorities only contribute to raising the level of homophobia in society, so as the public statements of politicians and officials that "March is not relevant", "it will lead to the corruption of children", "it has no support", "LGBT people shall sit quietly at home" (quotations) only lead to radicalization of society and activation of the right movements, which carry out large-scale counter-meetings.

53. Recommendation No. 10 of the inadmissibility of the adoption of Draft Laws No. 1155 and No. 0945 (the so-called Draft Laws "on propaganda of homosexuality") and the need to make amendments to order No. 60 on the procedure for change and correction of sex and investigation of crimes committed on the grounds of homophobia can be considered fulfilled only partially. So, Draft Laws No. 1155 and No. 0945 have been excluded from consideration by the Parliament. However, no changes to the order No. 60 or any other modifications were made to allow those concerned to use the procedure on changing and correction of sex without discrimination and with respect for human dignity. There was no progress on ensuring proper investigation and punishment for crimes committed on the grounds of homophobia (neither changes to the Criminal Code to allow for the appropriate classification of such crimes were made, nor appropriate training for police investigators and prosecutors to effectively identify and document such crimes was conducted).

30 Text of the Strategy see here: http://www.ombudsman.gov.ua/images/stories/strategic%20plan.pdf

31 Text of the Strategy see here: http://www.president.gov.ua/documents/5012015-19364

32 http://antidi.org.ua/ua/activity/application/299-skasuvannia-ukrainskoho-marshu-rivnosti-na-sovisti-kyivskoi-militsii. See more about the course of the March in different years on the web-site of Kyiv-Pride: http://kyivpride.org

Implementation of para. 11
of the Concluding Observations[33]

"The State party should strengthen its efforts to combat hate speech and racist attacks, by, inter alia, instituting awareness-raising campaigns aimed at promoting respect for human rights and tolerance for diversity. The State party should also step up its efforts to ensure that alleged hate crimes are thoroughly investigated, that perpetrators are prosecuted under article 161 of the Criminal Code and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated".

54. In August 2014 "Contact Point for Roma and Sinti" published a report[34] on the situation of Roma in the period of crisis. According to data presented in the publication, the situation of Roma as the most disadvantaged and socially vulnerable national minority in Ukraine significantly worsened due to the events in the Eastern Ukraine. According to the the Ukrainian Parliament Commissioner for Human Rights[35], with the beginning of occupation of territories of Donetsk and Luhansk regions and the presence of pro-Russian military forces there, in 2014 a number of cases of harassment and committing violent acts against Roma because of their ethnicity was recorded. According to media reports, on 18 April 2014 in the town of Sloviansk and in the village of Cherekivka demolition of Roma settlement by unidentified persons in camouflage uniforms was committed. They broke into the houses where Roma lived threatening physical violence, destroyed property, demanded money, gold and other valuables. According to the victims, several representatives of the Roma population suffered from physical damage[36]. In total, according to human rights organizations, there have been at least 7 cases of demolition in the said town. Non-governmental organizations have forwarded a number of appeals to the Ministry of Internal Affairs of Ukraine to conduct investigation in the shortest possible term, but its results remain unknown so far.

55. Numerous violations of the rights of Roma in the temporarily occupied and released territories were recorded in the report prepared by the Anti-Discrimination Centre "Memorial"[37]. Among other things, the document showed the case of disappearance and murder of the Roma young man, who was captured and later was left together with the other prisoners in the administrative building, which was set on fire during the step-back

33 Report prepared by Olga Zhmurko, Roma Program Initiative Director, International Renaissance Foundation (IRF)
34 Situation Assessment Report on Roma in Ukraine and the Impact of the Current Crisis. OSCE, ODIHR "Contact Point for Roma and Sinti", Warsaw, 2014.
35 "Human Rights in Ukraine". Annual report of the Verkhovna Rada Commissioner on Human Rights, 2015 www.ombudsman.gov.ua/files/Dopovidi/Dopovid_2015_10b.pdf
36 http://novosti.dn.ua/details/223201/
37 "Roma and War. Roma Residents of Eastern Ukraine Affected by War: Refugees, Immigrants, Victims of Violence", 2015 http://adcmemorial.org/wp-content/uploads/RomaReportUkrwww.pdf

of separatists from the town of Dzerzhynsk (Donetsk region)[38]. Investigation of the case at the time of publication of the report had not been completed.

56. Like many residents of the Eastern Ukraine, since the beginning of hostilities in the area, representatives of the Roma minority have been forced to leave their homes. According to unofficial statistics of non-governmental organizations, there were about 9,000 of them who moved to the territory controlled by Ukraine, and according to the same sources, more than half (55%) of the said displaced Roma were not officially registered as internally displaced persons (IDPs)[39]. Impediment were traditional lack of confidence in public authorities, absence of identity documents, the lack of "special actions" on the part of public authorities aimed to help displaced Roma, who, apparently, were victims of "multiple discrimination" – refusal to grant temporary shelter to persons of Roma origin, the involvement of law enforcement agencies to forced eviction of Roma from places of temporary residence. In a number of cases, timely assistance to displaced persons from among members of the Roma minority in Kharkiv, Zaporizhzhia and other regions was provided through the intervention of NGO representatives, which acted as intermediaries between the traditionally closed Roma communities and the authorities responsible for dealing with IDPs[40]. In most cases, Roma displaced persons faced the same problems as other IDPs: accommodation in premises unsuitable for housing, lack of humanitarian assistance and food. Experts, however, pay attention to the specificity of some problems which are inherent, in particular, to the Roma population and which largely worsen their situation: the above mentioned problem of lack of identity documents and low level of literacy of the Roma population.

57. International organizations assessing the humanitarian situation connected with the events in the east of Ukraine have expressed a number of recommendations separately highlighting Roma as a vulnerable group. Thus, observing the rights of Roma – IDPs and the need to take additional measures in regard to this group are referred to in the PACE resolution on Ukraine: "14.4. eliminate cases of discrimination of Roma people without identity documents who allegedly encounter difficulties registering as IDPs;".[41] Roma as representatives of one of the most economically vulnerable ethnic groups are referred to in a review of the UN Office of the High Commissioner for Refugees "Key Protection Concerns and UNHCR Recommendations in Ukraine": "Displaced Roma are often unable to register as IDPs due to lack of identity documents or residence registration, and thus cannot access Government financial and social support programs". In November 2015 OSCE ODIHR "Contact Point for Roma and Sinti" developed a number of recommendations for the Government of Ukraine aimed at addressing the lack of identity documents[42]. Currently, information about the commencement of implementation of these recommendations at the systemic level on the part of the public bodies is not available. Even those displaced Roma who have identity documents often do not register as IDPs"[43]. Recommendations mention the issue of discrimination against displaced Roma, in particular, on the part of public authorities and often on the part of local population, which becomes an insurmountable

38 On 4 February, 2016 renamed as Toretsk. In the course of the special operation control of Armed Forces of Ukraine was restored on 22 July 2014.

39 http://press.unian.ua/pressnews/1065007-predstavniki-neuryadovih-organizatsiy-zaklikayut-ukrajinsku-vladu-zvernuti-uvagu-na-problemi-9-tisyach-romiv-pereselentsiv.html

40 http://legalspace.org/ua/napryamki/posilennya-romskikh-gromad/item/3881-romy-v-umovakh-viiskovoho-konfliktu-dopomoha-potribna-iak-nikoly

41 PACE resolution on Ukraine. The humanitarian situation of Ukrainian refugees and displaced persons of 28 January 2015. Annotated translation: http://www.eurointegration.com.ua/articles/2015/01/28/7030164/

42 Expert seminar on access to identification and civil registration documents by Roma in Ukraine http://www.osce.org/uk/odihr/221216?download=true

43 Key Protection Concerns and UNHCR Recommendations in Ukraine. UN Office of the High Commissioner for Refugees January 2016. Unofficial translation. http://rada.gov.ua/uploads/documents/36194.pdf

obstacle for Roma in opportunities to exercise their rights. Anti-Roma rhetoric in political discourse and the media, particularly in conflict-affected areas of eastern Ukraine, has been indicated separately. It has been emphasized that the registration of hate crimes against Roma continues to occur. All the above mentioned significantly complicates the possibility of displaced Roma to adapt and causes further forced migration and the spread of the problem of statelessness.

58. In the context of the comprehensive addressing problems of IDP, Roma ethnic minority as a vulnerable group subject to multiple discrimination is neither highlighted. Instead, as it has been repeatedly confirmed at personal meetings with representatives of social services in a number of regions in the course of monitoring visits, local authorities see no need for additional measures in regard to Roma for overcoming discrimination and preventing marginalization, so as they do not consider this national minority from the perspective of social vulnerability, which requires special actions. Most of the functions on assisting Roma, implementation of projects aimed at overcoming prejudices and stereotypes are still with the civil society representatives. Often public officers are carriers of stereotypes, which largely complicates the interaction with them when establishing cooperation. According to civil society organizations dealing with problems of the Roma ethnic minority, no special initiatives to improve the access of Roma communities to government programs aimed at assistance to IDPs, well as at prevention of the spread of hate speech against Roma have not been implemented both at the national and local levels.

59. Anti-Roma rhetoric continues to spread by the media: "Reports on Roma are primarily focused on crime, violence and immigration as threats to public security. Roma women are often accused of fraud, theft and kidnapping. There is still limited awareness among journalists and the media of their potential to either incite or combat racism and discrimination."[44]. The problem of responding to manifestations of hate speech in online media falls beyond the legal framework, so as online media remain unregistered entities bearing no responsibility. Consequently, often the only leverage in the situation is public pressure and prompt response on the part of the relevant non-governmental organizations. Monitoring of online media in Zakarpattya region with the highest number of Roma recorded a high level of intolerance against Roma in the region[45]. According to Ukrainian media monitoring data,[46] top-five groups, in respect of which the hate speech was used more often in 2014, was "headed" by "Ukrainians", "Russians", "Chechens", "dark-skinned", representatives of the LGBT community.

60. Roma are classified as a criminal group, in particular, by law enforcement officers. Cases of ethnic profiling by law enforcement agencies have been repeatedly recorded over the last few years in the regions of Odesa, Zakarpattya and Cherkasy (the town of Zolotonosha). Public activists and the media (local resource www.mukachevo.net) reported a case of illegal intrusion into Roma houses in the territory of compact settlement in the city of Uzhghorod.[47] For instance, Head of the Department for combating drug trafficking on his Facebook page publishes photo of detainees, thus violating their rights and moreover, indicating their nationalities in some cases (in particular, Roma)[48]. Non-governmental

44 Situation Assessment Report on Roma in Ukraine and the Impact of the Current Crisis. OSCE, ODIHR "Contact Point for Roma and Sinti", Warsaw, 2014.

45 http://gurt.org.ua/news/informator/21360/

46 Report on the results of the use of hate speech in Ukrainian media in 2014 http://noborders.org.ua/wp-content/uploads/2015/12/hatespeech_report_NoBorders_2015.pdf

47 http://www.mukachevo.net/ru/News/view/89735-Ужгородские-ромы-жалуются-на-действия-милиции-ФОТО-ВИДЕО

48 http://legalspace.org/ua/napryamki/posilennya-romskikh-gromad/item/6434-romski-pravozakhysnyky-prosiat-avakova-prokomentuvaty-dii-ioho-pidlehloho

organizations appealed to the Minister of Internal Affairs with a request to give public assessment of the actions of his subordinate and to conduct internal investigation in regard to the appropriateness of his actions. However, at the time of preparation of the report no official response had been received. There is still no information on the results of internal investigation of the case of illegal intrusion in the Roma compact settlement in the city of Zolotonosha (Cherkasy region) by local law enforcement officers on 29 October 2015[49]. Police arrested the male residents of the settlement and giving no explanations delivered them to the district police station. After prompt intervention of the Ombudsman's Office the arbitrariness of police ceased and detained Roma were released. However, representatives of the Roma community of the city noted that threats on the part of police against Roma and demands not to travel through certain districts of the city continued to take place.

61. Violence against Roma remains a problem. There are no official investigations into cases of violent attacks on members of the Roma minority. One of the conflicts between the community of the village of Helmiazev in Cherkasy region occurred in the spring of 2014, when a group of villagers attacked Roma dwelling, damaged property and beat Roma. Police took no measures to intervene into conflict. Roma victims of assault, who sought help from the law enforcement agencies, after numerous threats against them on the part of attackers were forced to withdraw their applications. Investigation into the case terminated. Important was the fact of collective threats to evict Roma from the village. After the intervention in the case of the Ombudsman's Office, law enforcement officers conducted a meeting of local residents and the issue of eviction of Roma families was closed. Characteristically biased coverage of the topic in the local media: "Such case is not the first in the territory of Zolotonosha. Every year residents of the district centre complain about the provocative behaviour of Roma youth, are often conflicts occur and in the surrounding villages. In April 2014 the local press, citing the release Zolotoniskyi municipal district office of the Ministry of Internal Affairs, reported the shooting committed by two representatives of the Roma community on Likarniana street (area of Roma compact settlement), during which one of them received a gunshot wound"[50]. Still, Article 161 of the Criminal Code of Ukraine is hardly ever used in Ukrainian justice. According to experts, the perpetrators of crimes similar to those provided for in Article 161 of the Criminal Code, are prosecuted on charges of hooliganism. It should be noted that Roma rather seldom apply to the police for help due to the low level of confidence in public authorities and, in particular, the police (65% of Roma have a bad attitude to police or "rather bad than good")[51].

49 http://humanrights.org.ua/material/u_zolotonoshi_milicija_pislja_konfliktu_pochala_zabirati_romiv_u_nevidomomu_naprjamku

50 http://zolo.in.ua/2014/04/24/1-1

51 Report on the results monitoring the implementation of the Action Plan of the Strategy for the protection and integration of the Roma minority in the Ukrainian society for the period up to 2020. "Implementation of State Policy towards Roma" http://www.irf.ua/knowledgebase/publications/stan_realizatsii_derzhavnoi_politiki_schodo_romiv/

Implementation of para. 12
of the Concluding Observations[52]

"The State party should increase its efforts to combat discrimination against Roma. It should create the necessary conditions for their social integration and equal access to social services, health care, employment, education and housing. The State party should remove any obstacles, including administrative, to ensure that all Roma are provided with personal documents, including birth certificates, which are necessary for them to have access to their basic rights. It should allocate sufficient resources for the effective implementation of the Strategy on protection and integration of Roma".

62. Regarding the implementation by the state of its obligations towards the Roma minority, it should be noted that for the purpose of implementation of the Action Plan of the Strategy for the protection and integration of the Roma minority in the Ukrainian society for the period up to 2020[53] the Cabinet of Ministers of Ukraine adopted a relevant resolution on the establishment of the Inter-Agency Working Group (IAWG) to deal with the said issue[54]. Such steps on the part of the state shall be welcomed. At the same time it should be noted that the question about the proper functioning of the aforementioned collegial body and its respective powers and competences remains open. In particular, the approved number of members of the working group, namely, one representative from each regional state administration and representatives of each of 13 relevant ministries, generates doubts that the working group will be able to function in efficient operating mode: to hold regular meetings, conferences, to promptly resolve the current issues. At the same time, it is important to emphasize the fact that the IAWG includes representatives of the Roma national minority, which meets international requirements for the implementation of the state policy towards members of national minorities – ensuring their participation in decision-making processes.

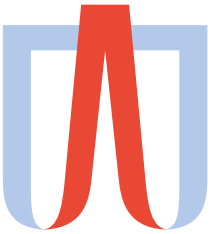
63. Issues of administration of the collegial body, commitments in relation to which have been imposed on the Department for Religions and Nationalities of the Ministry of Culture without increasing the human and material capacities of the Department, are worth highlighting as a separate item. Action Plan to the Strategy, adopted in 2013, is of declarative nature and does not contain any deadlines for the implementation and indicators for reporting. Funding for the implementation of the planned activities had not been foreseen for the current budget year. The same situation takes place not only with national, but also with regional action plans for the implementation of the Strategy. One of the first tasks of the newly established IAWG is reviewing and improving the existing program documents with their subsequent submission for consideration and approval by the Cabinet of Ministers based on the real needs of the Roma national minority studied and analyzed during the conduct of the special assessment of needs.

52 Report prepared by Olga Zhmurko, Roma Program Initiative Director, International Renaissance Foundation (IRF)
53 Decree of the President of Ukraine of 8 April 2013 No. 201/2013 http://zakon3.rada.gov.ua/laws/show/201/2013
54 Resolution of 25 November 2015 No. 993 http://www.kmu.gov.ua/control/ru/cardnpd?docid=248677547

64. Also the state has to resolve the problem of implementation of the objectives set at the local level, namely, the interaction between the central executive authorities and thr local government bodies. In the context of decentralization, where local communities have more power and opportunities to manage local funds, the Roma, as part of local communities, will be able to access to resources from local budgets, upon condition of representation of their interests in local government bodies and proper development of the "Roma" civil society. In other circumstances, the isolation of the Roma within communities may increase. Thus, the central executive authorities and local government bodies shall regularly and comprehensively inform about the existence of the state policy towards Roma, national and international obligations of Ukraine on its proper implementation.

65. Necessary steps, mentioned above, can be effectively implemented only upon condition of adequate institutional capacity of the relevant public bodies. The problem of limited competence of the Department, which, through the example of the implementation of the state policy towards Roma, shall address the issues that fall beyond the scope of competence of the Ministry of Culture, raise the matter of the need to establish a separate state institution subordinate to the Cabinet of Ministers Ukraine, capable to deal with a wider range of issues of national minorities: combating discrimination, access to education, health sector, development of regulatory policies in other areas.

Implementation of para. 13
of the Concluding Observations[55]



УКРАЇНСЬКА ГЕЛЬСІНСЬКА
СПІЛКА З ПРАВ ЛЮДИНИ

"The State party should take immediate and effective steps to ensure that cases of death in custody are promptly investigated by an independent and impartial body, that sentencing practices and disciplinary sanctions against those found responsible are not overly lenient, and that appropriate compensation is provided to families of victims".

66. High mortality rate in prisons is associated primarily with the improper organization and provision of medical support. The main reasons for this are the lack of government funding of prison medicine, as well as its administrative subordination to the State Penitentiary Service of Ukraine (SPSU) and not to the Ministry of Healthcare. Personnel of medical units of penitentiary facilities are subordinated to the administration of these facilities. In addition, some employees are military, that is they have relevant special ranks, like of "Lieutenant/Senior Lieutenant/ Captain … /Colonel of Internal Service". Consequence of subordination of medical personnel to the administration of penitentiary facilities is the lack of its independence. Cases of ill-treatment, torture may remain unregistered or registered improperly, and the role of medical personnel in the registration of these facts comes to nothing. Reporting by the medical personnel of ill-treatment or conditions of detention to the prosecuting authorities, the Ombudsman's Office often is also impossible because of the dependent status.

67. The problem of changing subordination of the penitentiary medicine remains acute. International and national human rights organizations repeatedly urged to allot the penitentiary medicine under the responsibility of the Ministry of Healthcare of Ukraine. For some time the SPSU supported such an idea, but over time abandoned it, pointing to the serious threat that the situation with the medical provision in prisons would reach a critical level. Among the significant number of factors that could lead to this the following were named: unwillingness of ordinary medical personnel, subordinated to the Ministry of Healthcare, to work in prisons for existing salary in particular without bonus for special ranks that a part of the current prison personnel had; the actual transfer of medicine in the facilities of the Ministry of Healthcare to (informal) paid basis, which would lead to the situation where prisoners remained without any possibility to receive free medical care, including free medicines.

68. In the context of the foregoing, on 3 September 2015 during a round table in the SPSU on ensuring the right to medical care, the leadership of the SPSU announced potentially

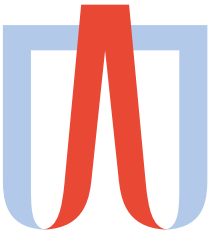
55 Report prepared by Vadym Chovhan, independent expert, upon request of the UHHRU

compromise position with respect to the subordination of the penitentiary medicine. It was about the abolition of subordination of the personnel of medical units to prison administration while leaving the penitentiary medicine subordinate to the SPSU. Thus, the medical service would become a separate legal entity, not subordinate to the prison administration, with its own budget line of funding. At the same time, personnel of medical units of prisons would be subordinate only to the medical personnel of territorial prison administrations, and it, in turn – only to the head of the Medical Department of the SPSU, which would remain subordinate to the head of the SPSU. Representatives of human rights organizations recognized the presented model as acceptable, which could become a transitional.

69. It should be noted that with respect to the National Action Plan on implementation of the National Human Rights Strategy for the period until 2020 (Decree of the President of Ukraine No. 501/2015), proposals to develop a Draft Law on ensuring the independence of the medical service of the SPSU at the central and regional levels were made. However, this provision of the Plan has not been implemented yet.

70. On 15 June 2014 a joint order of the Ministry of Justice and the Ministry of Healthcare "On approval of the Procedure for organization of medical care for persons sentenced to imprisonment" was adopted. It provided a new order of settlement of issues on providing medical care in prisons. It gave rise to a number of comments from civil society, however, comments to the draft Order, submitted by the public, were not taken into account. Among the shortcomings of the Order we should specify the contents of the new List of Diseases (which is a practical basis for early release from service of sentence), which was more repressive than the previous one. Indeed, the new Order did not contain a strict list of peripheral vascular diseases of cerebrospinal axis, leading to problems when it came to release of prisoners with the most severe vascular disorders. The same applied to diseases of the circulatory organs, meningitis, cerebrospinal sclerosis, tuberculous nervous system impairment, brain tumours. Also the provision about respiratory diseases significantly worsened. The new List indicated that all the respiratory diseases with pulmonary insufficiency of the third degree could be the reason for filing an application for early release, i.e., when the process had already become irreversible. The only reason for release in the new List remained high amputation of upper or lower extremities, or a combination of high amputation of one upper and one lower extremity. In other words, to obtain a possibility for early release a person has to have high amputation of two extremities. For hands it is above the elbows, and for legs – above the knees. It turns out that if a person has two palms and two feet amputated, that person can not be released. That is a person without four extremities shall remain in the penitentiary facility.

Implementation of para. 15
of the Concluding Observations[56]



УКРАЇНСЬКА ГЕЛЬСІНСЬКА
СПІЛКА З ПРАВ ЛЮДИНИ

"The State party should reinforce its measures to eradicate torture and ill-treatment, ensure that such acts are promptly, thoroughly, and independently investigated, that perpetrators of acts of torture and ill-treatment are prosecuted in a manner commensurate with the gravity of their acts, and that victims are provided with effective remedies, including appropriate compensation. As a matter of priority, the State party should establish a genuinely independent complaints mechanism to deal with cases of alleged torture or ill-treatment. It should also amend its Criminal Procedure Code to provide for mandatory video recording of interrogations, and pursue its efforts towards equipping places of deprivation of liberty with video recording devices with a view to discouraging any use of torture or ill-treatment".

General situation with observance of the right to protection from torture and ill-treatment

71. Although the actual decrease in the number of cases of torture in police (from 980 thous. in 2001 to 409 thous. in 2015), the number of cases of torture in Ukraine by law enforcement officers is one of the largest in Europe.

72. According to statistical data of the ECtHR for 2015, Ukraine ranks third among the member states of the Council of Europe in terms of the number of judgements admitting violations of Article 3 by Ukraine[57]. Based on recurrence of such violations, the ECtHR adopted a pilot judgment in the case Kaverzin v.Ukraine, in which it was stated that cases of torture by law enforcement authorities were a consequence of regulatory shortcomings and deficiencies of administrative practices of public bodies in regard to their obligations. The ECtHR ordered Ukraine to urgently reform its legal system in order to ensure the eradication of practices of torturing detainees, and to ensure effective investigation into such cases in each particular case stating an unarguable complaint of ill-treatment, as well as effective correction of any shortcomings of such investigation at the national level.[58]

73. Cases of torture and ill-treatment in Ukraine mainly occur during the arrest of a person suspected of commission of a crime and in places of deprivation of liberty in relation to persons serving sentences. Failure to provide medical care for detainees and inadequate conditions of detention, which are equated to torture and ill-treatment, remain acute problems in Ukraine.

56 Report prepared by: Vitaliia Lebid, UHHRU expert; Vadym Chovhan, independent expert
57 http://www.echr.coe.int/Documents/Stats_violation_2015_ENG.pdf
58 http://zakon4.rada.gov.ua/laws/show/974_851

74. After 2013 the following laws and regulations regarded as positive developments have been adopted:

1) the Law of Ukraine "On Amendments to the Criminal-Procedural Code of Ukraine concerning the legal status of convicts for adapting them to the European standards" of 8 April 2014 with a view to humanize conditions of serving punishment in places of deprivation of liberty.

2) the Law of Ukraine "On the National Police", which laid the foundations for the formation of a professional and qualified staff of the police. The Law provides for public involvement in consideration of complaints about actions or inactions of police and implements leverage in regard to police officials – the institute of adoption of the resolution of no confidence.

3) the National Human Rights Strategy of 25 August 2015 containing a plan of action on combating torture and ill-treatment or punishment. In particular, introduction of information and education campaigns on legal issues in the media regarding the prevention of torture and ill-treatment in activities of law enforcement agencies; development of a Draft Law on making amendments to the Criminal Code of Ukraine in regard to the abolition of the limitation period for investigations of crime, containing elements of torture and/or ill-treatment; introduction of the mechanism for separate statistical reporting of crimes, containing elements of torture, and ensuring compulsory periodic publication of such statistics, etc.

4) The Law of Ukraine "On the State Bureau of Investigation" of 12 November 2015, which provides for establishment of an independent mechanism for investigation of cases of torture and ill-treatment committed by law enforcement officers by 20 November 2017.

75. However, comparing the existing guarantees enshrined in legislation and official statistics on the actual situation, we can conclude that the legal provisions are not implemented properly. We can only state that legislative framework has been established, and its implementation requires fulfilment of a clear plan of action.

76. Among the achievements in combating torture the satisfactory operation of the Ombudsman's Office is worth noting. It was the initiative of the Ombudsman to initiate investigation of numerous cases of torture and/or ill-treatment by law enforcement agencies, especially during the "Revolution of Dignity". Commencement of an effective operation of the system of free secondary legal aid that will contribute to reduction of the use of torture and ill-treatment against the detained person is also an important achievement.

Shortcomings in legislation

77. Regulations of the Criminal Code of Ukraine regarding the use of torture by law enforcement officers are not entirely satisfactory. In particular, they do not include the direct responsibility of officers for torture. Normally such violations are classified as an abuse of authority or office (Article 364 of the Criminal Code), Excess of authority or official powers by a law enforcement official (article 365 of the Criminal Code), compelling to testify (Article 373 of the Criminal Code). Despite the Criminal Code has Article 127 "Torture", it does not provide for the direct responsibility of officials for commission of such offence and, as a rule, this article is not applied as a corroborate classification.

78. The existence of several articles that contain similar elements of crime and actually duplicated, promotes ambiguities of interpretation. Numerous and recurring provisions specify that the definition of "torture" may have different meanings in different situations; subtle distinctions suggest that some forms of extreme ill-treatment are considered to be less serious than others. As a result, prosecutors have the possibility to classify torture and ill-treatment by law enforcement officers as a less serious offence and, consequently, to apply less severe punishment.

79. A significant disadvantage of the Criminal Code of Ukraine is rather mild penalty for torture pursuant to Article 127 – imprisonment of up to five years, which does not reflect the gravity of the offence. Such a penalty refers torture to the category of medium-gravity crimes, which is contrary to the existing international standards, according to which torture is a grave crime.

Ineffectiveness of investigation

80. Despite the adoption in 2012 of the new Criminal Procedure Code (CPC) of Ukraine, the problem of ineffective investigation into allegations of torture and ill-treatment by law enforcement officers remains unresolved. One of the reasons is circumventing the rules of the CPC by law enforcement agencies.

81. A striking proof of this negative trend is the investigation of the events during the "Revolution of Dignity" in regard to the unlawful use of force by law enforcement officers in different regions of Ukraine. None of the persons guilty of crimes committed has been convicted. Original delay of initiation of the investigation and its long duration have led to the loss of numerous evidence and hiding of responsible persons from the investigation. According to the Report of the International Advisory Panel (IDP), created by the Secretary General of the Council of Europe, the investigation into Maidan events was not effective. IDP concluded that some important aspects of the investigation into criminal proceedings concerning Maidan events lacked practical independence since the investigating body belonged to the same authority as the persons under investigation. IDP also believed that the appointment of certain persons to leadership positions in the Ministry of Internal Affairs after Maidan events contributed the loss of external characteristics of independence of this body and served to undermining the public confidence in the readiness of the Ministry of Internal Affairs to investigate crimes committed during Maidan.[59]

82. The overall effectiveness of investigations conducted by the prosecution authorities is very low. Very often prosecutors upon receipt of information of torture by law enforcement officers give instructions to conduct official inspections to bodies whose actions are appealed. Ukraine has repeatedly received comments from international organizations and civil society representatives on the need to establish an independent body to carry out investigations into cases of torture and ill-treatment by law enforcement agencies.

Unjustified delay to establish a body to investigate crimes committed by law enforcement officers

83. Despite the adoption of the Law of Ukraine "On the State Bureau of Investigation" of 12 November 2015 and its approval by the President of Ukraine, this body bearing responsibility for the investigation into violations committed by law enforcement officers has not been established yet. The process of legislative recognition and commencement of functioning of this body has been repeatedly postponed. In accordance with the legislative provisions

59 https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802f038c

the State Bureau of Investigation shall begin operations in 2017. Such unjustified delay significantly slows down the process of reforming the system of countering torture by law enforcement agencies.

Suppression of facts of torture and ill-treatment by law enforcement officers

84. In accordance with the provisions of the Criminal Procedure Code of Ukraine, investigator or prosecutor shall immediately after receiving information about violation record data in the Unified Register of Pre-Trial Investigations (URPI). However, in reality there is a negative trend of non-compliance with such requirements and refusal to record data into URPI, resulting in a violation of the right to a fair official investigation into cases of torture and ill-treatment by law enforcement officers.

85. Health care facilities, when treating persons alleging bodily injuries inflicted by law enforcement officers shall enter such information in the relevant Log Book and immediately inform the internal affairs bodies (IAB). Upon receipt of such information from health care facilities the officer on duty on IAB shall ensure its timely registration in the Log of Unified Registration of Statements and Reports of Criminal Offences and Other Events (Log of Unified Registration/LUR) and provide immediate response in accordance with the law. However, the results of inspections conducted by the Department of Special Proceedings under the Commissioner for Human Rights indicated systematic ignoring of legislative requirements both by employees of IAB and prosecuting authorities. Facts of infliction of bodily injuries to citizens by law enforcement officers are concealed by making false records in the LUR. Prosecuting authorities obliged under the current legislation to supervise activities of IAB and conduct pretrial investigations of criminal offences involving law enforcement officers, do not provide proper response to such violations.[60]

86. Human rights activists point out the problem of making false entries by IAB about the time of arrest with the purpose to commit torture or ill-treatment during the period before official registration of arrest.

87. The CPC of Ukraine prohibits the reasoning of judgements by evidence given to investigator or prosecutor, that is, by written protocols of the relevant investigative activities and, therefore, obtainment of written confession from the detainee is not a proof of his guilt, which greatly complicates the task to bring the charges in court. However, obtainment from a person under physical and/or psychological pressure of information that will allow for obtaining the evidence of the crime, in particular material, in case of unlawful custody under control of officers since the moment of arrest and till the time of official registration of detention remains sufficient motivation for bodies of pre-trial investigation to apply torture. In addition, through the use of physical and psychological violence it is possible to intimidate a detainee who will either waive the right to counsel during a meeting with a lawyer or, being afraid of further ill-treatment by officers, choose to admit guilt[61].

88. Law enforcement officers continue to systematically violate such procedural rights of a detainee as informing on the right to legal counsel and meet him the first interrogation message and territorial centres of free secondary legal aid.

Law level of legal awareness of law enforcement officers

60 Annual report of the Verkhovna Rada Commissioner for Human Rights on the state of observance and protection of the rights and freedoms of man and citizen in Ukraine. – K., 2015. – 552 p.

61 Human Rights in Ukraine – 2013. Report of Human Rights Organizations. / under editorship of Y.Y. Zakharova./the Ukrainian Helsinki Human Rights Union. – Kharkiv: Human rights, 2014. – 456 p.

89. One of the factors of low efficiency of investigation of crimes committed by law enforcement officers is insufficient level of their legal awareness. The results of monitoring of institutions of the Ministry of Internal Affairs (MIA) of Ukraine conducted by the National Preventive Mechanisms indicate a very low level of knowledge of employees of MIA of Ukraine in regard to current legislation on protection of human rights. In particular, persons directly responsible for the arrest and detention of persons are not sufficiently aware of the provisions of the CPC of Ukraine and the Law of Ukraine "On Pre-Trial Detention".[62]

Inadequate resources for the satisfactory functioning of the National Preventive Mechanism (NPM)

90. Over the recent years a negative trend of reducing the number of visits of the NPM representatives to places of imprisonment, resulting from the lack of available resources, has been observed. The available number of persons involved in the activities of the NPM Department and insufficient financial support from the state make it impossible to cover a sufficient number of monitoring sites.

Failure to provide medical care to persons in custody and inadequate conditions of detention

91. Frequent instances of untimely notification by law enforcement officers of the need to provide medical care to detainee with the purpose to conceal cases of torture and ill-treatment are observed in Ukraine. Among the major problems the following are also worth noting: poor hygienic and sanitary conditions in detention cells where prisoners live due to overcrowding, failure to meet the existing sanitation and hygiene standards (lack of natural and artificial lighting¬, ventilation level), breach of temperature regime¬, limitations of the possibility of staying in the open air, formal conduct current disinfection and the like; untimeliness and ineffectiveness of diagnostic and treatment, as well as preventive measures on the part of medical personnel; condition of anti-epidemic and diagnostic and treatment measures in the cases of tuberculosis; conduct of diagnosis and specific treatment of HIV; understaffing of medical personnel; insufficient qualification of medical personnel.[63]

The lack of effective remedies for prisoners

92. The procedure for filing and consideration of complaints from prisoners about actions of prison administration is virtually absent in Ukraine. Typically, such complaints are not accepted. If they are accepted, they are not be forwarded anywhere. Convicted persons who file complaint are subjected to pressure, and bad attitudes towards them. Such state of affairs contributes only to the preservation of psychological tension in relations between the staff and prisoners. Departmental leadership does not see a problem in this situation and, therefore, has no intention to make any changes in this field. The lack of an effective complaints submission procedure restricts the opportunities of prisoners to report cases of ill-treatment and to counter them. Therefore, in practical terms Ukraine has a very little progress in this field.[64]

Shortcomings in the use of technical means of surveillance

62 Annual report of the Verkhovna Rada Commissioner for Human Rights on the state of observance and protection of the rights and freedoms of man and citizen. – K., 2014. – 552 p.

63 Condition of ensuring the right to health care in detention facilities of the State Penitentiary Service of Ukraine: Special report on the implementation of the national preventive mechanism / the Verkhovna Rada Commissioner for Human Rights: Official publication. – K., 2013. – 88 p.

64 Interim Stakeholders' report within Universal Periodic Review (UPR) Mechanism. (Third cycle — Mid-term) 2015 / Scientific publication. Under general editorship of S. Kolyshko, O. Martynenko, A. Bushchenko / the Ukrainian Helsinki Human Rights Union. – Kyiv, 2015. – 110 p.

93. The use of technical means is of great importance for the prevention of ill-treatment in prisons, but both the current legislation and practice have significant shortcomings in this regard. According to part 3 of Article 103 of the Penal Execution Code (PEC) the list of technical means for surveillance shall be defined in the subordinate legislation, and, in addition, the said subordinate legislation shall specify the procedure for their use. At present such documents do not exist.

94. In view of this, the Order of the Cabinet of Ministers of Ukraine of 23 November 2015 No. 1393-r "On approval of the National Action Plan on implementation of the National Human Rights Strategy for the period until 2020" provides for such measure as "Development and adoption of a regulatory legal act on the use of means of surveillance and control in places of detention of convicts and persons taken into custody ensuring adequate safeguards against unreasonable restrictions of the right to privacy". Thus, the Government of Ukraine is obliged to develop a new document on the use of technical means.

95. However, the development and adoption of such document will not guarantee that in practice its provisions will be extensively used for the purposes of recording the use of force or special equipment, as well as conducting searches by administration of prison. Firstly, the legislation does not enshrine the mandatory use of technical means during searches, use of force or special means. Secondly, the introduction of the use of portable devices of video recording requires significant financial investment from the state.

Implementation of para. 16
of the Concluding Observations[65]

"The State party should continue its efforts to prevent and eradicate trafficking in persons, including by effectively implementing the existing relevant legal and policy frameworks and by cooperating with neighboring countries. It should ensure that allegations of trafficking in persons are thoroughly investigated, that those responsible are brought to justice, and that victims receive adequate medical care, free social and legal assistance, and reparation, including rehabilitation. The State party should also ensure that legal alternatives are available to victims who may face hardship and retribution upon removal".

96. All forms of human trafficking exist in Ukraine: labor exploitation, begging and so on. The Group of Experts on Action against Trafficking in Human Beings (GRETA), according to the findings of monitoring of the implementation by Ukraine of the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings in 2014[66], recommended to increase the supply of resources for combating human trafficking; to strengthen the coordination of activities on combating human trafficking; to continue the development of cooperation with civil society organizations; to ensure regular training of specialists who would possibly communicate with potential victims; to improve the access for victims, especially for children, to assistance envisaged by law; to take measures to reduce the extreme vulnerability to human trafficking of socially and economically disadvantaged groups. These comments remain relevant.

97. In 2013 the Ministry of Social Policy adopted the order "On approval of Standards for the provision of social services to victims of human trafficking, provision of services for social integration and and reintegration of persons and children – victims of human trafficking"[67].

98. In 2014, the Ministry of Social Policy developed a draft order "On Approval of the Procedure for Monitoring the Activities of Entities Engaged in Activities in the Field of Combating Trafficking in Human Beings", but as of 5 February 2016 it had not been approved. In general, the development and adoption of laws and regulations on combating human trafficking goes very slow.

99. In 2015 implementation period of theState Targeted Social Programme on Combating Trafficking in Human Beings ended. On7 October 2015 by the order of the Cabinet of Ministers of Ukraine No. 1053 the Concept of the State Social Program to Combat Human Trafficking for the period up to 2020 was approved, but the Program itself has not been adopted yet.

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66 http://search.ukr.net/?go=http%3A%2F%2Fmlsp.kmu.gov.ua%2Fdocument%2F167535%2Fzvit.doc
67 http://zakon2.rada.gov.ua/laws/show/z1327-13

Thorough investigation of cases of human trafficking, bringing of perpetrators to responsibility

100. In order to render effective assistance to the victims of trafficking and to protect them, the National Mechanism for Interaction of the Agents for Combating Trafficking in Human Beings has been established (Article 13 of the Law of Ukraine "On Combating Trafficking in Human Beings"). A person, who deems herself/himself a victim of trafficking in human beings, has the right to apply to the local state administration requesting the declaration of his/her status of a victim of trafficking, and to law enforcement authorities for protection of his/her rights and freedoms (Art. 14). The status of a victim of trafficking is declared for the term of up to two years (Art. 15). Victim shall receive the one-time financial assistance amounting to a living wage for the relevant category of persons.

101. According to the Ministry of Social Policy, for the period since 2012 through 2015 154 persons were granted the status of a victim of trafficking. In 2015 the number of granted statuses was twice higher than in the previous year (27 in 2014 and 83 in 2015). According to the Office of the International Organization for Migration in Ukraine (IOM), their number is much higher: from 2000 through 2015 there were 11 thousand 695 Ukrainian victims of trafficking, of whom 740 persons were found in 2015.[68] Annually IOM identifies approximately 1 thousand citizens of Ukraine who are victims of trafficking.

102. In 2015, more than 100 criminal proceedings on trafficking were initiated, including more than 80 cases forwarded to the court. 97 persons declared victims, including 58 women. For comparison: In 2010 337 cases were initiated. This trend is associated with numerous and often ineffective reorganizations of the Department on Combating Crimes related to Trafficking in Human Beings of the MIA of Ukraine.

103. At the same time the possibility to bring a legal entity to criminal responsibility has not been provided for. Commission of human trafficking by a legal entity is not the reason for deprivation of the legal entity of a license for carrying out of activities specified in it

Providing victims with adequate medical care, free social and legal aid, as well as compensation for damages, including rehabilitation

104. Legislation contains enough rules to protect the rights of victims, but there are also comments, such as the lack of mechanism for finding out the safety of returning the person affected to the country of origin, as stated in the comments to the seventh periodic report of Ukraine on the implementation of the International Covenant on Civil and Political Rights.

105. When providing aid the problem of the lack of a network of specialized institutions for victims arises. Today, a victim can receive temporary shelter in the centers for social and psychological rehabilitation, which, however, are absent in the regions of Vinnytsia, Kyiv, Poltava, Kharkiv and Kherson. Institutions in Donetsk and Luhansk regions are unable to host victims, so as are located on the temporarily occupied territory.

106. There are difficulties with access to specialized facilities: age limit of 35 years, the availability of registration when applying to the centers and so forth. There is a problem with the compensation and restitution for victims of trafficking. One possible solution to this problem is to establish in Ukraine the Compensation Fund. However, this issue is not considered today.[69]

68 http://stoptrafficking.org/sites/default/files/mom/documents/CT_situation%20analysis%20DEC%202015%20UKR.pdf
69 http://www.la-strada.org.ua/ucp_mod_library_showcategory_30.html

107. Another problem is the small number of victims of trafficking identified officially. This is due, on the one hand, with the unawareness of the police officers, prosecutors, lawyers, judges of the specifics of the criminal proceedings in regard to human trafficking, on the other hand, with the insufficient number of social workers, frequent changes of structural subdivisions responsible for this direction. At the same time, the number of calls to the National "hot line" of "La Strada-Ukraine" Center on prevention of human trafficking is growing: In 2012 there were 519 calls, in 2014 – 564 calls[70].

Coordination of activities in the field of combating human trafficking

108. To coordinate activities in the field of combating trafficking in human beings the Inter-Agency Council on Family, Gender Equality, Demographic Development, Prevention of Domestic Violence and Combating Human Trafficking was created. Regulation on the said group was adopted by the resolution of the Cabinet of Ministers of Ukraine of 5 September 2007 No. 1087[71]. However, since 2010, despite the active position of public organizations, there has been no meeting of the Inter-Agency Council.

109. In 2014 "La Strada-Ukraine", School of Equal Opportunities International Public Organization, "Rozrada", "Vira. Nadiia. Liubov" ("Faith. Hope. Love") Women's Information Consultative Center, Center for Legal and Political Studies "DUMA" and other organizations created independent anti-trafficking monitoring group. In 2014 members of the group conducted research on the issues of commercial exploitation of children. However, their monitoring activities are not supported by donors and the state.

110. In 2014 national coaching network "La Strada-Ukraine" held 182 events on issues related to prevention of human trafficking, and in 2015 their number exceeded 2 thousand (determining the causes of human trafficking, ways of getting into a situation of human trafficking, the legislative aspect, assistance for victims of trafficking, etc.). In 2015 in order to prevent human trafficking and to increase access of victims of trafficking with the support of the OSCE Project Coordinator external information campaign with the placement of telephone numbers of National "hot line" on prevention of domestic violence, human trafficking and gender discrimination of "La Strada-Ukraine" was launched.

111. In order to monitor implementation of the State Targeted Social Program on Combating Trafficking in Human Beings monitoring visits to the regions of Ukraine with the participation of representatives of IOM, OSCE Project Coordinator in Ukraine, the "La Strada-Ukraine" Center, the Ministry of Social Policy, the Ministry of Internal Affairs, the Ministry of Education, the Ministry of Healthcare were carried out annually. In 2015 such visits were carried out to the regions of Lviv, Ternopil, Dnipropetrovsk, Volyn, Rivne, Zhytomyr, Odesa.

112. In order to strengthen the coordination of preventive measures and raising public awareness, the National Coalition of NGOs on Combating Trafficking, which includes about 30 representatives of public organizations, was created.

New trends in the field of combating human trafficking

70 http://www.la-strada.org.ua/ucp_mod_materials_show_222.html
71 http://zakon1.rada.gov.ua/laws/show/1087-2007-%D0%BF

113. After the annexation of the AR of Crimea and the occupation of the territories of Donetsk and Luhansk regions a new problem appeared – internally displaced persons (IDPs), who are a group vulnerable to human trafficking. As on 1 February 2015 the number of IDPs amounted to 1 mio 704 937[72]. In the absence of reliable information the experts from "La Strada-Ukraine" took part in the conduct of training for representatives of the OSCE special monitoring mission in Ukraine on the issues of identification of victims of trafficking among the IDPs.

114. Office of IOM revealed nine cases of trafficking (or attempted trafficking) among the IDPs and provided assistance to three victims of torture and forced labour in the temporarily occupied territories of Donbas.[73]

115. Given that the IDPs have a particular need of raising awareness on prevention of trafficking, in 2015 "La Strada-Ukraine" conducted a survey called "Assessment of possible risks for IDPs in Ukraine to get into a situation of human trafficking"[74]. 19% of IDPs – respondents stated that they were aware of cases of human trafficking. 10.8% of the women surveyed said that they were ready to look for job abroad: in Russia, Poland, Germany and Italy. 7.8% were willing to work abroad under any conditions. 31.7% of respondents had experience of illegal employment in Ukraine, 8.7% – abroad.

72 http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=185649&cat_id=107177
73 http://stoptrafficking.org/sites/default/files/mom/documents/CT_situation%20analysis%20DEC%202015%20UKR.pdf
74 http://www.la-strada.org.ua/ucp_mod_library_view_307.html.

Implementation of para. 17 of the Concluding Observations[75]

Центр політико-правових реформ

"The State party should ensure that judges are not subjected to any form of political influence in their decision-making and that the process of judicial administration is transparent. The State party should adopt a law providing for clear procedures and objective criteria for the promotion, suspension and dismissal of judges. It should ensure that prosecuting authorities are not involved in deciding on disciplinary actions against judges and that judicial disciplinary bodies are neither controlled by the executive branch nor affected by any political influence. The State party should ensure that prosecutions under article 365 of the Criminal Code fully comply with the requirements of the Covenant".

116. In times of Yanukovych due to the so-called "judicial reform" in 2010 the dependence of courts and judges on political power, especially on the Presidential Administration, significantly increased. The latter gained the opportunity to influence on any of the nearly 9 thous. judges through the controlled key recruitment bodies – the High Council of Justice and the High Qualification Commission of Judges, the impact on the formation of the bodies of judicial self-government, the use of mechanisms of disciplinary responsibility and transfer of judges. Another lever of influence for judges was the General Prosecutor's Office. The Yanukovych regime widely used the courts to resolve political problems (to eliminate opponents, to postpone elections of mayor in the capital and the city council members). Through the administrative courts authorities banned a large number of peaceful assemblies on far-fetched grounds.

117. With the victory of the Revolution of Dignity in early 2014 the issue of qualitative changes in the sphere of justice became the essential. All preconditions existed for that: moving away from the authoritarian regime; extreme prevalence of corruption in the judiciary; distorted system of values of the majority of judges; total mistrust of the population and businesses to them; the need for effective mechanisms for protection of rights; the need to simplify the judicial system and to implement European standards; request from the society and the declared political will to conduct reforming.

118. In the process of reforming the justice the new government mainly takes into account European standards and recommendations, but their complete consideration requires making amendments to the Constitution. Legislative changes failed to solve the main issue – the judiciary remained corrupt, dependent on the political authorities and oligarchs. There is no particular progress in the purging of judges, despite the adopted laws. Tremendous resistance of the judicial system, affected by corruption, to any changes and attempts to dismiss the judges is observed.

75 Report prepared by Roman Kuibida and Tetiana Ruda, Centre of Policy and Legal Reform

119. So now it is vital to renovate the judicial manpower, and at least the higher-level courts shall have a transparent competition for each judgeship. Without renovation of the judicial manpower there remains a risk, that the High Council of Justice, established in accordance with European standards, where the majority would be constituted by the judges elected by judges, will only reproduce the judicial system with all its shortcomings – obedience to political power, corruption, low level of confidence in the justice, mutual guarantee, irresponsibility and so forth. Without a new generation of judges reforming of prosecuting authorities, police, anti-corruption reforms will not reach any results, so as the efforts of these agencies will fail due to the unfairness of the judicial system.

120. The first attempt to comprehensively reform the justice was the adoption of the Law of Ukraine "On ensuring the right to a fair trial" on 12 February 2015 on the initiative of the President Poroshenko. It has the following advantages: introduction of the competitive procedure for the selection of judges for all positions; providing a longer period for special training of future judges; launching competitive procedure for the formation of the High Council of Justice and the High Qualification Commission of Judges; ensuring direct appealing against judgments of higher courts to the Supreme Court and the expansion of the grounds for such appealing; consideration in the career of judges of past performance, diverse information on which accumulates in the judicial dossier; implementation of a system for regular evaluation of judges by various actors, including members of the public on the results of monitoring of trials; strengthening the competitiveness of disciplinary procedures and introduction of six disciplinary penalties instead of two; introduction of a simplified system of judicial self-government; providing the opportunity to film trials without the express permission of the court; inclusion in the register of judgments of the texts of all judgments and individual opinions of judges.

121. However, the main drawback of the Law is the preservation of the political influence on judges. The authority to make final decisions on appointment, career and dismissal of judges remains under the control of political authorities – the President and the Parliament. Reasons for the dismissal of judges for violation of oath are not clear, some of them are abstract, which, as before, may be used by the new authorities for the purpose of "cleaning" disloyal judges.

122. A negative impact on the independence of judges has the absence of specific criteria for assessment of competence of judges of the courts at various levels when resolving the issues of career promotion; provisions making judges dependent on local authorities (providing service housing) and the Security Service (surcharge for access to state secrets), have been retained, and so forth. The new Law has also retained the sub-legislative regulation of rules of cases distribution, thus not only preserving the old opportunities of "manual" mode of distribution of cases by court presidents, but also opening the new ones.

123. In order to clean the judicial manpower the Law provides for the assessment of competence of all judges. The assessment of competence of all judges of the Supreme Court and higher courts had to be completed within six months. However, at the beginning of February 2016 it had not even started, so as the Council of Judges slowed down the process of agreeing the assessment procedure[76]. Moreover, the Council of Judges has initiated an appeal to the Constitutional Court to recognize the dismissal of a judge according to the outcomes of assessment as unconstitutional, which also looks like the counteraction to any attempts to clean up the judicial manpower.

76 Approval procedure of qualification assessment of judges has not been completed // http://vkksu.gov.ua/en/news/approval-procedure-of-qualification-assessment-of-judges-has-not-been-completed.

124. Complete judicial reform, complying with the international standards, requires making amendments to the Constitution. The Draft Law "On Amending the Constitution of Ukraine (as to justice)"[77], developed by the Constitutional Commission under the President of Ukraine, has embodied a number of European standards with regard to the indefinite appointment of judges; the abolition of the function of Parliament to appoint and dismiss judges; the introduction of such a composition of the HCJ, where the majority would constitute the judges elected by judges; restricting the judicial immunity to the functional; narrowing the functions of the public prosecutor's office and so forth. In order to clean the judicial manpower, it is assumed that all judges shall pass evaluation, according to results of which they can be dismissed. In the event of liquidation or reorganization of the court a judge can apply for retirement or participate in a competitive selection. At the same time the Draft Law retained some negative provisions: political mechanism for the appointment of the Prosecutor General, the introduction of the Bar monopoly for court representation (except for labor, social and other "minor" cases). On 2 February 2016 the Draft Law was previously approved by the Parliament. However, the main decisions are likely to be delayed until the final adoption and the approval of the implementing legislation.

125. Regarding the Committee's recommendations on the need to ensure the compliance of the criminal proceedings with the requirements of the Covenant (concerning the prosecution of some politicians accused during the presidency of Yanukovych of abuse of authority and official powers), it should be noted that the judgments on the conviction of former officials were taken based on the Criminal Procedure Code of 1960. Later, in 2012 the new CPC was adopted. It which was recognized by the Council of Europe to fully comply with the European standards in terms of fairness of proceedings. In addition, proceedings similar to Tymoshenko's case provided that they should be considered by the regulatory panel of 3 judges occupying positions of judges for at least 5 years (para. 1 of part 9 of Article 31 of the CPC of Ukraine).

126. At the same time, the case of Y. Tymoshenko and Y. Lutsenko became examples of selective, politically motivated prosecution. This problem is still relevant for the criminal justice system of Ukraine due to unreformed prosecuting authorities and judiciary.

127. Adoption on 12 February 2015 of the new "Law of Ukraine On the Judicial System and Status of Judges" did not solve the problem of dependence of courts on political power. The new Law of Ukraine "On Prosecution", approved on 14 October 2014, has not entered into full force and effect yet, resulting in the lack of a complete reform of the prosecuting authorities.

128. The problem of politically-motivated conviction of opposition leaders was resolved as follows: Yurii Lutsenko was pardoned by the Decree of the President of Ukraine of 7 April 2013, and Yuliia Tymoshenko – released from prison based on the Resolution of the Verkhovna Rada of Ukraine "On the implementation of international obligations of Ukraine on release of Tymoshenko Y." of 22 February 2014. (immediately after the end of the Revolution of Dignity)

77 Draft Law "On Amending the Constitution of Ukraine (as to justice)" No. 3524 of 25 November 2015 // http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=57209.

Implementation of para. 19
of the Concluding Observations[78]

IRF
Institute for
Religious Freedom

General description

1. In Ukraine citizens of all faiths have the opportunities to exercise the freedom of religion to the sufficient extent. National legislation provided for creation of favorable conditions for the development of activities and the annual growth in the number of religious organizations in all regions of Ukraine[79]. Exceptions to the national context are only those territories of Ukraine, which subjected to aggression on the part of the Russian Federation and became a place for hostilities with the involvement of the Russian troops and weapons – the Autonomous Republic of Crimea and a part of Donetsk and Luhansk regions. In the said territories, in addition to the freedom of thought, conscience and religion, other fundamental human rights and freedoms, generally accepted in the democratic world, have actually ceased to be provided.

2. Since February 2014 and until now the events associated with the occupation and annexation by the Russian Federation of Ukrainian peninsula of Crimea, have led to religiously motivated persecution of the clergymen, the individual believers and the entire religious communities in the peninsula. Everyone who was considered by the occupation authorities as a threat to the implementation of the plan to occupy the peninsula due to own pro-Ukrainian position or the respective position of the faith was subjected to oppression. Clergymen and people of Crimea belonging to the Ukrainian Orthodox Church of Kiev Patriarchate, the Ukrainian Greek Catholic Church, the Salvation Army and some Protestant churches, as well as representatives of the Crimean Tatars, being mostly Muslims, faced threats, beatings and even torture on the part of pro-Russian structures. Introduction of the Russian legislation in the territory of Crimea deepened the infringement of freedom of religion, further complemented with unlawful illegal searches, imposing fines, seizure of equipment and religious literature, taking place based on accusations of extremism or terrorism. In addition, nearly all religious organizations of Crimea faced problems of re-registration in accordance with the requirements of the Russian legislation, which, among other things, provided for the mandatory obtainment of the Russian citizenship by the founders[80].

78 Report prepared by Maksym Vasin, executive director of the Institute for Religious Freedom

79 The number of religious organizations in Ukraine at the beginning of 2015 increased by 328 and amounted to 35317, including 989 religious communities without the status of a legal entity: http://www.irs.in.ua/index.php?option=com_content&view=article&id=1594:1&catid=34:ua&Itemid=61

80 Report of the OSCE Human Rights Assessment Mission on Crimea (freedom of religion) http://www.irf.in.ua/eng/index.php?option=com_content&view=article&id=439:1&catid=34:ua&Itemid=61

3. Continuation of Russian aggression against Ukraine through political, military and information support of separatists in certain territories of Donetsk and Luhansk regions in the east of Ukraine was accompanied by the active use of the religious factor. "Russian world" Moscow orthodox doctrine became an artificial ideological basis for the mobilization of pro-Russian forces, radicalization and further stirring of conflict. As a result, since March 2014, religious persecution in the towns in the east of Ukraine controlled by pro-Russian forces has reached disastrous scale and forms – threats, beatings, torture and killings of religious leaders and the faithful, the seizure of religious and other structures.

4. In the zone of Russian military aggression in the east of Ukraine almost all Christian communities and religious leaders found themselves under the threat to their lives and health, with the exception of the Ukrainian Orthodox Church (of Moscow Patriarchate) and some others. As on February 2016, about 20 captured temples, houses of worship, religious schools and rehabilitation centers in the separate districts of Donetsk and Luhansk regions remained under control of pro-Russian forces. Religious organizations as the owners have been reprived of access to the said houses of worship, which are now used not according to the designated use, and in some cases have been illegally redeveloped by militants for military purposes[81].

Existing problematic issues

5. The practice of violating the rights of citizens to substitute the military duty with alternative (non-military) service based on religious beliefs, enshrined in Article 35 of the Constitution of Ukraine, is of particular concern. During the period of 2014-2015, due to the Russian aggression, mobilization of civilians into military service in Ukraine continued. However, there were facts of mobilization to the army not only of operating clergymen, but even of those religious citizens, who previously had held an alternative service instead of compulsory and had already proved the authorized state bodies the existence of their religious beliefs which did not allow for defending the sovereignty of the state by force of arms[82].

6. Significant restrictions of the constitutional right of citizens to alternative (non-military) service is manifested as follows[83]:

   a) The said right is provided for only in respect of compulsory military service and is not regulated under the conditions of mobilization to military service being held in Ukraine since March 2014 without proclamation of martial law;

   b) The right to alternative service is specified in Article 35 of the Constitution of Ukraine only for religious reasons, restricting this right for those who have non-religious beliefs, based on conscientious objections;

   c) Ukrainian legislation does not provide for the possibility of switching to an alternative (non-military) service for those soldiers who acquire their religious beliefs during compulsory military service or after mobilization to military units;

81 Human rights activists have collected evidence of religious persecution in the east of Ukraine and publicized them in the report, "When God Becomes a Weapon", April 2015: http://www.irf.in.ua/eng/index.php?option=com_content&view=article&id=431:1&catid=36:com&Itemid=55

82 Maksym Vasin. Alternative (Non-Military) Service: a way of reforms or sentences? http://www.irs.in.ua/index.php?option=com_content&view=article&id=1596%3A1&catid=37%3Aart&Itemid=64

83 Commission for Religious Affairs of the Public Council under the Ministry of Culture of Ukraine prepared a list of challenges in the field of ensuring the constitutional right to alternative (non-military) service: http://mincult.kmu.gov.ua/control/uk/publish/article?art_id=245008945&cat_id=244940177

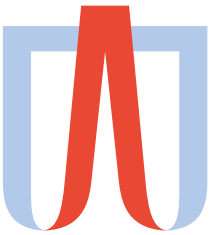
d) Article 5 of the Law of Ukraine "On the Armed Forces of Ukraine" stipulates that "certain positions in the Armed Forces of Ukraine can be occupied by citizens doing alternative (non-military) service", which is contrary to the essence of alternative service as non-military, that is, civil service, which shall take place outside of any military units.

135. Over the past two years the Government of Ukraine has not taken appropriate measures for urgent development and adoption of legislative changes in line with international standards that would ensure adequate legislative regulation of alternative (non-military) service during mobilization.

136. Organizations of faith and religion still face obstacles in the exercise of the right to peaceful assembly guaranteed by Article 39 of the Constitution of Ukraine. Provisions of paragraph 5 of Article 21 of the Law of Ukraine "On Freedom of Conscience and Religious Organizations" restrict this right with the requirement to obtain permits from local authorities, and in addition, in 10 days before the desired date of peaceful assembly. This provision, despite its direct contradiction to the Constitution of Ukraine, led to systemic violations of human rights in this field over the past 20 years.

137. Legislative procedures for the acquisition of the status of a legal entity by religious organizations, making amendments to the registered charters, termination of a legal entity remain unclear, there are legal conflicts, and some respects are not regulated at all. The Law of Ukraine "On Freedom of Conscience and Religious Organizations" and rules of related legislative acts require mutual agreement and improvement for greater clarity, the unambiguity in interpretation and in practical application.

Implementation of para. 21
of the Concluding Observations[84]



УКРАЇНСЬКА ГЕЛЬСІНСЬКА
СПІЛКА З ПРАВ ЛЮДИНИ

"The State party should ensure that individuals fully enjoy their right to freedom of assembly. The State party should adopt a law regulating the freedom of assembly, imposing only restrictions that are in compliance with the strict requirements of article 21 of the Covenant".

138. Given the problem of legal uncertainty of holding peaceful assemblies, Plenum of the Supreme Administrative Court of Ukraine on 22 May 2015 approved the decision to appeal to the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine on the need for legal regulation of relations on the exercise of right to peaceful assembly.[85]

139. On 7 December 2015 group of members of Parliament of Ukraine (H. Nemyria and others) registered a Draft Law No. 3587 On guarantees of freedom of assembly[86] which in fact is the amended version of previous Law registered in Parliament of Ukraine of 7th conviction as No. 2508a which also considers this issue[87]. This Draft law was sharply criticised by civil society[88] and independent trade unions[89]. Meanwhile, on 11 December 2015 another group of members of Parliament (I. Lutsenko and others) registered an alternative Draft Law No. 3587-1[90] where control of right to freedom of assembly is performed mole liberally and less exacerbating. Both Draft Laws are currently processed by relevant Parliamentary Committee.

140. Earlier, on 17 March 2015 Draft Law #2391 On amending Code of Ukraine on Administrative Offences (CAO) to prevent unjustified prosecution of citizens for their participation in peaceful assemblies[91]. Draft Law stipulates the change of disposition of Article 185-1 of CAO (violation of the order of organizing and holding assemblies, meetings, marches and demonstrations) by establishing an administrative responsibility for organisation or holding of assembly despite court order as well as removal of Article 185-2 of CAO (creation of conditions for the organization and holding of the established order of

84 Based on materials of Mykhailo Kameniev "Freedom of Assembly", prepared for the annual report "Human Rights in Ukraine – 2015" under editorship of A. Blaha.
85 http://www.vasu.gov.ua/123430, http://www.vasu.gov.ua/plenum/post_plenum/postanova_plenumu_vasu_5_22-05-2015
86 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=57310
87 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=47751
88 http://obozrevatel.com/blogs/92357-pyat-nebezpek-uhvalennya-spetszakonu-pro-protesti-v-ukraini.htm
89 http://kvpu.org.ua/uk/news/6/944-prozahrozyzakonoproektuproharantiisvobodymyrnykhzibran
90 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=57396
91 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=54424

assemblies, meetings, marches and demonstrations with violation) that is almost never used in practice. However this Draft Law is still worked on by MPs.

141. At the same time on 09 February 2015 Draft Law No. 2073 On restricting of freedom of assembly in the territory of ATO[92]. Draft Law envisaged right of Local State Administrations to prohibit peaceful assemblies in the territory of ATO by reasoning that peaceful assemblies in ATO zone may become a target for attack. Parliamentary Committee rejected this Draft Law after continuous criticising of this Draft Law by human rights activists.[93]

142. During several years in at least of 33 cities of Ukraine acts of local self-government which establish the order of organization and holding of meetings, defining the term of notification and introducing new restrictions which contradict Article 39 of Constitution of Ukraine and decisions of courts are implemented because of absence of specialised law.[94] Appeal of actions of local government is complicated by the fact that High Administrative Court of Ukraine continues to ignore decision of European Court of Human Rights (ECtHR) and consider the Decree of the Presidium of the Supreme Soviet of the USSR as of 28 July 1988 #9306-XI On procedure of organizing and holding of assemblies, meetings, marches and demonstrations in the USSR as valid on the territory of Ukraine during consideration of controversial issues[95].

143. Due to the armed conflict, the existence of a large number of paramilitary groups and a significant number of illegal weapons there is a general trend towards increasing the level of violence at peaceful assemblies in Ukraine, the radicalization of the ideas confrontation and the lack of the necessary measures on the part of law enforcement agencies. There is no legal regulation of the activities of the police on ensuring the right to freedom of assembly, which constitutes a potential threat in view of the fact that neither police officers, nor their leaders are familiar with practices of the ECtHR and the OSCE on this issue.

144. There is no reliable official statistics on the number of peaceful assemblies held in Ukraine. Official data of the State Statistics Service of Ukraine on the number of peaceful assemblies held by public associations are wide open to criticism, so as such data are formed based on reports submitted to the statistical offices by public associations. The Ministry of Internal Affairs of Ukraine and the National Police of Ukraine do not maintain statistics of peaceful assemblies.

92 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?id=&pf3516=2073&skl=9
93 http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=53949&pf35401=340588
94 http://www.ucipr.org.ua/publications/ofis-upovnovazhenogo-z-prav-liudini-ukraiini-potriben-zakon-shchodo-zakhistu-prava-na-mirnii-protest
95 http://reyestr.court.gov.ua/Review/53646163

145. Recommendations provided by the experts of non–governmental organizations:

Evaluation methodology

Rank of recommended actions[96]

1. **Minimal action –** "to study experience/best practices of other countries", "to apply for technical assistance", "to find the necessary resources", "to apply for information support"
2. **Continuing action –** "to continue working", "to ensure continuous performance", "to require constant updating"
3. **Considering action –** "to consider legislative reform", "to analyse the possible consequences", "to conduct the examination the Draft Law", "to study possible prospects"
4. **General action –** "to strengthen protection of rights", "to ensure compliance with the principles of", "to take measures for the development", "to support the initiative in regard to"
5. **Specific action –** "to establish an independent investigation body", "to amend the the Law of Ukraine "On the Public Prosecutor's Office", "to recognize the jurisdiction of the ICC"

Evaluation[97]

- **urgent:** requires urgent implementation
- **important:** requires taking action in the shortest possible time
- **constant need:** consistency of implementation shall be ensured
- **conditional:** may/shall be done after the implementation of other measures of higher priority; allow for implementation of the recommendation, etc.
- **irrelevant:** irrelevant, implemented in ful

No.	Content of recommendation	Rank (1-5)	Evaluation
	In the field of access to fair justice		
145.1.	To ensure the inclusion of topics related to the study of the provisions of the International Covenant on Civil and Political Rights in training programs for judges and court staff, as well as for law enforcement officers	**1**	constant need
145.2.	To ensure implementation of decisions of the UN bodies, including through creation of regulatory mechanisms for the review of judgments of national courts in connection with the adoption of the decision of the UN Human Rights Committee which established violation of the Covenant by Ukraine	**5**	urgent
145.3.	To ensure the independence of the judiciary from political power and to create an effective mechanism to prevent pressure on the court through the introduction of guarantees for judges who have reported cases of pressure and bringing to justice those who commit pressure	**5**	urgent

96 Edward R. McMahon, University of Vermont (US) with the support of UPR Info:
UPR Info's Database of recommendations and VP. Comprehensive help guide,
http://www.upr-info.org/database/files/Database_Help_Guide.pdf; http://www.upr-info.org/database/files/Database_Action_Category.pdf

97 Kolyshko Svitlana, UNDP in Ukraine

No.	Content of recommendation	Rank (1-5)	Evaluation
145.4.	To establish a single independent body to address issues of career and discipline of judges, which simultaneously could be the body of judicial self-government including the majority of judges elected by the judges themselves	5	conditional (prior to the implementation it is required to significantly renew the judicial manpower)
145.5.	To establish a transparent and fair competition for the positions of judges in the newly established (reorganized) courts, in which both serving judges and other experts in the field of law will be able to take part. Integrity, reputation, professional achievements should be the key criteria for the selection of new judges	5	urgent
145.6.	Through making amendments to the legislation to provide for clear wording of grounds for dismissal of a judge from the office	5	urgent
145.7.	To determine the case assignment rules at level of the law, not a by-law	5	urgent
145.8.	To amend the legislation providing for the possibility of reducing the term of imprisonment as compensation for establishing violations of the Covenant	5	important
	In the field of combating discrimination and racism		
145.9.	The state shall strengthen informational and educational work to combat xenophobia and discrimination, in particular, to develop and implement additional programs for monitoring and control over the dissemination of hate speech in the media and official sources of mass information, having studied to this end the experience and best practices of other countries, having found the resources to implement such programs.	4	constant need
145.10.	To improve the procedure of anti-discriminatory examination of laws and regulations by executive bodies (approved by Resolution of the Cabinet of Ministers of Ukraine No. 61)	5	urgent
145.11.	To amend the Criminal Code of Ukraine in order to ensure punishment for offences committed on the grounds of homophobia, namely to Article 67, para. 2 of Article 115, para. 14 of Article 121, para. 2 of Article 122, para. 2 of Article 126, para. 2 of Article 127, para. 2 of Article 129 of Article 293.	5	urgent
145.12.	To spread labor guarantees provided for women with minor children or a disabled child, to men (part 3 of Article 33, part 4 of Article 51, part 1 of Article 56, part 1 of Article 1821, part 1, 3 of Article 184 of the Labor Code of Ukraine)	5	constant need
145.13.	To revise internal regulations of penitentiary facilities in order to provide reasonable placement for representatives of religious communities, which require such placement	5	constant need
145.14.	To revise the terms of gender reassignment in accordance with the Procedure for examination of persons requiring a change (correction) of sex approved by Order of the Ministry of Healthcare of Ukraine No. 60. In particular, para. 2.2. of the Procedure to replace with a less invasive method.	5	urgent
145.15.	To add attributes "sexual orientation" and "gender identity" to the list of characteristics explicitly cited in Article 1 of the Law of Ukraine "On the Principles of Preventing and Combating Discrimination in Ukraine"	5	urgent
145.16.	To develop an algorithm for data collection on hate crimes, add it to the Instructions for the Unified Crime Reporting	3	constant need
145.17.	To elaborate provisions on cooperation between the National Police and public prosecution office in cases of hate crimes	3	constant need
145.18.	To remove part 4 of Article 21 of the Law of Ukraine "On Freedom of Conscience and Religious Organizations", which specifies authorization procedure for peaceful assemblies and leads to discrimination	5	constant need
145.19.	To ensure the implementation of measures under the National Human Rights Strategy and Action Plan thereto, including at the account of the allocation of budget funds for the implementation of measures	4	urgent

No.	Content of recommendation	Rank (1-5)	Evaluation
	In the field of ensuring gender equality and combating human trafficking		
145.20.	To arrange at the local level the structure on the implementation of the state policy on gender equality, combating human trafficking and preventing domestic violence	**4**	constant need
145.21.	To exercise on a regular basis advanced training of civil servants and local government officials (including heads of higher levels) on gender equality and gender budgeting issues	**4**	constant need
145.22.	To draw up and approve the State Program on Ensuring Equal Rights and Opportunities for Men and Women for the next period	**3**	urgent
145.23.	To approve the National Social Program on Combating Trafficking in Human Beings for the period until 2020	**2**	constant need
145.24.	To resume activities of the Inter-Agency Council on Family, Gender Equality, Demographic Development, Prevention of Domestic Violence and Combating Human Trafficking	**4**	urgent
145.25.	To introduce a mechanism for finding out the safety of returning the person affected to the country of origin	**4**	important
145.26.	To amend the legislation to bring a legal entity to criminal responsibility for committing human trafficking (deprivation of the legal entity of a license for carrying out of activities specified in it)	**5**	important
145.27.	To ensure activities in all regions of Ukraine of specialized agencies that provide assistance to victims of human trafficking; to improve access to such institutions for victims of human trafficking	**4**	urgent
145.28.	To enhance the level of proficiency of police officers, prosecutors, lawyers and judges on the features of the criminal proceedings against human trafficking and the level of proficiency of the social workers and educators on issues related to combating trafficking in human beings, which will improve the situation with the identification of victims	**4**	constant need
145.29.	To conduct information campaigns among the population (with a special focus on the internally displaced persons) on possible risks to get into a situation of human trafficking, opportunities to obtain status and assistance for victims of trafficking	**2**	constant need
145.30.	To carry out training for representatives of state agencies and international monitoring missions on the issues of identification of victims of human trafficking among the internally displaced persons	**2**	constant need
	In the field prevention of discrimination against Roma		
145.31.	The state shall ensure the proper level of impartial investigation and response to actions of ethnic profiling nature and discriminatory behavior towards the Roma population on the part of representatives of the state bodies, in particular, law enforcement agencies.	**4**	constant need
145.32.	The government shall implement additional measures aimed at improving the access of Roma to obtain identity documents, based on the recommendations of the OSCE, ODIHR "Contact Point for Roma and Sinti", in particular through the establishment of appropriate coordination mechanisms, initiation of the collection of the necessary information, assessment of needs and conduct of analysis, proposing and implementation of measures to reform the legislation and law enforcement practice, awareness-raising campaigns, advocacy and training activities and capacity-building campaigns, provision of representatives of the Roma community with legal assistance in obtaining identity documents and certificates of registration of acts of civil status.	**5**	important
145.33.	Government programs for vulnerable groups shall identify the needs of individuals – victims of multiple discrimination to which Roma are referred, including specific actions based on the principles of non-discrimination and taking into account the specifics of needs, in particular through conducting explanatory work among the employees of the relevant public bodies.	**3**	important

No.	Content of recommendation	Rank (1-5)	Evaluation
145.34.	The state shall strengthen institutional mechanisms for implementing the ethno-national policy, ensuring the appropriate level of implementation of commitments in regard to national minorities, including the Roma national minority, through the establishment of a separate state institution, subordinate of the Cabinet of Ministers of Ukraine, capable of dealing with a wider range of problems of national minorities: combating discrimination, access to education, health sector, development of regulatory policies in other areas.	4	constant need
145.35.	For effective implementation of the state policy on Roma integration, including the proper functioning of the IAWG under the CMU it is recommended to study best practices of similar bodies in other countries and to develop an effective mechanism for their implementation, including by providing funding in the state budget and attracting resources of technical assistance and international organizations for this purpose.	1	important
	In the field of prevention of torture and ill–treatment		
145.36.	To amend Article 127 of the Criminal Code Ukraine, providing for more severe penalties in cases of application of torture and/or ill-treatment by law enforcement officials.	5	important
145.37.	To accelerate process of establishment of the State Bureau of Investigation	2	urgent
145.38.	To create a unified national register of detained persons, which would contain actual data on a detained person, including movements, the exact date, time and place of detention from the date of deprivation of liberty, and not from the date of drawing up a protocol of detention.	5	urgent
145.39.	To amend the Criminal Procedure Code to provide for mandatory video recording of interrogations.	5	urgent
145.40.	To take measures to conduct a full, prompt, impartial, thorough and effective investigation into allegations of cases of torture and/or ill-treatment by law enforcement officers, including events during the "Revolution of Dignity".	4	urgent
145.41.	To take measures to enhance the legal awareness of law enforcement officers, including standards of international law.	4	important
145.42.	To amend the Criminal Procedure Code to provide for mandatory video recording of interrogations	5	urgent
145.43.	To allocate additional financial and human resources to ensure compete and effective functioning of the NPM and the institute of regional representatives of the Ombudsman.	1	important
145.44.	To ensure availability of means of video recording in places of deprivation of liberty for the purpose of discouraging any torture and ill-treatment.	1	urgent
145.45.	To ensure access for apprehended persons and prisoners to adequate medical care.	4	urgent
145.46.	To take measures to improve conditions of detention of apprehended persons and prisoners.	4	urgent
145.47.	To implement an effective mechanism for consideration of prisoners' complaints on the use of torture and/or ill-treatment.	4	urgent
145.48.	To amend the legislation so that the use of technical means for video registration was bound in cases of application of force to prisoners, as well as special means and searches, having ensured the procurement of the required technical equipment.	5	important
145.49.	To amend the legislation providing for the flexibility in taking decisions on the exemption from punishment due to illness and to create the possibility of release from custody due to for health reasons incompatible with detention conditions in prison.	5	important

No.	Content of recommendation	Rank (1-5)	Evaluation
145.50.	To ensure adequate funding for the prison medical service with simultaneous subordination the Ministry of Healthcare in order to increase its independence when dealing with cases of torture and ill-treatment of prisoners.	**3**	important
	In the field of the protection of religious beliefs		
145.51.	To make amendments to the Laws of Ukraine "On Alternative (Non-Military) Service", "On Mobilization Preparation and Mobilization", "On the Armed Forces of Ukraine", which shall provide for: 1. the procedure for replacing the conscription with alternative (non-military) service in the course of mobilization and directly during the performance of active duty; 2. confirmation of the genuineness of religious beliefs of persons liable for call-up from unregistered religious organizations not only by documents, but also the testimony and other evidence; 3. alternative (non-military) service exclusively outside of any military groups that shall guarantee its civilian nature.	**5**	urgent
145.52.	To revise the list of religious organizations whose doctrine does not allow for the use of weapons, approved by the Resolution of the Cabinet of Ministers of Ukraine of 10 November 1999 No. 2066, with a view to its expansion in accordance with the new realities of the religious situation in Ukraine.	**5**	urgent
145.53.	To make amendments to Article 23 of the Law of Ukraine "On Mobilization Preparation and Mobilization" to shall exempt the clergymen of religious organizations acting under the laws of Ukraine from mobilization to military service.	**5**	urgent
	In the field of ensuring the right to peaceful assembly		
145.54.	To enshrine within the legal framework the guarantees and mechanisms of compliance with the right to peaceful assembly, including judicial practice, departmental documents and practical training for government officials.	**5**	urgent
145.55.	To assess the legitimacy of the application of the Decree of the Presidium of the Supreme Soviet of the USSR of 1988, the local provisions establishing the order of organization and conduct of peaceful assemblies, automatic judicial restraints to indefinite number of persons, an administrative penalty under Article 1851 of the Code of Administrative Offences of Ukraine.	**3**	important
145.56.	To develop and approve by a regulation the action plans for police and other law enforcement agencies to ensure public order during peaceful assemblies and mass events, taking into account relevant decisions of the European Court of Human Rights and the Guidelines on Freedom of Peaceful Assembly of the OSCE/ODIHR.	**5**	important
145.57.	To resume the differentiated state statistics on the number of peaceful assembly and their participants, statistics on the application of force by law enforcement officers in respect of the participants of assemblies and the number of persons detained during the meetings. To develop an effective unified methodology for collecting such information and its generalization.	**5**	important
	In the field of support of the institutional capacity of the state		
145.58.	To continue efforts in strengthening the powers of the Ombudsman at the legislative level and providing the Secretariat of the Commissioner for Human Rights with additional financial resources for the exercise of its current powers and the establishment of regional offices of the Secretariat of the Commissioner for Human Rights.	**2**	important
145.59.	To establish a system of regular external prison inspections (Inspectorate of Prisons) in the framework of the National Preventive Mechanism in order to reflect the abolition of the "prison supervision" function of the public prosecutor's office.	**5**	conditional

146. Evaluation of the progress of implementation of the recommendations provided by the UN Committee on Human Rights

Evaluation methodology

Evaluation of the implementation of the recommendations provided by the UN Committee on Human Rights[98]

- **Implemented –** full implementation;
- **Satisfactory –** implementation of the recommendation in progress;
- **Partially Satisfactory –** measures are taken, but they are not sufficient, the recommendation has just started to be implemented and requires time for further implementation;
- **Not Satisfactory –** measures are taken, but they do not contribute to the recommendations, adopted measures not related recommendations;
- **Not Implemented –** not implemented at all.

No.	Content of the Committee's recommendations	Evaluation of the implementation
5	The State party should take measures to ensure that judges and law enforcement officers receive adequate training to enable them to apply and interpret domestic law in the light of the Covenant and disseminate knowledge of the provisions of the Covenant among lawyers and the general public to enable them to invoke its provisions before the courts. The State party should include in its next periodic report detailed examples of the application of the Covenant by domestic courts and access to remedies provided for in the legislation by individuals claiming a violation of the rights contained in the Covenant.	Not Satisfactory
6	The State party should reconsider its position in relation to Views adopted by the Committee under the First Optional Protocol. It should take all necessary measures to establish mechanisms and appropriate procedures, including the possibility of reopening cases, reducing prison sentences and granting ex gratia compensation, to give full effect to the Committee's Views so as to guarantee an effective remedy when there has been a violation of the Covenant, in accordance with article 2, paragraph 3, of the Covenant.	Not Satisfactory
7	The State party should provide the Office of the Commissioner for Human Rights with additional financial and human resources commensurate with its expanded role, to ensure fulfillment of its current mandated activities and to enable it to carry out its new functions effectively. It should also establish regional offices of the Secretariat of the Commissioner for Human Rights, as planned.	Partially Satisfactory
8	The State party should further improve its anti-discrimination legislation to ensure adequate protection against discrimination in line with the Covenant and other international human rights standards. The State party should explicitly list sexual orientation and gender identity among the prohibited grounds for discrimination and provide victims of discrimination with effective and appropriate remedies, taking due account of the Committee's general comment No. 31 (CCPR/C/21/Rev.1/Add. 13, para. 16) On the Nature of the General Legal Obligation Imposed on States Parties to the Covenant. It should also ensure that those responsible for discrimination bear administrative, civil and criminal responsibility in appropriate cases.	Not Satisfactory

98 Interim Stakeholders' report within Universal Periodic Review (UPR) Mechanism. (Third cycle — Mid-term) 2015 / Scientific publication. Under general editorship of S. Kolyshko, O. Martynenko, A. Bushchenko / the Ukrainian Helsinki Human Rights Union. – Kyiv, 2015. — 110 p.,
http://www.upr-info.org/sites/default/files/document/ukraine/session_14_-_october_2012/upr_coalition_ukraine_mid-term_2015_ukr.pdf

9	The State party should intensify its efforts to achieve equitable representation of women in Parliament and at the highest levels of the Government within specific time frames, including through temporary special measures, to give effect to the provisions of the Covenant. It should adopt a State program for equal rights and opportunities of women and men and other measures aimed at ensuring gender equality, and effectively implement them.	Not Satisfactory
10	While acknowledging the diversity of morality and cultures internationally, the Committee recalls that all States parties are always subject to the principles of universality of human rights and non-discrimination. The State party should therefore state clearly and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or transexuality, hate speech or discrimination or violence against persons because of their sexual orientation or gender identity. The State party should provide effective protection to LGBT persons and ensure the investigation, prosecution and punishment of any act of violence motivated by the victim's sexual orientation or gender identity. It should also take all necessary measures to guarantee the exercise in practice of the rights to freedom of expression and assembly of LGBT persons and defenders of their rights. The State party should also amend order No. 60 and other laws and regulations with a view to ensure that: (1) the compulsory confinement of persons requiring a change (correction) of sex in a psychiatric institution for up to 45 days is replaced by a less invasive measure; (2) any medical treatment should be provided in the best interests of the individual with his/her consent, should be limited to those medical procedures that are strictly necessary, and should be adapted to his/her own wishes, specific medical needs and situation; (3) any abusive or disproportionate requirements for legal recognition of a gender reassignment are repealed. The Committee finally urges the State party not to permit the two draft bills "on propaganda of homosexuality" to become laws.	Partially Satisfactory
11.	The State party should strengthen its efforts to combat hate speech and racist attacks, by, inter alia, instituting awareness-raising campaigns aimed at promoting respect for human rights and tolerance for diversity. The State party should also intensify its efforts to ensure that alleged hate crimes are thoroughly investigated, that perpetrators are prosecuted under article 161 of the Criminal Code and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated.	
12	The State party should increase its efforts to combat discrimination against Roma. It should create the necessary conditions for their social integration and equal access to social services, health care, employment, education and housing. The State party should remove any obstacles, including administrative, to ensure that all Roma are provided with personal documents, including birth certificates, which are necessary for them to have access to their basic rights. It should allocate sufficient resources for the effective implementation of the Strategy on protection and integration of Roma.	
13	The State party should take immediate and effective steps to ensure that cases of death in custody are promptly investigated by an independent and impartial body, that sentencing practices and disciplinary sanctions against those found responsible are not overly lenient, and that appropriate compensation is provided to families of victims.	Not Satisfactory
15	The State party should reinforce its measures to eradicate torture and ill-treatment, ensure that such acts are promptly, thoroughly, and independently investigated, that perpetrators of acts of torture and ill-treatment are prosecuted in a manner commensurate with the gravity of their acts, and that victims are provided with effective remedies, including appropriate compensation. As a matter of priority, the State party should establish a genuinely independent complaints mechanism to deal with cases of alleged torture or ill-treatment. It should also amend its Criminal Procedure Code to provide for mandatory video recording of interrogations, and pursue its efforts towards equipping places of deprivation of liberty with video recording devices with a view to discouraging any use of torture or ill-treatment.	Not Satisfactory
16	The State party should continue its efforts to prevent and eradicate trafficking in persons, including by effectively implementing the existing relevant legal and policy frameworks and by cooperating with neighboring countries. It should ensure that allegations of trafficking in persons are thoroughly investigated, that those responsible are brought to justice, and that victims receive adequate medical care, free social and legal assistance and reparation, including rehabilitation. The State party should also ensure that legal alternatives are available to victims that may face hardship and retribution upon removal.	Partially Satisfactory

No.	Content of the Committee's recommendations	Evaluation of the implementation
17	The State party should ensure that judges are not subjected to any form of political influence in their decision-making and that the process of judicial administration is transparent. The State party should adopt a law providing for clear procedures and objective criteria for the promotion, suspension and dismissal of judges. It should ensure that prosecuting authorities are not involved in deciding on disciplinary actions against judges and that judicial disciplinary bodies are neither controlled by the executive branch nor affected by any political influence. The State party should ensure that prosecutions under article 365 of the Criminal Code fully comply with the requirements of the Covenant.	Satisfactory
19.	The Committee reiterates its previous recommendation (CCPR/C/UKR/CO/6, para. 12) and stresses that alternative service arrangements should be accessible to all conscientious objectors without discrimination as to the nature of the beliefs (religious or non-religious beliefs grounded in conscience) justifying the objection, and should neither be punitive nor discriminatory in nature or duration by comparison with military service.	Not Satisfactory
21	The State party should ensure that individuals fully enjoy their right to freedom of assembly. The State party should adopt a law regulating the freedom of assembly, imposing only restrictions that are in compliance with the strict requirements of article 21 of the Covenant.	Not Implemented