



REPORT

INTERIM STAKEHOLDERS' REPORT
WITHIN UNIVERSAL
PERIODIC REVIEW (UPR) MECHANISM

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Prepared by:
The coalition of ukrainian human rights organizations
on preparation to the UPR
(UPR-Coalition)

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UPR-Coalition:



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Svitlana Kolyshko, Oleg Martynenko, Arkadiy Bushchenko

Prepared by:

the Coalition of Ukrainian Human rights organizations on preparation to the UPR
("UPR-Coalition")

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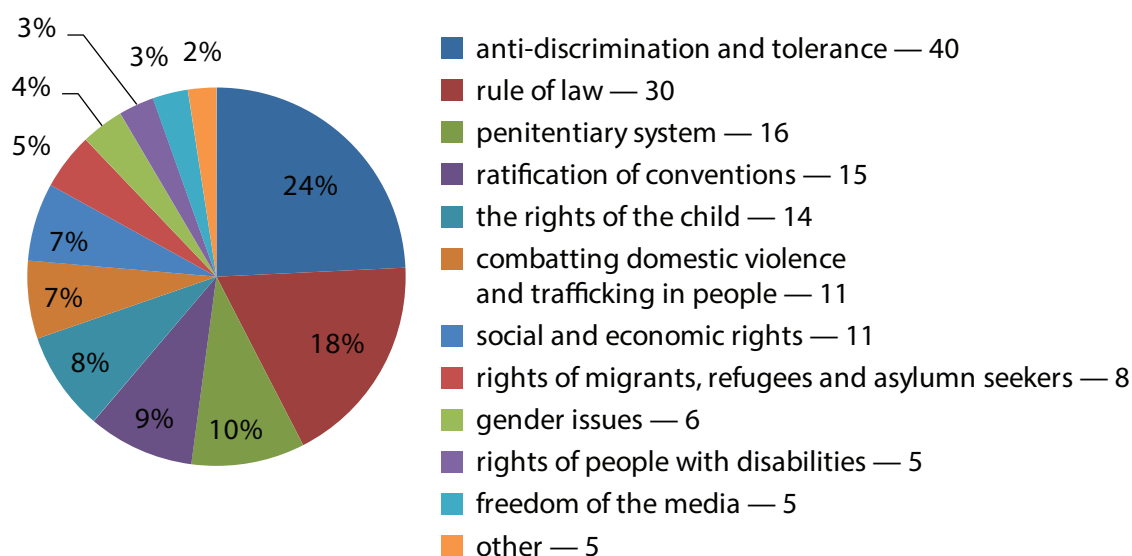
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METHODOLOGY

1. In October 2012 the National Report of Ukraine in the framework of the Universal Periodic Review (UPR) was considered at the 14th session of the UPR Working Group of the UN Human Rights Council (HRC). At the same time the alternative report by the Coalition of 39 human rights organizations coordinated by the Ukrainian Helsinki Human Rights Union was submitted to HRC.
2. As a result of the review, Ukraine received 145 recommendations from 47 UN member states on problematic issues that needed to be addressed. Most recommendations to Ukraine concerned such areas as combating discrimination and ensuring tolerance (40 recommendations), prevention of torture (16), promotion of the rule of law (21), implementation of international conventions (15), advocating and promoting rights of the child (11) and persons with disabilities (5)¹.

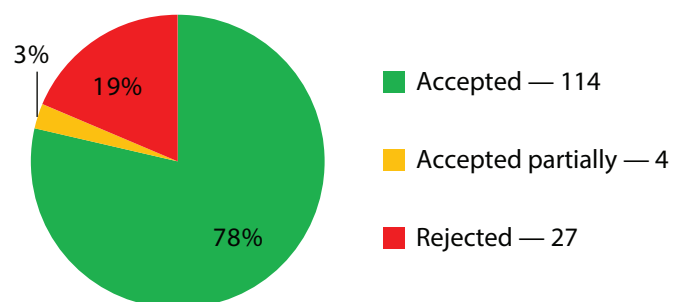
Diagram 1. Thematic Recommendation



3. According to consideration results out of a total of 145 recommendations Ukraine fully accepted 115 recommendations, partially accepted 3 recommendations. After careful consideration 27 recommendations were rejected, for which the Government provided its written explanations of 14 March 2013 at the 22nd regular session of the HRC.
4. The UPR CSO Coalition has continued its activity and in mid-2015 prepared an Interim Shadow report within the third UPR review cycle. Over 80 NGO took part in report preparation assessing not only the implementation status of UPR recommendations (see Appendix), but also focused on new human rights challenges emanating from the illegal annexation of Crimea and armed conflict in Donbass.

¹ A number of the recommendations include measures on various issues or spheres other recommendations related to the same question, thereby the number of the recommendations and the number of measures do not match.

Diagram 2. Recommendations — 145



5. The report is prepared as the result of assessment of the activities of the public authorities, analysis of legislation, some expert studies; annual reviews “Human Rights in Ukraine”, etc.

I. INTRODUCTION

General Evaluation of Ukraine's compliance with international human rights obligations and commitments, 2013–2015²

The report is prepared:



*Kharkiv Human Rights
Protection
Group*

Kharkiv Human Rights Group
61002, Kharkiv,
Tel./fax +38 (057) 700 67 71,
<http://www.khpg.org/>
Contact person
Eugene Zakharov
e-mail: zakharove@gmail.com

Centre for the Study of Law Enforcement
01033 Kyiv, Baseina Str., 9g, Of. 25
Tel.: +038 (067) 397 30 07
FB: [clear.org.ua](https://www.facebook.com/clear.org.ua)
Contact Person
Oleg Martynenko
e-mail: olegmartynenko1965@gmail.com



Revolution of dignity

6. In 2013 attention of the State politicum and society was focused on the preparation of the signing the *Association Agreement between Ukraine and European Union*, scheduled at the Vilnius Summit on November 28–29, 2013. There was prepared and approved a number of so-called European integration laws: amendments to the law on personal data protection, combating corruption, in the first reading passed a new law on the public prosecution office and the judicial system etc. But, most of them were obviously manipulative as it didn't meet the standards of human rights and didn't correspond with the public interests³.

7. However, a week before the Vilnius Summit, the Ukrainian Government suspended the preparation for the Agreement's signing and slowed down work on other European integration laws, thereby reversing the years of hard work on the reforming of the post-soviet model to the European model, reducing to zero all the positive achievements in the international arena, and, most importantly, destroying the hopes of millions of Ukrainians.

8. Incompatibility of the states' policy with the interests of Ukrainian in late 2013 — early 2014 resulted in open confrontation with the authorities, after its rejection of the country's integration with Europe, initially a peaceful, and after the application by the state of the power and murder of peaceful protesters — the armed one. The state justified the brutal and illegal violence and legitimized further

² Prepared by O. Martynenko, Center for the Study of Law Enforcement, based on the materials of E. Zakharov, Kharkiv Human Rights Group

³ A bright example became an extremely imperfect law on combating discrimination, which has not been changed, despite the objections of the public and the ombudsman. Force of the new Criminal Procedure Code has only partially changed the state penal system: the number of prisoners in jail decreased by half, decreased also the total number of prisoners.

violence by police officers. Direct physical violence was accompanied by mass detentions and illegal detention of people, most of whom did not commit criminally punished actions.

Direct physical violence was accompanied by mass detentions and illegal detention of people, the lion share of whom did not commit any criminally punishable acts.

9. In response, the Ukrainian people made without prior arrangement its natural, nowhere in the Ukrainian legislation worded right to revolt against the political regime that has usurped power and used it only for their own enrichment, repressing all its opponents, in flagrant violation of human rights and fundamental freedoms. These events were received in Ukraine and in the world the name «Revolution of Dignity».

New Challenges

10. The political imbalance, absolute loss by society of confidence towards the authorities at all levels and branches, continued occupation and illegal annexation of Crimea by Russian troops, artificially organized separatist movements in Donbass, which gradually turned into an armed aggression, and full-scale military conflict with Russia in Donetsk and Lugansk regions suspended human rights issues into the background. Ukraine faced with challenges, for which it was not ready neither institutionally nor economically, nor morally

11. Thus, the commission by the separatists, in Donetsk and Lugansk regions of horrible crimes, which have never previously recorded in Ukraine, such as violent politically motivated disappearances, extrajudicial executions, arbitrary arrests and torture of hostages, etc. — took place upon the inaction or acquiescence, or, even worse, with the help of the local police workers, who instead to uphold the human rights were often the subjects of these violations. The level of social violence has increased creating a foundation for justification in the public mind of the facts of torture and violence, which lawfully affected the work of public authorities. Indeed, the attitude of law enforcement officers to the detainees, who were accused of separatism or terrorism, were mostly violent with the tacit consent of society, as evidenced by the numerous documented facts of beatings and even torture of detainees.

12. Numerous laws developed in 2014 to improve the effectiveness of fight against separatism: “On preventive detention”, “On Amendments to the Criminal Code of Ukraine (concerning strengthening of responsibility for crimes against national security of Ukraine),” on deseparatism, on special regime of pre-trial investigation in the ATO area and other, contained provisions that violated the Constitution and international standards of human rights.

13. In connection with the armed conflict, there appeared a new problem for the country’s internally displaced persons (IDPs, Internally displaced persons) from Crimea and Donbass, whose number as of July 10, 2015 reached 1 million 382 thousand people⁴. And the state was not ready for new challenges, so all the problems of the IDPs are on the shoulders of the numerous volunteers and local authorities.

Human Rights in Today’s Ukraine

14. . As a result of the above mentioned events Ukraine was actually going through political, economic and social crisis that were fueled by the military actions and interference of external factors.

⁴ Records of IDPs is carried out unsatisfactory, about half of them are not registered at all.

15. For now one can state the unbalanced constitutional law state and legal system, and the constitutional reform remains at this stalled⁵. Have to be adopted the draft laws of the revised Penal Execution Code, the Code of criminal offenses, bills on probation, on peaceful assembly, etc.

16. None of the necessary reforms in the field of human rights — judicial, criminal justice, education, etc. — has significant results. The adoption of new laws “On Prosecution Office”, “On the National Police”, “On Education” has only created a legislative framework for reforms, but did not lead to positive changes. Frankly ineffective proved to be the reforms in the pension and medical branches.

17. In 2013 the social-economic situation of the population has deteriorated due to prices increase and the preservation of the wages level. In the public sector significantly deteriorated the situation with the payment of salaries and pensions, access of the population to health facilities, especially in rural areas. Budgetary expenditures on medical, educational, scientific and cultural institutions significantly reduced. Increased official and shadow unemployment.

18. Realization of social and economic rights of Ukrainians in ravaged country after the Yanukovych’s regime become even more problematic. The financial and economic crisis in 2014 was aggravated by the excessive cost of setting up effective armed forces and conduct of military operations. The living wage, which is the baseline for the entire social security system, for many years, does not reflect the actual minimum human needs.

19. Extremely bad is the complying with the political and socio-economic rights in the territories of Donbass controlled by the so-called DNR/LNR. Salaries, pensions and so on are not paid at all, in many regions there is no water, gas and electricity. Catastrophic in these areas is the condition of prisoners in penal institutions, who are simply starving.

20. The State refused to fulfill its obligations before the people even if they have been confirmed by the courts. The courts did not accept claims concerning the failure to execute the laws on social safety nets and for the earlier adopted decisions were imposed old instructions not to execute the court decisions. It is very difficult to implement the same rules on social safety nets in terms of the actual military situation. Execution of court judgments and, in particular, the decisions of international bodies remains generally on a low level.

21. Remains a big problem of ineffectiveness of investigations of the allegations on torture and ill-treatment on the side of the personnel of the Department of Internal Affairs and the penal service. Prosecution office performs its functions on carrying out the effective, thorough, prompt and impartial investigation of such allegations extremely unsatisfactory. The positive potential of the Criminal Procedure Code is not used properly, in fact, the police have learned to circumvent its provisions which, in their view, prevent them from working. There are still not properly investigated cases of illegal use of force and mass murder during the events in the capital square of Maidan. There have at been investigated kidnappings, beatings of activists of the Maidan in Kharkiv, Donetsk, Luhansk, tortures and murders of civilians and prisoners of war, other crimes against their life and health, crimes related to violation of property rights.

22. In addition to the mentioned, today one of the most serious problems remains the problems with indirect age and health discrimination. Traditionally, widespread remains the hidden discrimination against the Roma and members of the LGBT-community. Despite the high level of inter-ethnic and inter-religious tolerance in Ukraine, the existing problems in this area are deteriorated due to the aggressive policy of the Russian state.

23. The vast majorities of human rights violations took place, among other things, due to the lack of serious constraints and controls in government and fail to legislatively secure fundamental rights and

⁵ Amendments to the Constitution proposed by the President, were clearly unsuccessful and were not even considered by the Parliament.

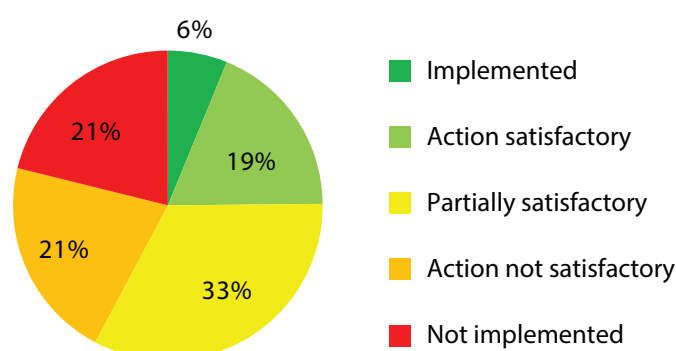
freedoms. At this it can also be stated that the new government in 2014 often neglected the rule of law and violated the Constitution, guided by political expediency and necessity of lustration of the old authority organs.

24. Among the positive moments should be mentioned prevention of the geographical expansion of the conflict in the Donbass, successful holding of the scheduled presidential elections on May 25 and early parliamentary elections on Oct. 26, 2014, the more effective cooperation of governmental and municipal public authorities with civil society.

25. Positive in this period was the work of the Parliamentary Commissioner for Human Rights. The secretariat of the Commissioner continued implementation of the national preventive mechanisms under the Optional Protocol to the UN Convention against Torture, and the effect of this mechanism gradually affects the attitude of the staff to the imprisoned. Office of the Ombudsman has made real steps to protect the public from the actions of the separatists. This includes participation in the evacuation of children's homes from the zone of antiterrorist operation, freeing of prisoners, transfer of prisoners to the territory controlled by the State.

26. As of August 2015, we have to admit that of all the 145 recommendations provided for Ukraine, completely fulfilled are only 6% of their provisions⁶. Satisfactory or partially satisfactory the Ukrainian authorities implemented much more of the provisions of the recommendations — about 52%. At the same time, some 42% of recommendations remained on the level of not satisfactory or not implemented (Diagram 3).

Diagram 3. Implementation evaluation



27. However, as proved by our analysis, recommendation status has little to no effect over its 'performance' status. So, with out of 114 accepted recommendations, only 3% have been fully implemented, 16% expert-rated as "satisfactory", while almost half recommendations (46%) are rated as "not satisfactory" or "not implemented" at all (see Diagram 4). At the same time, out of 'rejected' or 'partially accepted' recommendations by Ukraine, almost half (47%) are 'fully implemented' or 'satisfactory'. Whereas, only 8% of recommendations are 'not implemented' (see Diagram 5). This foremost concerns the recommendations on ratifying international instruments and recommendations on preventing discrimination. This situation is partially explained in the European integration policy of Ukraine in recent years, contributing to the review and implementation of the recommendations of the UN Committee, which were not duly considered in 2012.

⁶ Низка рекомендацій містить одразу декілька позицій, що стосуються різних питань або сфер, натомість інші рекомендації — стосуються одного і того ж питання, відтак кількісні показники рекомендацій і позицій не співпадають. Для цілей оцінювання з метою найбільш точного відображення тенденцій враховувались показники виконання позицій/заходів, закріплених в рекомендаціях.

Diagram 4. Implementation evaluation of accepted recommendations

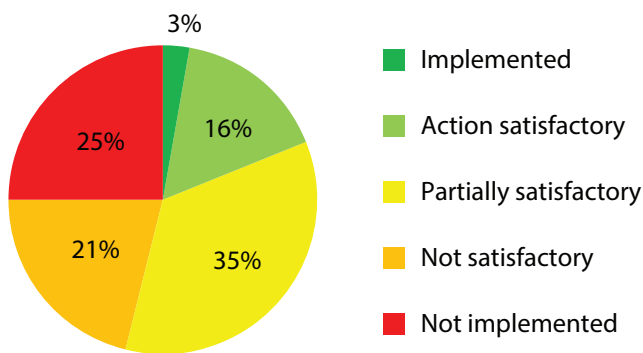
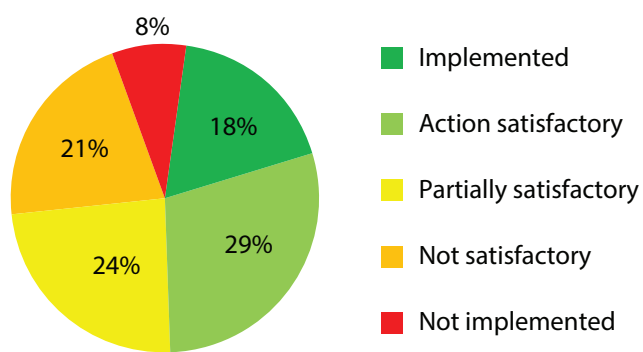


Diagram 5. Implementation evaluation of not/partially accepted recommendations



II. EVALUATION OF HUMAN RIGHTS PROTECTION STATUS IN UKRAINE

1. EVALUATION OF HUMAN RIGHTS PROTECTION STATUS IN THE SPHERES RECEIVING RECOMMENDATIONS WITHIN 2012 UPR

1.1. Rule of Law

The report is prepared by:



Center
for political-legal reforms
01001, Kyiv,
Khreshatyk St. 4, Of. 13
e-mail: centre@pravo.org.ua

Charitable Organization
"All-Ukrainian Coalition of Legal Aid"
Khmelnysky, Pushkina lane, 1
<http://pravoonline.org.ua/>
tel. +380382720195



UKRAINIAN COALITION FOR LEGAL AID

Contact person <i>Roman Kuybida</i> e-mail: kuybida@gmail.com	Contact person <i>Vitaliy Misiats</i> e-mail: misiats.vitalii@gmail.com
--	--

Judicial reform

28. After the removal from power of the President Yanukovich, implementation of judicial reform has become one of the most urgent tasks. However, the reform was not carried out in 2014. An obstacle was the resistance of the old political elites, which it became possible to offset only after carrying out the unscheduled elections to the Verkhovna Rada, the desire of the new government to use the advantages of the "manual" justice for their needs. Also it was prevented by the conservatism and reluctance to change of the large part of the judiciary, and the desire to solve systemic problems in the judiciary without taking into account European standards.

29. The majority of citizens vote in favor of drastic or dramatic changes in the judicial system and consider implementation of judicial reform to be one of the most pressing problems. According to the survey, over 46% of citizens voted that everything has to be changed in the judicial system, another 34% voted for serious, but not radical changes. The need for partial and cautious changes was supported by 8% of citizens.

30. Among the main problems that create mistrust in the judicial system the citizens called prevalence of corruption among judges (94%), dependence of judges from politicians (81%) and oligarchs (80%). Among the proposals in the judiciary, supported by the citizens, are primarily the releases of the part

of the judges, after investigations (40.2%), introduction of the material liability of judges for the illegal decisions of judges (31%), loss of privileges and immunity of judges (30%)⁷.

31. The law “On restoration of confidence in the judiciary in Ukraine” as of April 8, 2014 was the first lustration law. He touched several categories of judges, especially those who showed themselves self-willedly during the Revolution of Dignity, heads of courts and their deputies as well as the members of the High Qualification Commission of Judges and the High Council of Justice.

32. To test the general court judges who were involved in the prohibitions of assembly and committing repression to their members, the law foresaw the establishment of the Temporry Special Commission.

33. As of April 2015, the Commission received 2,192 applications, conducted audits of 331 judges, the Commission adopted the finding of the breach of the oath on 21 judges⁸. Conclusions were transferred to the High Council of Justice, but it has not considered them yet. Therefore, since the enactment of the law “On restoring confidence in the judiciary” a single judge was not released.

34. On April 11, 2014 — from the date of the coming into force of the law “On Restoration of Confidence in the Judiciary in Ukraine” — all heads of courts, their deputies have lost these positions, while the remaining judges. It did not touch only the Constitutional Court and the Supreme Court, where the heads of courts and their deputies are elected by the judges of the respective court.

35. Meetings of judges in each court have obtained the right to themselves elect its President and his deputies. However, the law did not set protectors in order the exempted heads of courts, their deputies did not return to these positions. After the entry into force, in nearly 80 percent of courts for the positions of heads of courts and their deputies the meetings of judges chose the same people who occupied these positions before and were a creature of the previous political power.

36. The law “On Restoration of Confidence in the Judiciary in Ukraine” has stopped the activities of the High Council of Justice and High Qualification Commission of Judges and predicted the formation of these bodies again. However, the new High Qualification Commission was able to start its work only in December 2014, and the High Council of Justice — only in June 2015. Many appointments to these bodies have been blocked in the courts by means of actions of individual members of parliament. Without the formation of these bodies, no one could have been appointed (elected) to the position of judges, brought to disciplinary responsibility, dismissed from the position of a judge.

37. Persons, who in the period from February 25, 2010 to February 22, 2014 held overall at least one year the post of the High Council of Justice member (with the exception of the Supreme Court), member of the High Qualification Commission of Judges, the Head of the State Judicial Administration, his deputy, for ten years after the enactment of the law on lustration may not occupy positions in the public sector. The same prohibition applies to persons who occupied the same position in the period from November 21, 2013 to February 22, 2014 (regardless of tenure) and have been released during this period from the respective positions at their own will. These rules have not been yet applied to anyone for dismissal from his position.

38. At the end of July put of the 42 specific commitments regarding implementation the judicial reform (Chapter II of the coalitional agreement) the Parliament has fully complied with 10 commitments, partially — with 4.

39. The Parliament has not fulfilled and did not show any intend to perform a commitment to eliminate influence of political authorities on settling the issues of a judge’s career; did not consider thematters of litigation improvement, enforcement of court judgments, the reform of the legal profession,

⁷ <http://pravo.org.ua/2010-03-07-18-06-07/lawreforms/1873-dlia-uspishnoi-sudovoi-reformy-treba-shchob-prezydent-i-parlament-vidmovlysia-vid-vplyvu-na-suddiv-opytuvannia.html>

⁸ <http://www.vru.gov.ua/statistics/44>

introduction of amendments to the Constitution (with the purpose of judicial reform). Formed by the President advisory bodies for preparation of the relevant draft laws have not yet submitted their work to the President, except the draft laws on the execution of court decisions.

40. On February 12, 2015 the Parliament adopted the Law of Ukraine “On Ensuring the Right to a Fair Trial.” The law has fully taken into account the 27 recommendations of the Council of Europe in the judiciary, another 21 recommendations were partially taken into account the recommendation by the law. However, the law ignored the key recommendations to limit the political influence of the President and the Parliament on the judiciary. In particular, the political authorities retain their influence in matters of judges carries.

41. In addition, the law introduces the measures to upgrade the judicial body by means of the so-called primary qualification assessment. The essence of this evaluation will consist in passing by all judges (starting from the Supreme and higher courts) a one-time exam and conduct with them of the interviews on the consideration of judicial dossiers. If a judge does not pass the initial qualification evaluation, he will be directed to an additional training to the National School of Judges, and in case of the repeated failure — the question on the release of judges for violating their oath will be triggered. However, clear criteria for such an evaluation by the Law are not established.

Ensuring a transparent process of appointment of judges and bringing of judges to the judicial discipline responsibilities

42. The selection procedure for judges in Ukraine has in the last five years undergone significant changes. By 2010, the selection of judges was carried out by the district qualification commissions, among the powers of which were the check of the professional qualities of a candidate to a position of a judge. It's no secret that these commissions were dependent on local officials and the heads of appellate courts in the regions. The procedure of selection of judges was closed and non-transparent.

43. In 2010 was adopted the Law of Ukraine “On the Judicial System and the Status of Judges”, which has radically changed the selection procedure. Selection of judges was appointed by law to the High Qualification Commission of Judges of Ukraine, which was to verify the professional qualities of future judges on the basis of a public and transparent competition.

44. High Qualification Commission of Judges of Ukraine published on its website the announcement on the begin of receiving documents from candidates. However, the process of receiving documents was organized rather bad. Thus, in 2012 the Commission has set a too short time period for acceptance of documents, which led to long queues near the receiving point. Future judges during few days have lived without any amenities near the military unit in the remote district of Kyiv in order to file the documents⁹.

45. The process of qualifying the examinations was computerized; the candidates passed the tests that were checked using special equipment. However, the second part of the exam included writing judgment decisions, which were then checked by the representatives of the High Qualification Commission of Judges of Ukraine (HQCJU). And although the works of the applicants were impersonalized, the subjective factor in assessing the knowledge of the candidates had still been present.

46. Candidates, who obtained a sufficient number of marks, have been credited to the allowance for vacancies of judges. HQCJU announced the number of vacant posts and names of the courts where there are vacancies. The victory in the competition for specific

⁹ <http://www.pravda.com.ua/columns/2012/05/4/6963939/?attempt=1>

position attained the candidate who had the highest score among the qualifying exam candidates, who also claimed the position. The problem is that the information about the applicants with which marks are applying for positions in which courts, was closed. This created a considerable scope for abuse.

47. In February 2015, in the framework of the judicial reform of the new government was adopted a new version of the Law of Ukraine “On the Judicial System and Status of Judges”, which includes progressive provisions to ensure transparency in the selection of judges. Thus, the law provides that during the qualifying examination may be present the media, professional organizations of lawyers and human rights organizations representatives.

48. In June 2015, the High Qualification Commission held a contest among the candidates being in the candidate pool. At this the information as to candidates with which marks are applying for positions in which courts was open and constantly upgraded on the website of the HQCJU.

49. Also, the new edition of the Law of Ukraine “On the Judicial System and Status of Judges” introduced new rules for bringing judges to disciplinary liability. The list of reasons for disciplinary proceedings was extended. Now they became fourteen in comparison to six in the last the amended of the Law. Among the new grounds for bringing a judge to disciplinary responsibility, such as, for instance, discrepancy of the level of living standards of a judge with the declared profits or execution of the judge or members of his family of expenses exceeding their income. On the one hand, changes are quite progressive and are designed to prevent corruption in the judicial ranks. However, these amorphous formulations as “non-compliance of the living standards of a judge to the declared profits” can become an instrument for pressure on judges.

50. Now the HQCJU considers the complaints towards judges under the rules in force at the time of filing of the complaints. Conclusions concerning the effectiveness of the new procedure of bringing judges to disciplinary liability can be done before submitting by Ukraine of the third report under the UPR in 2017.

Implementation of the decisions of the European Court of Human Rights and of domestic courts

51. Some negative trends are recently observed in the performance of the decisions of the European Court of Human Rights. Thus, according to the official report of the Committee of Ministers of the Council of Europe under control of the Committee of Ministers in 2014 there were 1,009 judgments of the European Court of Human Rights concerning Ukraine. This is by 52 decisions more than in 2013¹⁰. However, only on five cases in 2014 Ukraine has made all payments on time. In 2013, the number of such cases was 80. At this, according to 106 decisions of the ECHR, costs were not paid within six months after the expiry of the deadline for payment. The amount of the paid compensation for decisions of the ECHR in 2014 also decreased (7,684,574 Euro, against 32,967,437 Euro in 2013).

52. The Committee of Ministers has identified eight main categories of decisions, including pilot decisions, in which there are systemic problems concerning the implementation of general measures. This, in particular, is the decision of Zhovner against Ukraine and pilot judgment Yuriy Nikolayevich Ivanov against Ukraine — the decisions relate to inefficient execution of domestic courts. In Control of the Committee of Ministers there are 419 similar decisions. Decision Svetlana Naumenko versus Ukraine and Merit against Ukraine — a too long duration of the court hearing. In the control are 268 similar cases. Afanasyev versus Ukraine and Kaverzin against Ukraine — torture by police, lack of effective investigation. Under control there are 37 similar cases. Decision Kharchenko against Ukraine — the decision relates to inadequate conditions of prisoners welfare. Under control there are 33 similar cases. The decision

¹⁰ http://www.coe.int/t/dghl/monitoring/execution/Source/Publications/CM_annreport2014_en.pdf

Tymoshenko against Ukraine and Lutsenko against Ukraine — decisions relate to the manipulation by the law by prosecutors and judges with the purpose of unlawful deprivation of liberty of the applicants. The decision Alexander Volkov against Ukraine — systemic problems in the functioning of the judiciary in Ukraine. Verentsov against Ukraine — the lack of a clear and understandable legislation that regulates freedom of assembly.

53. Regarding the implementation of the decisions of national courts, the state has used certain measures here. Thus, 04.11.2010 the Law of Ukraine "On Enforcement Proceedings" was set out in the new edition. The law granted additional powers to a state executive and somewhat simplified the execution procedure. There was introduced the Unified State Register of enforcement proceedings — an open system, in which parties of the enforcement proceedings may learn what work is carried out on their decision. The enforcement officers are provided with access to information on the registered property of a debtor and his bank accounts. Introduced is the system of online bidding with the seized property.

54. However, this have not provided for effective results. According to official statistics, out of all submitted for enforcement court judgments actually performed are less than 25%, the rest of the proceedings are completed, as a rule, for other reasons (referral at the new place of execution, absence of property of the debtor, etc.). And the statistics of the collected sums is even worse, actually charged are about 3% of the amounts that had to be recovered by court decisions. According to the ECHR statistics, as of 31.05.2015 the majority of cases before the Court are exactly from Ukraine 13 200 (20.5%) and the majority of the cases concerns the non-enforcement of judicial decisions¹¹. The ECHR twice in 2012 and 2014 stated the failure of the state to take effective actions to ensure proper enforcement of judgments and gave a term for the elimination of reforming of the enforcement system.

55. The system of the enforcement of court decisions in Ukraine is extremely inefficient. As in the days of Yanukovich, so during the more than a year of work of the new authorities there were not implemented significant reforms of this system. The state maintains a monopoly on the enforcement of judgments. In addition, the existing apparatus of bailiffs is extremely overworked. For each state performer in a year there are accounted more than 1,200 decisions. Yet the salaries of the executors remain at 50–60 euros per month. More than 6,000 public performers have low qualifications; more than 70% of them are youth without work experience. Ministry of Justice prepared draft laws on introducing a private model of enforcement of judgments that were presented to the public in April¹². However, so far no relevant bills have been introduced to the Parliament.

56. There is a problem with the execution of court decisions in the Autonomous Republic of Crimea, Donetsk and Lugansk regions. After the occupation of the Crimea relevant public authorities have no capacity to carry out the enforcement actions in Crimea and in the occupied districts of Donetsk and Lugansk regions. However, the funds that have been recovered by court decisions, but at the time of the occupation of the Crimea were not listed to the recipients, remain in use in the single state treasury account of the State Treasury Service of Ukraine. So, in August 2014, the Parliamentary Commissioner for Human Rights received a petition from a resident of Bakhchisaray region of Crimea on the non-transferral by the state executive service of the ARC to his account of the funds in the amount of 250,000 UAH. The debtor contributed these funds to the escrow account department of the State Executive Service yet on January 15, 2014. On January 20, 2014, the state executive sent a payment order to transfer funds to the applicant to the Administration of the State Treasury Service of Ukraine in Bakhchisarai District of the AR Crimea. Later, the applicant learned that the funds can not be transferred because ob blocking by the center for processing of the system of electronic payments of the National Bank of Ukraine of initial payments of the Main Directorate of the State Treasury

¹¹ http://www.echr.coe.int/Documents/Stats_pending_month_2015_BIL.pdf

¹² http://24tv.ua/ukrayina/privatni_vikonavtsi_zyavlyatsya_vzhe_v_2015_rotsi__minyust/n565681

Service of Ukraine in the AR of Crimea¹³. For the applications on the non-enforcement in the territory of Donetsk and Lugansk regions were received replies of the same contents — *in connection with the conduct of the ATO and renewal of war actions currently there is no possibility to verify the presented in the applicant's files facts about the actions of the officials of the state executive service, provide comprehensive information and take appropriate response measures*¹⁴.

Reform of the prosecutor's office

57. The political manner of appointment of the Attorney General (by the President and Parliament) does not contribute to the independence of prosecutors. However, there is some progress with the implementation of the new Law "On Prosecutor's Office", which foresaw a competitive procedure for occupation of the prosecutor's office positions.

58. Prosecutors will lose the function of the investigation with the adoption of the Law "On State Bureau of Investigation", a draft of which was adopted in the first reading in May 2015.

Reforms in the sphere of criminal procedure

59. Criminal Procedure Code of 2012 mostly takes into account European standards. Number of sentences of acquittal increased slightly (within 1 percent), but the number of criminal proceedings transferred to the court has declined. However, some provisions from the beginning of validity of the Code and the new provisions violate these standards. For example, during the transfer of the case from the prosecutor's office to the court and prior to trial a detention continues automatically without any judicial control. This provision has been already recognized as violating the Art. 5 of the ECHR in the case "Chanyev against Ukraine." Also in 2014, were introduced changes allowing to detain a person in the area of the anti-terrorist operation for 30 days only with a prosecutor's warrant, but without a court decision.

60. Currently, the problem of selective justice is not actual. However, the objectivity and independence of the criminal justice system has not improved. You can watch the competition between the agents of the previous President Yanukovich and the new President Poroshenko. In particular, it manifests itself in the fact that many courts are being led from the responsibility of members of the Yanukovich regime, including by promoting of the grass roots level prosecution. At the same time, according to the head of the Court of Appeal of Kyiv, accused of interfering in the distribution of cases and in the decision-making for order, he was put under pressure in the administration of new President.

61. Corruption in the judiciary, according to the sociological research data, is the major problem of the justice system. In 2014 was adopted a package of new laws in preventing and combating corruption and created the National Anti-Corruption Bureau. But for now most laws are mostly not implemented. Also, the high levels of corruption in the courts and developed collective responsibility causes doubts in the ability of the judiciary to be effective in consideration of corruption crimes.

¹³ The annual report of the Verkhovna Rada of Ukraine on Human Rights on the observance and protection of the rights and freedoms of a person and a citizen in Ukraine. — K., p. 500.

¹⁴ Same source.

1.2. Human Rights in Penitentiary System

Report is prepared by:



“Donetsk Memorial”¹⁵
p/o 127, Kyiv, 03179, tel. 380-97-907-06-49

Contact person: *Bukalov Oleksandr*
e-mail: *a_bukalov@bk.ru*

62. In the past three years in the activity of the State Penitentiary Service of Ukraine have been some changes, but significant progress in improving the human rights situation did not happen. There is some progress in implementing the recommendations within the UPR in implementing the national preventive mechanism (hereinafter — NPM). There are absolutely no positive changes in the implementation of the mechanism for effective investigating cases of ill-treatment and prosecution of law enforcement officials responsible for torture and ill-treatment.¹⁵

Prisons overcrowding

63. The number of imprisoned in Ukraine has decreased from 147.1 thousand people as of 01.01.2013 to 73.4 thousand as of 01.01.2015. Partially this happened.

¹⁵ “Donetsk Memorial” — is a public human rights organization. It exists in Donetsk since 1989, was re-registered in 1995. The main statutory objectives and tasks of the “Donetsk Memorial” are:

- legal education of citizens, including penitentiary institutions staff, law enforcement and other government agencies staff;
- promoting efforts to reform the penal system.

According to the above statutory objectives and tasks of the “DM” carries out:

- collection, storage and dissemination of information concerning comply in growth human rights; — implementation of scientific-historical, human rights and educational projects;
- conduct of monitoring and historical and sociological research;
- organization of workshops, conferences, “round tables”, lectures and so on.

During 1995–2015 “DM” organized more than two hundred workshops on human rights for staff of penal institutions, as well as judges, prosecutors, police officers. “DM” is the leader among the NGOs in Ukraine for publication of literature for the criminal-executive system. The list of information publications of “DM” includes more than 130 items. Since 2000, the “DM” has launched a periodical publication of the bulletin “ASPECT”, in which there are printed materials about the problems of the penitentiary system.

In 2003 “Donetsk Memorial” for the first time in Ukraine issued three reports of the European Committee on prevention of torture on the results of the visits of CPT delegation to Ukraine in 1998–2000, and response of the Government of Ukraine to these Reports. Since 2006, “DM” issues yearly reviews of the state of complying with the rights in the institutions of the system — Reports “The Observance of Prisoners’ Rights in Ukraine.” Reports contain conclusions and recommendations on improvement of human rights situation in the institutions of the system.

In 2008 “DM” has created a special web-site “Prison portal” (www.ukrprison.org.ua), which highlights the activities of the criminal-execution system and cooperation of NGOs with institutions of the department. Since 2008, “DM” supports public counseling offices, to which annually turn up to 500 citizens, mostly prisoners and their relatives. Representatives of the organization in recent years were part of the number of advisory structures, in particular, of the supervisory committee at Donetsk Regional State Administration, to the Commission on the Prevention of Torture of the President of Ukraine, is now included in the Commission for the matters of state policy on execution of criminal punishments established by the order of the Ministry of Justice.

“DM” periodically holds “round tables” and press-conferences for the media and the public on human rights, represents the results of their research and monitoring. “DM” is a member of the International Society “Memorial” and cooperates with several international governmental and non-governmental organizations working in contact with the State Penitentiary Service of Ukraine.

due to annexation of the Crimea by Russia (about 3 thousand people) and capture of the part of the territory of Donetsk and Lugansk regions, where there are situated 29 penal institutions and about 16 thousand imprisoned. The index of the number of prisoners per 100 thousand of population in Ukraine declined during this period from 320 to about 210. Many institutions are filled to 50% — 70%. So the problem of overcrowding in the prison as systemic one does not exist in Ukraine

64. However, the public living conditions of prisoners — dormitories, often for 40–80 people, often have poor toilets, lack of free access to the shower and other — these conditions in many prisons have not changed. There remains a high level of unfriendly attitude of the staff to prisoners, which often borders on one that having signs of ill-treatment, which is degrading. Earlier this attitude was supplemented by a large cluster of prisoners in a residential area, now it exists in spacious, not-overcrowded areas.

65. Requirements to the personnel of the institutions in matters of treatment of prisoners remained unchanged and those that are far from international standards.

Medical services

66. The death rate in Ukrainian colonies after a significant increase in mortality in 2011–2012 has remained also in 2014: 792 persons died (in 2013 — 911 persons). As per 1 thousand of prisoners in 2014 died more than last year — 10.79 to 7.18, and even if to take into account prisoners outside the control territory, the figure will be higher than the last year's — 8.9. This level is almost twice the level of 2003–2007.

Indices	01.01.2004	01.01.2012	01.01.2013	01.01.2014	01.01.2015
Number of people in prisons	191 677	154 029	147 112	126 937	73 431 (89 000)*
Died	824	1169	1 021	911	792
• For 1 thousand of imprisoned	4,30	7,59	6,94	7,18	10,79 (8,9)*
Cases of suicide	41	59	65	84	63
• For 1 thousand of imprisoned	0,21	0,383	0,442	0,662	0,86 (0,71)*
Patients with active TB	9 080	4 822		4135	2160
• For 1 thousand of imprisoned	47,37	31,31		32,58	29,42
HIV-infected	1 917	6 910	6957	7348	4135
• For 1 thousand of imprisoned	10,0	44,9	47,3	57,9	56,31

* Considering the institutions in the occupied territory.

67. The last four years are marked also with a surge in the incidence of suicide in prisons. In 2014 there were 63 cases, 14 of them in jail, which means growth as calculated per 1 thousand of imprisoned almost doubled compared to the years 2011–2012, and 3.5 times compared to 2003.

68. The number of prisoners suffering from tuberculosis held in the past four years at the level of around 30 people per 1 thousand of imprisoned. Stopped the growth in the number of HIV-positive prisoners, although it exceeded twice the level of 2006.

69. There remains subordination of the medical personnel to the administration of prisons. The level of remuneration of doctors is extremely low, and so often there is a lack of medical specialists in the colonies. Changes in the regulations (for example, enabling prisoners to apply for the paid medical care to civilian hospitals doctors) actually has almost no effect on the lack of health services and the low level of medical aid, because usually in prisons are kept people, who have no money, and are often not even aware of the available opportunities.

70. The low level of health services provision is a major component of the ill-treatment of prisoners it has almost not improved in the past three years.

Grievance mechanism

71. The absence of progress in relations between the prison staff and prisoners is well illustrated by the actual absence of the mechanism for applying and reviewing of claims. Similar like three years ago, it is virtually impossible to challenge the actions of the administration — complaints are not accepted or are accepted and but not sent further. Imprisoned, who complain, are subjected to pressure and deterioration of attitudes towards them. This situation contributes to the preservation of psychological tension in relations between the staff and the prisoners. Management of the department sees no problem in this situation and are therefore not adjusted for changes in this sphere.

72. This position is especially indicative in the context that the number of states provided Ukraine within the UPR the recommendations on the implementation of inevitability of punishment for police officers for the ill-treatment of prisoners. Instead, without the mechanism of informing on ill-treatment (complaints filing mechanism) it is impossible to implement the recommendations. The lack of an effective procedure for filing complaints blocks the possibility to timely inform prisoners about the ill-treatment cases and to counter them. So, in Ukraine the progress in this area during the three years is virtually absent.

Labour

73. The number of able-bodied persons in custody as of 01.01.2015 was 32.3 thousand people — 56% of the total number of convicts. Of which employed are about 18 thousand people. In this sphere there continue to be numerous violations of prisoners' rights — free of charge (slave) labor, inadequately low wages. Such violations are difficult to detect because they do not involve physical violence, the traces of which can be detected, do not contain traces of obvious physical abuse, ill-treatment and degrading treatment. Instead, the average wage of workers sentenced to a month in office in 2014 was 460.9 UAH. So in the situation of the fact of some prisoners' wages in the amount of 1–1,5 thousand UAH there are many cases when during a month a convicted officially earns 10–20 UAH, which is not more than one US dollar.

74. Usually the heads of the agency do not comment on these facts, and in the meetings emphasize the need for enterprises to support self-support of the colonies' enterprises. Work of the imprisoned ceases to be a factor of their correction and remains first of all a factor for profit. Obviously, the understanding of this approach by the prisoners is a sign of ill and inhuman or degrading treatment.

75. Unchanged remains the attitudes of the department management to the role of labour in the life of the prisoners, the changes in agency's administration attitudes are not to be expected.

Legislation and public control

76. In April 2014 was adopted a significant number of positive amendments to the Criminal-Executive Code. These changes — are perhaps the most ambitious since the adoption of the Code in 2003. There were made up to hundred of changes and they are generally significantly humanasing conditions of serving the sentence in prison.

77. These changes have significantly expanded the range of persons who may visit penal institutions for public control, check the condition of prisoners, and communicate with them. Instead, significant progress in the implementation of public control over prisons in 2014 did not happen — both because of the very small circle of entities interested in visiting prisons and due to the lack of common traditions in the society to monitor the conditions of detention of prisoners. In addition, prison administration and management of the department in case of detection of violations often see their first task to by any means save from responsibility the workers, who have commenced the violations. To this contributes to the lack of developed and legally defined mechanisms of public control.

1.3. Combating discrimination in Ukraine

Report is prepared by:¹⁶



The Coalition against Discrimination in Ukraine¹⁷

www.antidi.org.ua

Contact person: *Iryna Fedorovych*

E-mail: fedorovych@noborders.org.ua

78. The main purpose of this report — is to draw the attention of the UN Council on Human Rights to the problems of discrimination in Ukraine. Despite the recommendations of international agreements, including the recommendations received and accepted in the second cycle of the Universal Periodic Review, not all changes have been introduced to the Ukrainian legislation to end discrimination and provide adequate protection to victims of discriminatory acts and practices. Instead, the Ukrainian authorities do not recognize the scale of the problem, and sometimes it resorts to discriminatory actions. In light of the lack of systematic work in this area, *The Coalition against Discrimination in Ukraine* presents its conclusions and opinions to attract the attention of the UN Council on Human Rights to the problems of discrimination in Ukraine and provide advisory recommendations which, if adopted by the state, will help make a difference for better.

¹⁶ Prepared especially for the Coalition for combating discrimination by Irina Fedorovich, No Borders Project NGO "Social Action Center", who is a member of the CCD. The report is coordinated and edited by the CCD Coordination Council.

¹⁷ Coalition for Combating Discrimination in Ukraine was founded on April 5, 2011 as a nationwide non-governmental human rights initiative by means of signing by the NGOs of the special Memorandum.

On July 15, 2012 the decision to transform the CCD into union that brings together NGOs and individual experts, united around the values of human rights and taking part in overcoming discrimination in Ukraine was adopted.

The activity of the Coalition is directed at:

- real ensuring in Ukraine of the principle of civil equality for all people, regardless of certain social or individual characteristics recognized in international, European and national law a basis for protection against discrimination;
- development, expansion and improvement of the protection of rights and freedoms in Ukraine;
- counteracting attempts of unjustified limitation of the the rights of certain categories of citizens;

Prohibition of discrimination and ineffectiveness of the relevant legal system

79. Today in Ukraine there are created the prerequisites for the modern legal system, which would have to prohibit discrimination, but still there is no effective anti-discrimination policy. Adopted in 2012 the Law of Ukraine "On Principles of Prevention and Combating Discrimination"¹⁸ together with other legislative acts is the base for prevention and combating of discrimination, however, as the anti-discrimination law itself and other legislative acts require substantial revision before we can talk about effective system of protection against discrimination.

80. Today, in addition to anti-discrimination law, in Ukraine there are separate laws that prohibit discrimination against certain groups — the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men"¹⁹ and the Law of Ukraine "On the Basis of Social Protection of Disabled People in Ukraine"²⁰, and in some areas — Law Ukraine "On Advertising"²¹, Law of Ukraine "On Employment of Population"²², the Labour Code and others. Also distinguishing in behaviors is prohibited by the Constitution and the Criminal Code.

81. The law gives the definition of discrimination, direct and indirect, and other forms, contains a list of characteristics on which discrimination is prohibited, but due to the lack of efforts to bring legislation to harmony, today various pieces of legislation not only contain different list of features (thus, the Constitution and Anti-discrimination law and The Criminal Code are not consistent with each other), as well as various laws contain different definitions of discrimination, which can lead to legal uncertainty (the definition of discrimination, as, for instance, in the Anti-Discrimination Law, differs significantly from the definition of discrimination in the Law on Equal Rights for women and men).

82. Although the adopted in May 2014 amendments to the Anti-Discrimination Law corrected some flaws of the anti-discrimination legislation, for example, there has been improved and expanded the definition of forms of discrimination, defined positive actions, mechanism of their implementation and monitoring of the implementation, expanded the list of powers of the Verkhovna Rada of Ukraine on Human Rights and added to the Civil Procedure Code the principle of transferring of the burden of proof; other issues remain unregulated because the law does not provide for the need to introduce public policy or strategy for the prevention of discrimination, does not solve all problematic procedural points of its application of and does not mention all protected groups.

- eradication from public life of such phenomenon as discrimination;
- further development of human rights movement and civil society;
- representation, implementation and protection of the interests of the own member organizations.

The Coalition has four main tasks:

- 1) promoting the adoption of complex anti-discrimination law that is intended to specify and develop the legal-procedural bases for combating discrimination in Ukraine;
- 2) unification of basic terminology in the sphere of combating discrimination within the legal framework of Ukraine and bringing it into line with the EU law;
- 3) promotion of inclusion to the national legislation of the broad, but open list of explicitly defined anti-discrimination characteristics that meet the requirements of time;
- 4) improvement of knowledge and practical skills of different social and professional groups in the promotion of anti-discrimination initiatives.

More on CCD at the link <http://antidi.org.ua/ua/>

¹⁸ Full text of the Law in Ukrainian language under the link <http://zakon4.rada.gov.ua/laws/show/5207-17>

¹⁹ Full text of the Law in Ukrainian language under the link <http://zakon4.rada.gov.ua/laws/show/2866-15>

²⁰ Full text of the Law in Ukrainian language under the link <http://zakon4.rada.gov.ua/laws/show/875-12>

²¹ Full text of the Law in Ukrainian language under the link <http://zakon2.rada.gov.ua/laws/show/270/96-bp>

²² Full text of the Law in Ukrainian language under the link <http://zakon2.rada.gov.ua/laws/show/5067-17>

83. Despite numerous allegations of human rights organizations, both during the development of the first version of the law, and in the development of amendments to it in 2014, the lawmakers have not included in the list of protected characteristics, neither the sign of “sexual orientation”²³, nor the sign of “gender identity” nor the sign “state of health. Despite the open list of characteristics, and the related practice of adding features, it is not explicitly defined by law, introduced by the ECHR and the numerous clarifications on this issue, to the opinion of the authors of the report, such disregard of the interests of LGBT people primarily leads to failure to abide to the law by them, as nor does it foster overcoming homophobia in society.

84. By itself, the position of the lawmakers, which is based on non-recognition of the rights of certain groups and manipulating public opinion under the guise of moral issues, is unacceptable in a democratic society, the government of Ukraine should immediately expand the list of features not only in the basic anti-discrimination law but also bring the constitutional list to conformity with the anti-discrimination law (the list of features to the Constitution is much narrower than the list of the anti-discrimination law).

85. Another unresolved question which leads to legal uncertainty and substantially “deters” potential claimants — is unresolved procedure for filing appeals on discrimination. Thus, Article 16 of the Anti-discrimination law states that “persons guilty of violation of legislation on preventing and combating discrimination, bear civil, administrative and criminal responsibility”, while only the Criminal Code sets out clear sanctions for discrimination.

86. If the person wants to appeal directly to the court with a complaint of discrimination, this can be done within the framework of a civil or administrative procedure, but neither the Civil Code nor Administrative Code contain relevant articles and sanctions on the offender. So, within the civil complaint a person can claim compensation for material and/or moral damage and renewal of the violated right that does not involve a separate punish meant of the accused in discrimination.

²³ The Coalition for Combating Discrimination after the registration of the bill No. 4581 in Verkhovna Rada, analyzing the proposed amendments, stressed the following: *“The foreseen by the bill changes to various laws of Ukraine require clarifications and improvements. CCD has to note that the previous recommendation of the Council of Europe, EU and Ukrainian experts concerning expansion of the list of protected characteristics can be made only by means of inclusion of such feature as “citizenship.” CCD insists that the list of protected traits must not only be open, but also based on social realities, and because of this — to be the maximum bright and include also explicit prohibition of discrimination on the grounds such as “sexual orientation” and “gender identity” because LGBT people in Ukraine is one of the most marginalized communities in need of protection and recognition of rights equal to all. Absolute property of the new bill is the expansion of forms of discrimination and addition of the “declared intention to discriminate” and “aiding in discrimination”, however, the wording of these provisions and the absence of the proposed amendments to the CCU and ACU can lead to difficulties in their practical application. The proposed expansion of duties of the Parliament Commissioner for Human Rights, on the one hand, indicate a desire to give this institution more powers, on the other — to make no changes to the budget and without expanding the professional structure of the secretariat, it is impossible to talk about the effective implementation of the proposed changes. Expanding the functions of the Commissioner whereby he/she “makes proposals to improve the legislation on preventing and combating discrimination, use and stopping of use of affirmative actions” requires further clarification, since the procedure for making and consideration of such proposals is incomprehensible, especially given the lack of legislative initiatives in the Commissioner. Given the position of individual MPs and parties we stress that exceptions to the bill on the proposed amendment to Article 60 of the CPC would reduce the level of protection of plaintiffs and complicate the work of the courts. The proposed norm does not in any case prevent the observance of “presumption of innocence” as erroneously believed by some deputies. It is important to distinguish between civil and criminal proceedings. In addition, the principle of allocation and transfer of the burden of proof is one of the basic principles that apply to their practice in cases of discrimination of the European Court of Human Rights, practice and decisions of which are binding for Ukraine. We emphasize that the changes in the context of improving anti-discrimination legislation should be applied not only to the specialized law but to criminal, civil, administrative and labor codes, which, unfortunately, cannot be done within the existing bill, but must remain a task for Parliament in future...”*

The full version of the CRC appeal is available under the link //

<http://antidi.org.ua/ua/activity/application/280-zvernennya-kpd-shchodo-zakonoproektu-4581>

87. Another way of appealing against discrimination is a complaint to the police and according to the infringement proceedings under Article 161 of the Criminal Code²⁴. This way is the least effective, although only Article 161 establishes the offender's liability for discrimination actions. The report's authors point out, that in itself criminal liability for discrimination not connected with violence is a violation of the principle of proportionality of punishment. In addition, the procedure for the investigation and indictment under the Criminal Code provides proof of "motive" of the offender, which is quite often not possible, and more absolutely unnecessary in cases of discrimination²⁵.

88. Thus, forcing victims to use the Criminal Code for complaints of discrimination, we only create a system where such complaints can not be proved.

89. The only attempt to amend article 161 of the Criminal Code recently made, was the introducing to the list of features of the feature "disability" in July 2014. The authors of this legislative initiative focused only on the formal expansion of the list of features, regardless of evaluating the effectiveness of the prior application of Article 161 on practice and the question of "proportion of punishment." The main issue which has repeatedly stressed by the experts analyzing the article 161 and the practice of the police on the work with allegations of certain forms of discrimination, including violent crime, was just concerned with the inefficiency of Article 161 in order to bring charges of discrimination because of the need to prove the motive of the offender, because in the world practice and generally essentially the anti-discrimination right issues exactly the matter of "motive" of discrimination is not important, the person may not want to discriminate someone or not know about the phenomenon at all, to use, for example, his own stereotypes about "the incapacity of persons with disabilities" or economic factors "have no money for installation of ramp", but it does not exempt from liability.

90. Thus, for example, carried out in 2013 public monitoring showed a large-scale problem of inaccessibility of Ukrainian courts for persons with disabilities. Already in 2014, the customer of the Foundation for Strategic Affairs of CCD, the man in a wheelchair trying to file a lawsuit regarding the unavailability of catering facilities, could not get to the court registry because of the unavailability of the building. The algorithm offered by Article 161 in this case is totally ineffective, because if a customer submits an application to the police of "direct restriction of his right to a fair trial because of disability",

²⁴ Full text of Article 161 of the CCU:

Violation of citizens' equality based on their race, ethnicity, religion, disability and other grounds:

1. Deliberate acts aimed at inciting national, racial or religious enmity and hatred, humiliation of national honor and dignity or insult the feelings of citizens because of their religious beliefs, as well as direct or indirect restriction of rights or direct or indirect privileges on race, color of skin, political, religious and other beliefs, gender, disability, ethnic or social origin, property, residence, language or other characteristics — are punishable by a fine of two hundred to five hundred untaxed minimum income of citizens, or imprisonment for up to five years, with disqualification to hold certain positions or exercise certain activity in the period of three years or without such penalties.

2. The same actions accompanied with violence, deception or threats or committed by an official — are punishable by a fine of five hundred to one thousand untaxed minimum incomes, or imprisonment for a term of two to five years, with disqualification to hold certain positions or engage in certain activities for up to three years or without it.

3. Actions envisaged by parts one or two of this article committed by an organized group or which caused severe consequences, — are punishable by imprisonment for a term of five to eight years.

{Article 161 under the editing of the Law No. 1707-VI of 05.11.2009;
with amendments, introduced according to the Law No. 1519-VII of 18.06.2014}

²⁵ See appropriate justification ECHR in the case of *Danilenkov and others versus Russia*, Ukrainian language analysis under the link //

<http://noborders.org.ua/docs/analitika/danilenkov-and-others-v-russia-daniljenkov-ta-inshi-proty-rosiji-6733601-rishennya-vid-30-lypnia-2009r/>

it will be very difficult, if not impossible, for an investigator to prove both the motive not to install a ramp and voluntariness.

91. Other problematic aspects of the Criminal Code remain uncertain, so Articles 115, 121, 122, 126 and other relating to the so-called hate crimes, define these crimes as being committed solely based on “racial, national or religious intolerance”, without an open list “and other” that prevents effective investigation and appropriate qualifying of such offenses committed through other motives, such as hate crimes to LGBT people. What is causing great concern among civil society activists who repeatedly emphasized the need to amend the Criminal Code, for crimes committed with the motive of homophobia in Ukraine are every year only growing, the lack of response from the government and effective investigation gives a clear message of impunity to groups who commit such crimes.

92. Thus, despite these significant on the one hand legislative developments, the Ukrainian legislation on the system level no longer meets the international standards on human rights and ban of discrimination and can not provide adequate protection and compensation for all victims.

93. The Ukrainian authorities can not protect minorities from racist violence and bring the perpetrators to responsibility. Majority of violent crimes are caused by racism and no longer recognized as having racist motives. As a result of the monitoring²⁶ conducted by NGOs, the actual number of cases of racist violence is not even comparable to the alarmingly small number of attacks that were qualified under Article 161 (open statistics on other articles of the Criminal Code is not conducted, moreover, monitoring of the data of public organizations and data provided to the requests by the police are not the same). It is worth paying attention to the fact that in the most of cases the racist component is excluded from the overall picture, and it is not even investigated by the law enforcement authorities.

94. Most of the victims of hate crimes (which come from Africa, Central and Southeast Asia, the Caucasus region, as well as people with appearance, not typical for the Ukrainian community and LGBT people) do not inform the police about the attacks in the first place this is due to lack of trust in the system and fear of repeated victimization, while migrants fear questions “about documents and visas”, LGBT people fear disclosure of their sexual orientation²⁷.

95. Response of the police to the cases of hate crimes, obviously as for the victims so for the civil society experts, indicates their unwillingness to assess racism manifestations as such, and investigate them properly with appropriate qualifications.

96. Activity of institutional structures responsible for termination of racial discrimination in Ukraine remains non-systematic and mainly effective. There was not renewed the work of the inter-agency working group on the prevention of racial discrimination, and no one tried to create a new body that would coordinate the work of the central government and parliament. In early 2012 to the Ministry of Culture were transferred the powers of the group as part of combating xenophobia and racism. Currently the Ministry has not put forward any initiative and only continues its “traditional” work in the form of support for festivals and music and dance performances.

97. Some units that should care about the issues of equality and non-discrimination, are created only in the Ministry of Social Policy on the issue of gender equality, all other central government authorities, as well as their regional offices do not conduct any systematic work on overcoming and preventing

²⁶ According to the data of the Monitoring Group on the rights of national minorities more under the link // http://eajc.org/data//file/Xenophobia_in_Ukraine_2014.pdf

²⁷ More about hate crimes towards LGBT and the reasons why such cases are not reported to the police and/or registered by the police, in the report of human rights organization “Our World” for 2014 by reference // http://www.gay.org.ua/publications/lgbt_ukraine_2014-u.pdf

discrimination. This, to the opinion of the authors of the report, is in the first place due to lack of a clear and unified state anti-discrimination policy.

98. Also absent were any clarifications or initiatives of the central executive authorities on the implementation of certain provisions of the Law and realization of the public authorities of their powers on the places according to the mentioned in the Law powers and public necessity. Through assessment of knowledge of representatives of state and local governments and definition of their previous knowledge of the existence of the Law, its individual provisions and understanding of its own responsibility, the coaches of the training program for employees of state and local government authorities²⁸ in the framework of the project "Achieving Equality: a Common Approach to Improving the State of Equality and Non-discrimination"²⁹, noted that: civil servants and representatives of local authorities have a relatively low level of understanding of the phenomenon of discrimination; in each region dialogue with representatives of the state and local governments began with denying the existence of the problem of discrimination in that region/district; no central government authority gave clarification to its structural subdivisions on the procedure or the specific of implementation of the Law of Ukraine "On Principles of Prevention and Combating Discrimination in Ukraine"; participants of the curriculum unanimously note the need to develop a centralized program/policy on the prevention and combating discrimination.

99. In addition, one also needs to strengthen the level of awareness among employees of state and local government authorities on the issue of discrimination itself and its individual manifestations concerning each group, it states the need for development of overall national either strategy or policy in this area, because the state officials in Ukraine still do not understand the need of local initiatives and are not able to implement the local or regional programs in any field without a respectful "team" of a specific ministry.

100. The only system document system in this area is the established and approved in December 2013 by the Office of the Parliamentary Commissioner for Human Rights "Strategy on Prevention and Combating Discrimination in Ukraine for 2014–2017"³⁰ and Action Plan for 2015, which was developed by the office in close cooperation with civil society institutions.

101. Lack of state policy in the field of prevention of discrimination and any kind of system work, also lead to the fact that people are not aware of their rights and the prohibition of discrimination. As a result, absent is both tracking of discrimination cases (the only statistics is conducted by the Commissioner of the Verkhovna Rada of Ukraine on Human Rights³¹), and bringing those guilty for discrimination to responsibility (there is no systematic work aimed at counteraction in various spheres of social life) and also to the fact that the victims of discrimination do not want to go to court or the Commissioner for protection of their rights.

²⁸ The trainers of the training program for representatives of state and local government authorities were: Iyeliulashvili M., Ponomarev S. and Fedorovych I. Trainings were held in five cities of Ukraine — Vinnitsa, Kherson, Uzhgorod, Dnepropetrovsk and Zhytomyr, more about the curriculum under the link // <http://noborders.org.ua/pro-nas/novyny/zaprosujemo-na-navchalni-zahody/>

²⁹ More about the project under the link // <http://antidi.org.ua/ua/activity/projects/300-dosiahnennia-rivnosti-uchasnytskyi-pidkhid-do-stanovlennia-rivnosti-ta-nedyskryminatsii-v-ukraini>

³⁰ Text of the Strategy is available under the link // <http://www.ombudsman.gov.ua/images/stories/strategic%20plan.pdf>

³¹ See the annual reports of the Parliamentary Commissioner for Human Rights under the link // <http://www.ombudsman.gov.ua>

102. Adopted in April 2013 Strategy of Protection and Integration into Ukrainian Society of the Roma national minority for the period up to 2020 and The Action Plan for it approved in late 2013 — remained the only document which can be regarded as an example of systematic work to improve the situation of a certain national minority, but for the declarative nature of both documents, absence of clear indicators for measuring success and overall “Soviet” approach to formation. Neither the Strategy nor the Plan is backed by funds from the state budget for its realization.³²

103. Other important matters of protection from discrimination against certain vulnerable groups remained neglected by the state. Thus, despite the public debate on the need for amending the Law of Ukraine “On National Minorities in Ukraine”³³, which intensified in March 2014, recommendations from international bodies, incomplete process of development and implementation of national ethnic policy in Ukraine, to the review of the Verkhovna Rada no specific proposals have been made. The only response to the aggravation of the question of violation of national minority rights was the creation of the position³⁴ of the Government Commissioner for Ethnic Policy matters. With no powers of legislative initiative, according to the idea of the state, the Commissioner should have been a mediator for cooperation between the public authorities and carry out supervisory and advisory activities³⁵. In May 2015 the activity of the Government Commissioner was stopped, his position

³² Systemic deficiencies of the Strategy are analyzed in the report for public monitoring results, published in June 2015, more under the link

³³ Law of Ukraine “On the National Minorities” of 1992 is a declarative, does not meet today’s realities and needs for significant changes, the full text of which is available under the link // <http://zakon4.rada.gov.ua/laws/show/2494-12>

³⁴ Resolution of the Cabinet of Ministers No. 164 of June 4, 2014, is available under the link // <http://zakon4.rada.gov.ua/laws/show/164-2014-%D0%BF>

³⁵ According to the provision of the Government Commissioner for Ethnic Policy matters, to the responsibility of the Government Commissioner belongs:

- 1) study of the status and trends of development of international relations, national ethnic policy, including protection of the rights of national minorities and indigenous peoples;
- 2) development and submission to the Cabinet of Ministers of Ukraine:
 - proposals for the improvement of the state ethnic policy, particularly on the protection of national minorities and indigenous peoples, and to prevent ethnic conflicts, manifestations of discrimination on racial, ethnic, linguistic and religious grounds;
 - proposals to improve the work of the executive authorities to prevent the early stages of escalating of ethnic tensions during the conflict stage;
 - information — analytical materials on the issues of ethnic policy, the state of interethnic relations, protection of national minorities and indigenous peoples, as well as proposals to address the shortcomings in the relevant areas;
 - proposals for establishing international cooperation with organizations that implement international programs in the of ethno-national field;
- 3) ensuring of cooperation of the Cabinet of Ministers of Ukraine with the executive authorities and civil society institutions, including the temporarily occupied territory of Ukraine in order to ensure the protection of ethnic-national rights of citizens of Ukraine of all nationalities, harmonization of interethnic relations, preservation and development of ethnic, cultural, linguistic and religious identity of ethnic communities and the preservation of ethnic unity and harmony in Ukrainian society;
- 4) information-analytical support of the executive authorities to implement the international obligations of Ukraine in the sphere of ethnic policy, protection of national minorities and indigenous peoples;
- 5) promoting international cooperation on the protection of national minorities and indigenous peoples;
- 6) informing the Ministry of Culture on findings that indicate the violation of the rights of national minorities and indigenous peoples;
- 7) examination of the facts and circumstances that have caused tension in international relations, violation of rights of national minorities and indigenous peoples;

cancelled. Overall evaluation of the work of the Commissioner in this area is extremely poor, even with limited resources, the work had to concentrated on the intensification of efforts to create proposals to the concept of ethnic policy, consolidation of cooperation between public authorities and civil society, but instead the Commissioner spent his time for work in a field hospital in the ATO zone³⁶, ambiguous speeches of low level problems related to ethnic minorities and populist interventions in individual cases outside his mandate.

104. Another tangent to discrimination issue important point is the lack of the clear regulation of the issue of conduct of peaceful assembly in Ukraine and, accordingly, the problems associated with the conduct of the March of Equality (Kyiv-Pride) in 2013, 2014 and 2015. Each time, in response to the notice of conduct of the March, the Kyiv City Administration³⁷ and the Kyiv City police see their duty to prevent the holding of the march, instead, to ensure its safety and unrestrictedness, because the realization of the right to peaceful assembly belongs to all without exception. Such actions of the authorities only contribute to the growth of homophobia in society, so as public statements of politicians and officials that “It is not the time to lead the March, it will lead to abuse of children, has no support, LGBT people should sit quietly at home, etc”. Only lead to radicalization of society and enhancement of right movements, which conduct large-scale counter-assemblies.

8) participation in drafting laws and other regulations, including state programs in the ethno-national sphere and measures to protect and promote the rights of minorities and indigenous peoples, the preservation and development of their national identity;

9) application of measures to formation of tolerance, preservation of ethnic unity and harmony in Ukrainian society, prevention the incitement of ethnic, racial or religious hatred, xenophobia and manifestations of discrimination and intolerance to ethnic communities and their representatives;

10) informing the public in Ukraine and abroad on its activities.

6. The Government Commissioner is entitled:

1) to form expert and working groups to convene meetings, hold meetings and other events on matters within his competence;

2) to involve specialists of executive authorities, enterprises, institutions and organizations (in consultation with their heads) to consider matters within his competence;

3) to participate in boards of ministries and other central and local executive bodies when considering matters within his competence;

4) apply in the prescribed manner with requests to public bodies and local authorities and get from them materials and information necessary to perform his tasks;

5) to take part in the established order in the work of bilateral governmental commissions and their Ukrainian units on the protection of minority rights, as well as in the preparation of periodic state reports of Ukraine on implementation of international agreements on ethnic policy and protection of minority rights.

7. The Government Commissioner has the right to participate in an advisory capacity in meetings of the Cabinet of Ministers of Ukraine when considering matters within his competence.

8. The Government Commissioner coordinates its activities with the Ministry of Culture.

9. Maintenance of activity of the Government Commissioner is carried out but he appropriate structural unit of the Cabinet of Ministers of Ukraine.

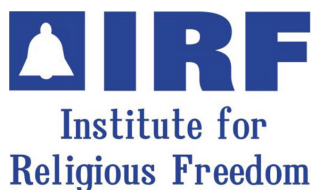
10. The Government Commissioner has an authorized form with the name of his position and indication of the address.

³⁶ Interview of the Government Commissioner on the work of the field hospital and his assessment of compliance with the rights of national minorities in Ukraine under the link // <http://radio.vesti-ukr.com/etherethemes/9308-ukrajina-v-jakomus-sensi-staje-jevropejskoy-amerikoy.html>

³⁷ See the statement of the CCD on the abolition of the March of Equality in 2014 because of the unwillingness of the Kiev police to guarantee the safety of participants // <http://antidi.org.ua/ua/activity/application/299-skasuvannia-ukrainskoho-marshu-rivnosti-na-sovisti-kyivskoi-militsii> More information on the course of the March in different years is available at the website of Kyiv-PRIDE under the <http://kyivpride.org>

1.4. Freedom of conscience and religion in Ukraine

Report prepared by:³⁸



Institute for Religious Freedom (IRF)³⁸
Ukraine 01001, Kyiv -1, p/b B-471
E-mail: info@irf.in.ua
www.irf.in.ua
Contact person: *Maksym Vasin*
E-mail: mv@irf.in.ua

105. During the years of independence of Ukraine multi-religious system asserted itself in Ukrainian society as a token of diversity of religions, cultures, ethnicities and languages. This fact is a positive factor in a process of ensuring freedom of conscience and religion, and action against separate displays of discrimination on religious and ethnical ground as well.

106. It is also being encouraged by the activity of self-governing interreligious institutions such as the Ukrainian Council of Churches and Religious Organizations, which are independent from state authority, represents variety of religious denominations and functions on principles of equality and rotating presidency of each of their members. The efficiency in the matter of development of legislative provision of freedom of conscience and religion was confirmed by the specialized advisory and consultative councils from the representatives of different religious denominations, created under ministries and other governmental structures for dialogue, social collaboration and solving of immediate social issues.

107. In the meantime and from now the cases of more loyal attitude to some religions and biased attitude to the other ones on the part of representatives of local authorities of state power and local self-governing bodies are being observed. To a certain extent the reason for this is that earlier both leadership of the country and leaders of local state administrations often used to identify themselves with some certain religion in public and ignored principles of neutrality and gentlemanliness towards all the religious organizations upon that.

108. In Ukraine all the citizens of all religions and denominations can fulfill their freedom of religion sufficiently. National legislation allowed establishing favourable conditions for development of activities and yearly growth of number of religious organizations in all the regions of Ukraine. However, the Law of Ukraine "On Freedom of Conscience and Religious Organizations" and rules of adjacent enactments need improvement for bigger precision, uniqueness in interpretation and practical use.

109. Believers and religious organizations experience difficulties mostly in the following spheres: exercising of right for peaceful meetings, provision of constitutional right of the citizens for substitution of military duty during mobilization for military service with alternative (civil) service on the ground of their religious opinions, establish of private educational institutions with possibility of receiving state license providing education and bringing up children in accordance with religious views of their parents, acquisition of status of a legal entity under the conditions of non-compliance of different legal enactments, approval of predatory and other religious activities of foreign citizens in Ukraine; return of church property for the purpose of religious worship, expropriated by Soviet regime.

110. Practice of violation of constitutional right of the faithful citizens on substitution of military duty during mobilization for military service on alternative (civil) service outside of any troop formations is inadmissible. During the years 2014–2015 there were the facts of military draft of not only clergymen, but also even those faithful citizens, who went through alternative service instead of compulsory (regular)

³⁸ Institute for Religious Freedom (IRF) — is a Human Rights NGO, the main objective of which is to promote the right to freedom of conscience, religion, expression and other related rights, and the collection, analysis and dissemination of information on state laws and religious life in Ukraine and in foreign countries.

military service and proved to the competent authorities that there were some religious opinions, which forbid protecting sovereignty of the state with gun in their hands. Absence of legal response of this question under the conditions of military mobilization should be taken by representatives of state power not as means of excuse for violation of this constitutional right of the faithful citizens, but as motivation to the quickest development and adoption of the necessary legislative amendments, which was not done till now.

111. Absence of national policy in sphere of freedom of religion and efficient system of state bodies on affairs of religions complicate realization of freedom of religion, especially on local level. There is also lack of legislative consolidation of democratic (partner) model of mutual relations of the state and religious organizations, which should have replaced the Soviet totalitarian image of Church as institution in public life and to reject the temptation to use religious factor in political race.

112. Attempt to enhance the state control of activity of religious organizations, which actually was fulfilled by way of unwarranted restriction of religious freedom had a place during regime of former president Yanukovych at the time of mass civil protests of Ukrainians, which was called Revolution of Dignity (or Euromaidan). In the beginning of January 2014 the Ministry of Culture of Ukraine threatened the Ukrainian Greek-Catholic Church with privation of state registration as legal entity for provision of chaplain's care and performance of religious ceremonies in places of mass protests, justifying that this was the contempt of law about public religious meetings. This is the dramatic example of that although changes to the Law of Ukraine "On Freedom of Conscience and Religious Organizations" concerning expanding of list of regulatory agencies hastily adopted in October 2012 did not bring in themselves substantial danger but later they were used by regime of Yanukovych against religious organizations.

113. Two weeks later, on January 16, 2014, Parliament of Ukraine of VII convocation adopted infamous "dictatory laws". Among them there were changes to the Law of Ukraine "On Freedom of Conscience and Religious Organizations", which imposed a ban on fulfillment of extremist activity by religious organizations. There was no interpretation of this concept and mechanism of realization of this rule, and that open big opportunities for corrupt practices on the part of agencies of state power. Only after dismissal from office and escape of former president Yanukovych at the end of February 2014, Parliament of Ukraine cancelled the above mentioned legislative changes.

114. The events connected with invasion and further annexation of the Ukrainian peninsula Crimea by Russian Federation, lead to religiously motivated prosecutions of clergymen, some believers and the whole religious communities. All those, who were considered by self-proclaimed authorities as a threat for realization of plan in intervention of the peninsula through pro-Ukrainian position personally or appropriate confessions, became objects of oppression. Clergymen and inhabitants of the Crimea, which belong to the Ukrainian Orthodox Church of Kyiv Patriarchate, Ukrainian Greek Catholic Church, Army of Salvation and some Protestant Churches, and also Islamic community of Crimean Tatar people faced threats, beating and even tortures on the part of pro-Russian structures. Establishment of Russian legislation in the Crimea deepened the oppression of freedom of religion, followed by illegal search, impositions of fines, taking out of equipment and religious literature on the ground accusation of so called "extremism". Moreover, almost all the religious organizations of the Crimea faced the problems of re-registration in accordance with requirements of legislation of Russian Federation, which, among others, stipulate mandatory acceptance of Russian citizenship for the founders, as only 1 % from them passed mandatory re-registration for the annual period.

115. Continuation of the Russian aggression because of political, military and information support of separatists in Donetsk and Luhansk regions on the east of Ukraine was accompanied by active use of religious factor as artificial ideological ground for mobilization of pro-Russian forces and bigger stirring up of conflict. As a result, starting from March 2014, religious prosecutions in cities on the east of Ukraine, controlled by pro-Russian separatists, took tremendous scales and forms — threats, beatings,

torturing and murders of religious leaders and believers, seizure temples and other places of worship, which often were used by armed insurgents, including as firing positions. Almost all the Christian communities and religious leaders, excluding the ones of Ukrainian Orthodox Church (of Moscow Patriarchate) and some others, happened to be under risk to their life and health. By September 2015 tens of temples, houses of worship, religious educational establishments and rehabilitation centres in Donetsk and Luhansk regions were occupied by pro-Russian armed insurgents and are remaining under their control. As owners the religious organizations were deprived of the access to these houses of worship, which are misused by armed insurgents and redesigned for military purposes ex post, or just closed.

1.5. The rights of people with disabilities in Ukraine

Report is prepared by:



Національна Асамблея
інвалідів України
www.naiu.org.ua

All-Ukrainian Civic Association "National Assembly of People with Disabilities"
8/5a Reitarska St., office 110; Kyiv, 01030, Ukraine
Tel./fax: (+38 044) 279-61-82
E-mail: office@naiu.org.ua www.naiu.org.ua
Contact person: *Larysa Bayda*
E-mail: bayda@naiu.org.ua



All-Ukrainian PO "Coalition for Persons with Intellectual Disabilities"
Kyiv, 01033, Shota Rustaveli Str. 39-41, Room 801,
Tel./fax: (+38 044) 496-52-92, 067-659-29-36
E-mail: vgo.coalition@gmail.com www.intelldisabilities-coalition.kiev.ua
Contact person: *Raisa Kravchenko*
E-mail: vgo.coalition@gmail.com

Implementation of the National plans and legislative changes to ensure the rights of people with disabilities (recommendations 97.16, 97.43, 97.134).

These recommendations are carried out by the state formally and declaratively and do not ensure the full realization of the rights of people with disabilities

116. The Parliament of Ukraine ratified in 2009 the UN Conventions on the Rights of Persons with Disabilities (CRPD). In 2012 was adopted the State Program "National Action Plan to implement the Convention on the Rights of Disabled Persons" (hereinafter — the National Plan) for the period to 2020, implementation of which involved also bringing of the legislation to the standards of the CRPD. In addition, when the plan was made up, there were not adopted proposals of COPD³⁹ on measures to prevent placement to residential institutions of persons with disabilities, to large extent dependent on outside help. Therefore, till 2020 will continue the practical application of institutionalization policy.

117. Public organizations of persons with disabilities note that this National Plan is implemented ineffectively. Legislative changes, the adoption of new state programs have declarative nature and are implemented formally.

³⁹ Civil organization of people with disabilities.

118. The questions of “disability” are not included in all areas of state policy, they are considered separately. Declaring the use of a social model in policy, the government continues to apply the medical model that leads to creation of new barriers.

119. The policy of collecting statistics on people with disabilities in Ukraine is not consistent with the social model of disability and is imperfect. The lack of reliable statistical data on persons with disabilities is an obstacle to the development of pragmatic policy and its effective implementation.

120. Government agencies and institutions, declaring commitment to the principles of the Convention in practice do not take appropriate measures to implement the existing legislation to ensure the rights of people with disabilities. In particular,

- according to the Law of Ukraine “On University Education”, people with disabilities who are enrolled in higher education are eligible for special education and rehabilitation support and free access to the infrastructure of a higher education establishment. In practice, this provision of the law is not working. In most cases, higher education institutions are architecturally inaccessible; university websites are not adapted to the needs of all students; there is no educational support for students with disabilities, etc.;
- under the present law⁴⁰ persons with disabilities in Ukraine, including children, should be provided with quality services in health care. Unfortunately, the legal and regulatory documents related to providing access to quality health services in health care are not met — and “remain just on paper.”
- people with disabilities continue to face a great number of barriers in the healthcare system, their rights are violated and human dignity is humiliated. About the systematic violations in this area witness the total architectural inaccessibility of health facilities, the inability to make a qualitative diagnostic examination due to the unsuitable equipment, failure to obtain free essential medicines, which in turn promotes the emergence of “secondary diseases” etc. For example, according to the State Program “Reproductive Health of the Nation”⁴¹, women and men with disabilities have the same right to quality reproductive health services as other citizens. According to the conducted analysis⁴², this group of people is “excluded” from the state system of providing these services due to the architectural inaccessibility of medical institutions/facilities, medical equipment; lack of appropriate knowledge and training by health care providers; the existence of stereotypes “they do not need access to prevention programs and family planning programs”; lack of respect (for human dignity); lack of information and education programs for users, etc.;
- under the international treaties to which Ukraine joined and the national legislation, people with disabilities are guaranteed the access to information. However, concern is caused by the inadequate practical implementation of the mentioned guarantees. We have to question the implementation in 2015 the direction towards the availability of information on the official website for use by persons with impaired hearing and determined as “National Action Plan for the Implementation of the Convention on the Rights of Disabled Persons for 2013 — 2020.” Confirmation of improper access of persons with disabilities to information through official websites is indicated in the Court Decision on the claim of the blind person to the State enterprise “Main Information and Computing Center of the State Administration of Railway Transport of Ukraine”, by means of which the respondent is obliged to eliminate the defects on the official website.
- there is any program aimed at protecting the rights of women and girls with disabilities who have experienced violence. In most regions of Ukraine are established institutions that provide social services to women victims of domestic violence, including the provision of temporary shelter, but

⁴⁰ Changes in legislation are made after the ratification of the UN Convention on the Rights of Disabled persons.

⁴¹ State Program “Reproductive Health of the Nation” for the period till 2015. Started in 2006.

⁴² «Access to the services of family planning and reproductive health of women with MSDs.” References, NADU, K., 2015.

women with disabilities can't receive such services. The preliminary analyses ordered by the UN⁴³ Population Fund shows the fact that in most of the centres (over 75%) if the client has mental illness and socially dangerous diseases, disability or illness requiring outside care it is obstacle to get services of shelter.

Creation of the barrier-free environment (Recommendation 97.133).

*Recommendation is formally performed by the state,
there is no significant change in the solving of this matter*

121. Despite the presence in Ukraine of the laws and regulations on the questions of establishment of accessible environment, community organizations of persons with disabilities indicate minor changes noted in addressing these issues.

122. In Ukraine there are no effective means of influencing and monitoring the complying with the adopted laws and regulations relating to environmental accessibility for people with disabilities and the mobility-impaired population groups. This applies to both new public facilities ranging from design and construction, and those objects that were built long ago and are now in operation, in which a variety of services to the population are provided.

123. With the entry into force in 2011 of the Law of Ukraine "On Regulation of Urban Development" *were almost leveled out the influences of users* through accessibility Committees that were "public voice" of people with disabilities in addressing accessibility matters.

124. Implementation of state programs "Ukraine Without Barriers" (2009) and "Action Plan for the Implementation of the Convention on the Rights of People with Disabilities" (2012) does not occur in those volumes that were planned, and in most cases ministries and agencies address their implementation only formally.

125. One of the reasons is the lack of an effective mechanism to monitor their implementation, and the lack of understanding by the officials of social and economic benefits of adherence to the principles of accessibility and universal design.

126. Laid in national standards and guidelines issues of anthropogenic accessibility are not fulfilled, which leads to inaccessibility of the environment, transport and transport infrastructure.

127. Not enough attention is dedicated to safety issues for people with disabilities in the planning of evacuation in emergency cases. This became particular a problem in connection with military events in Eastern Ukraine. For example, hardware of the Alarm system — alarms "Attention everyone!" are not available for people with hearing impairments. Civil Protection Measures aren't capable to evacuate people with disabilities and provide assistance.

128. The state does not undertake appropriate measures of influence on private business that provides services to population, in the matters of creation of accessibility to its services.

129. In connection with the CMU Resolution of 13 August 2014 No. 408 On Restrictions of Interventions was imposed a moratorium on conduct by the inspections of the state architectural-construction control of scheduled and unscheduled inspections of new construction objects. This led to *unpunished* commissioning of newly constructed barrier buildings and facilities, roads without transitions for the mobility-impaired population groups (underground or above-ground without ramps and elevators).

⁴³ Analytical report on the results of the research «Availability of social services for women victims of violence.» Prepared upon request United Nations Population Fund (UNFPA), K 2014 <http://mlsp.kmu.gov.ua/document/166748/2.doc>

Ensuring the right to education for children with disabilities (Recommendation 97.133).

One can admit improvements on the part of the State to ensure the right to education of persons with disabilities.

130. After the ratification of the UN Convention on the Rights of Disabled Persons with the participation of NGOs prepared a number of legislative and normative acts that gave impetus to the implementation of inclusive education in Ukraine, enabling children with disabilities be educated in the schools equal to other children.

131. Apart from the fact there are many barriers that prevent the implementation of inclusive education at all levels: the lack of understanding in support of the unified education system; physical inaccessibility of schools; insufficient methodical maintenance with manuals, technical means; imperfection of human resources policies and systems of services at the community level and so on. There is lack of interagency coordinated statistics on the number of children with special educational needs, causing differences of data on these children in various executive bodies that take care of them. This in turn influences the financial policies to ensure the right to education of persons with disabilities.

132. According to the Decree of the Ministry of Education and Science of Ukraine of 22.09.2010 No. 898 "On Conducting the Monitoring Study of Inclusive Education in Ukraine" in 2014 was completed monitoring of this study. Monitoring results showed that Ukrainian society (parents, teachers, heads of schools) are not yet ready to accept children with disabilities as full members of a student group in secondary schools. Only 47% of respondents among parents and teachers spoke positively on the implementation of inclusive education in schools. This is explained, above all, by the insufficient level of awareness of population about inclusive education, lack of access to free education, appropriate training of teachers, parents, educational material and adequate support for the organization of educational process of children with disabilities in terms of inclusive education. The total monitoring study materials are available on the official website of the Institute of Innovative Technology and Education, Ministry of Education and Science of Ukraine.

133. Inadequate government support, including financial, does not promote inclusion of children with disabilities in learning within the general education space.

134. Along with this, for implementation of systemic changes there is required revision of all basic laws in the field of education; introduction of monitoring adherence to current legislation; ensuring architectural accessibility of education and reasonable accommodation; improvement of training of teachers; public education to change attitudes on the part of parents, teachers; involvement in education of persons with disabilities, adequate financing, etc.

135. In June 2015, Ukraine fulfilled the paragraph "Action Plan for the Implementation of the Convention on the Rights of People with Disabilities" in the part concerning the development of the bill "Basic Laws of Ukraine on Guardianship Over Adult Disabled Persons and Persons Whose Civil Capacity is Limited, Their Social Protection" pursuant to subparagraph 1 of paragraph 1 of Chapter XI "Respect for Home and the Family (article 23 of the Convention on the Rights of Disabled)" Annex 2 to the State Grant Program National Action Plan to Implement the Convention on the Rights of Disabled Persons" for the period until 2020, approved by the Cabinet of Ministers of Ukraine of 01.08.2012 No. 706, paragraph 8 of the Action Plan for the years 2013–2016 to implement the Strategy of Reforming the System of Social Services, approved by the Cabinet of Ministers of Ukraine of 13.03.2013 No. 208-p. However, the bill does not describe intentions regarding the introduction of alternative care forms of protection of the rights of persons with disabilities as a result of intellectual and psychosocial disorders.

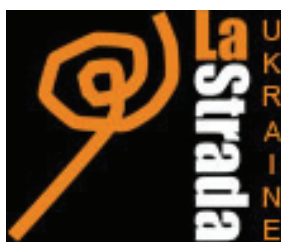
People with disabilities as internally displaced persons

136. People with disabilities who have the status of internally displaced persons as a result of the tragic events not only lost housing, opportunity to work, receive education and lead normal lives. This category, which has an extremely big need for medical care and medicines does not get the guaranteed vital medical assistance from the state. All the resources of families do not cover even the payment for rent. Some people eat with the help of charitable funds (food packages), another part is unable to make a claim about themselves, does not have information resources (Internet). A person with a disability, without employment opportunities, should individually solve the problem of systematic acquisition of expensive drugs, paying for medical care, rent and food, having no resource for this. Many IDPs with disabilities have children, that is why the situation escalates even more. Of particular concern is the situation of the civilians who suffered during anti-terrorist operations and acquired injury and disability.

137. People with disabilities, internally displaced persons, on the brink of survival⁴⁴.

1.6. Combating human trafficking and domestic violence. Women's rights

Report is prepared by:



International Women's Right Centre "La Strada Ukraine"

03113, Kyiv — 113, p/o 26

Tel./fax: +380 44 205 36 95

E-mail: info@la-strada.org.ua.

Contact person: *Anna Saienko*

E-mail: a.saenko@la-strada.org.ua

Ratification of international conventions (recommendations 97.5, 97.11, 97.12)

138. As of June 2015, the third Optional Protocol to the CRC on the mechanisms of appeal challenging violations of children's rights has not been ratified by the Verkhovna Rada of Ukraine. Signed by Ukraine on 20 November 2014⁴⁵.

139. Council of Europe Convention on preventing and combating violence against women and domestic violence as of June 2015 has not been ratified. The project of the Council of Europe "Preventing and Combating Violence against Women and Domestic Violence in Ukraine" is being realized. Created and operates a working group to develop a draft Law of Ukraine "On the Prevention of Domestic Violence", which included representatives of the central authorities, public and international organizations.

140. As of June 2015, the Hague Convention on *Protection of Children and Co-operation in Respect of Intercountry Adoption* has not been ratified. Verkhovna Rada of Ukraine, since 2001, six times was

⁴⁴ According to the results of public monitoring of access by internally displaced persons (IDPs) to health care, experts have identified two main problems with the availability of health care for immigrants from the zone of military conflict: lack of proper informing IDPs about the mechanisms of assistance and the lack of additional funding of health care needs of the regions with the greatest number of IDPs, and the Ministry of Health, which is the main manager of medical subsidies for regions where the largest number of migrants is registered, does not hurry to allocate funds to support the medical needs of IDPs".

⁴⁵ <http://zakon4.rada.gov.ua/laws/show/1037/2014-%D1%80%D0%BF>

addressed the issue of Ukraine's accession to the Hague Convention on Protection of *Children and Co-operation* in Respect of *Intercountry Adoption*, but each time the bills were not supported, were appealed or returned for revision.

Gender equality

Legal regulation of gender equality (recommendations 97.20, 97.31, 97.54)

141. At present, in this area valid is the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men" and the State Program and ensuring equal rights and opportunities for women and men for the period until 2016, approved by the Cabinet of Ministers of Ukraine of 26.09.2013 No. 717.

142. Ongoing is the development of the National Action Plan for 2015–2019 years on implementing UNSCRs No. 1325, 1820, 1888, 1889, 1960, 2106 "Women, Peace and Security." Created and operates a working group to develop the said legal act.

143. However, regulations that strengthen the implementation of the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men" were not prepared and adopted. Ministry of Social Policy is preparing a new state program to ensure equal rights and opportunities for women and men, to replace the current implementation period which expires in 2016.

Consideration of gender-sensitive approach in developing poverty reduction programs (recommendations 97.47, 97.48)

144. According to the Action Plan for the implementation of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand, for 2014–2017, approved by the Cabinet of Ministers of Ukraine of 17.09.2014 No. 847, Ministry of Social Policy is developing a draft Poverty Reduction Strategy, one of the measures of which is reduction of unjustified income inequality of population, respect for the principles of social justice in income distribution.

Special measures to achieve gender equality (recommendation 97.53)

145. Representation of women in public and political life is very low. As a consequence, women have limited opportunities to influence decisions that affect their lives, the lives of their communities and the country. Verkhovna Rada Committee on Human Rights, National Minorities and Interethnic Relations at its meeting on 5 February 2014 reviewed the draft Law on Amendments to Certain Legislative Acts of Ukraine (regarding equal rights and opportunities for women and men in the electoral process) (Reg. No. 3411), as well as alternative draft Law on Amendments to Certain Legislative Acts of Ukraine (regarding determination of the number of candidates of the same sex in the list) (Reg. No. 3411-1), and the draft law on amendments to some laws of Ukraine on Ensuring Equal Rights for women and men (Reg. No. 3411-2). The Committee decided to recommend to the Verkhovna Rada of Ukraine to adopt as the basis the draft of the Law on Amendments to Certain Legislative Acts of Ukraine (regarding equal rights and opportunities for women and men in the electoral process) (Reg. No. 3411). But this bill is not accepted by Verkhovna Rada of Ukraine. Thus, any special measures, including quotas, are absent.

Prevention of Domestic Violence (recommendations 97.76, 97.77, 97.78)

146. The Council of Europe Convention on preventing and combating violence against women and domestic violence as of June 2015 has not been ratified.

147. Realized is a project of the Council of Europe "Preventing and Combating Violence against Women and Domestic Violence in Ukraine."

148. There is created and operates a working group to develop a draft Law of Ukraine "On Prevention of Domestic violence", comprising representatives of central executive bodies and non-governmental and international organizations. At the same time other codes and laws of Ukraine require complex changes in accordance with the provisions of the Convention.

149. According to the data of the Ministry of Social Policy, during 2013 there are recorded 144,848 complaints about domestic violence, up 33% compared to 2012. To the centers of social and psychological assistance was directed by 52% complaints in comparison to 2012.

Prevention of trafficking

Improvement of legislation (recommendation 97.22)

150. On March 25, 2013 Ministry of Social Affairs established a working group to consider issues arising during the implementation of the national policy on combating trafficking and improving the legal framework in this area.

Action Plans and programs to counter trafficking (recommendation 97.49)

151. The Ministry of Social Policy to bring to action the National Action Plan on implementation of the second phase of the Action Plan to liberalize the EU visa regime for Ukraine, approved by the Cabinet of Ministers of Ukraine on 20.08.2014 No. 805, has developed a draft Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Concept of State Program on Combating Human Trafficking until 2020." Created and operates a working group to develop the said legal act.

Resources' provision (recommendation 97.80)

152. There was not allocated enough resources for the effective implementation of the Law "On Combating Human Trafficking."

153. In 2013 to the State Budget of Ukraine was allocated 60 thousand UAH. (about 3715 euros) for the implementation of the State Programme on Combating Trafficking, for the payment of one-time financial assistance to victims of trafficking, used 44,9 thousand UAH (2780 euro paid to all citizens, who have received the status of a victim of trafficking — 34 persons). In 2014, on the implementation of the State Programme on the State Budget was allocated 82.1 thousand UAH (5080 EUR), for the payment of one-time financial aid was allocated 240.9 thousand UAH (15 thousand Euro). From the local budgets in 2013 was used 214.89 thousand UAH (13 300 euro), and in 2014 it is foreseen to use 607,050 USD (37,570 euro).

Institutional issues (recommendation 97.83)

154. Additional almshouses are not created. As of 01.01.2014 operated 22 centers for social-psychological help, which took care also for the victims of trafficking. Currently, they mostly assist IDPs. Help to the victims is provided by the Medical rehabilitation center of the representative office of IOM in Ukraine. Shelters of the NGOs are not funded by the state.

155. Reception centers for children of the Ministry of Internal Affairs of Ukraine are not redeveloped into rehabilitation centers for children — victims of crime and involved in sexual exploitation.

156. Department for combating cybercrime and trafficking of the MIA, founded in 2004, was transformed into the department and is subject to the Criminal Investigation Department, which led to a significant reduction in staff. On August 30, 2013 it was restored as the Department for Combating Crimes related to human trafficking. Similar units were established at the regional and district levels. It is forecasted that the total number of personnel units in Ukraine will be 700 people, 50–60 law enforcement officers to combat human trafficking in every town with population over 1 million people. Such departments were established in each of the headquarters of the Interior Ministry at the regional level as well as in Kyiv.

157. Obviously, restructuring affected the performance of work. In 2013–2014 there was observed decrease in registered criminal cases: 130 in 2013 and 109 in 2014.

158. Extremely problematic is prosecution of the perpetrators of human trafficking crime. Increases the difference between the registered cases and sentences. In 2013 — 64 sentences, in 2014 — only 19.

Training of specialists (recommendation 97.84)

159. Subject of combating human trafficking is partially included in training and professional development of specialists. Training takes place in the Institute Further Training of public authorities employees for professionals working in the centers of social services for families, children and youth, the National Academy of the Prosecutor's Office, National Academy of Internal Affairs, National University of Internal Affairs, Institute of Postgraduate Education of the National Academy of Internal Affairs, some universities and Institutes of Post-graduate Pedagogical Education that train teachers and social workers.

160. In 2013 center "La Strada — Ukraine" together with the Ministry of Social Policy conducted 10 training courses for 600 experts to implement the standards of providing services to victims of trafficking. During 2013–2014, the National coach network "La Strada — Ukraine" held 4042 events for 41,663 professionals and 88,050 pupils and students.

161. The Ministry of Social Policy in cooperation with the OSCE Project Coordinator in Ukraine and the Representative office of IOM Ukraine conduct trainings within the framework of distribution of the National mechanism of cooperation of subjects for combating human trafficking.

162. During 2013 in 6 regions of Ukraine were conducted 81 trainings for 1,955 people (trained 229 trainers and trained 1,726 civil servants). Also in 2013 were held 17 trainings for over 320 people. Moreover, in the framework of the permanent work to strengthen the prosecution of human trafficking in 2013 the OSCE Project Coordinator in Ukraine held two regional roundtables involving workers of UBTL SCI of the Ministry of Interior, Central Investigation Department of the MIA of Ukraine, GPOU and VSSU in civil and criminal matters, and More than 130 representatives of the courts of appeal, prosecutors of regional level, regional level investigative units and regional units to combat trafficking of the MIA of Ukraine from all regions of Ukraine.

163. New challenges associated with the war in Ukraine, administrative reform, significant staff turnover and the implementation of the provisions of the Law "On Combating Human Trafficking" have increased the need for training specialists.

164. The need for full inclusion of the theme of combating trafficking in human beings in the whole system of preparation and training of all professionals working in this area.

165. For the new Interior Ministry patrol service there are conducted trainings on combating human trafficking and children's rights.

Assistance to victims (recommendations 97.81, 97.82)

166. Gradually, supported by international (OSCE Project Coordinator Office and IOM) and the active participation of NGOs is introduced the National mechanism of interaction of the subjects for combating human trafficking (National Referral Mechanism) in all regions.

167. On March 25, 2013 Ministry of Social Policy established a working group to consider issues arising during the implementation of the national policy on combating trafficking and improving the legal framework in this area. In particular, the group is working on development of a new state program for combating human trafficking and making changes to existing legislation on combating trafficking in human beings.

168. There remain problematic issues:

- detection and identification of victims of human trafficking;
- high number of failures in obtaining the status of a victim of trafficking (during 2013–2014 IOM Ukraine together with partner NGOs provided assistance to 1,832 trafficked persons (929 persons in 2013, 903 — in 2014). During these two years the Ministry of Social Policy has provided 68 status of a victim of human trafficking (41 — in 2013, 27 — in 2014). Received were 106 applications (58 — in 2013, 48 — in 2014);
- absence on the national level and in most regions of the valid mechanism of the social order by the state of services from public organizations working in the field of combating human trafficking;
- lack of coordination of anti-trafficking activities. Interagency Council has to meet at least three times a year, the last meeting was held in 2010. Next meeting was scheduled for July 2014, but it was canceled due to the events in Ukraine. More meetings were not planned and were not conducted;
- lack of periodic independent evaluation of state policy on combating human trafficking as a tool to assess the impact of actions and planning future policies and measures;
- difficulty of overcoming the consequences of the military conflict in the East of Ukraine.

169. There appear new ways of recruiting (offer to make a refugee status registration) and new vulnerable groups (including internally displaced persons). Research conducted by the Center “La Strada — Ukraine” in 2014 showed that 19% of IDPs are cases when IDPs found themselves in human trafficking situation, 10.8% of IDPs are going to look for employment abroad, 7.8% of IDPs are ready to work on any conditions. Increased the number of consultations provided by the national “hot line” for combating domestic violence, human trafficking and gender discrimination. In total in 2013–2014 were given 14,761 consultations. 17.5% of consultations in 2014 were consultations on IDPs assistance. Between January and April 2015 were received 3615 calls, 43.2% of which related to aid for IDPs.

Compensation for victims (recommendation 97.85)

170. Ukrainian authorities have not informed the group of experts from the Council of Europe against Trafficking in Human Beings (GRETA), which monitored the implementation by Ukraine of the Council of Europe Convention on Action against trafficking of any satisfied claims for reimbursement on the side of the victims of human trafficking.

171. Results of the study of judgment for trafficked persons from 15 regions of Ukraine for 2011–2012 showed that only five of the victims have filed civil suits for compensation. In some cases, courts have awarded compensation, but it has not been paid to the relative victims. Currently, there is no effective

mechanism for enforcement within a reasonable time of court decisions on compensation received in civil proceedings.

172. Thus, victims of trafficking are not able to receive compensation from the state. One-time financial assistance referred to in paragraph 97.80 can not be considered as compensation.

1.7. Rights of the child in Ukraine

Report is prepared by:⁴⁶



Coalition for the Rights of the Child in Ukraine⁴⁵
<http://www.childrights.in.ua>

Contact person: *Maria Yasenovska*
 E-mail: public.alternative@gmail.com

General Policy and Legislation

173. The existing regulatory capacity on child protection is improper. The main disadvantages are⁴⁷: lack of a unified attitude and approach to the protection of a child; lack of system that gets its expression in the absence of a unified system of child protection authorities; of an algorithm of interaction between them; obsolete forms of work that are inefficient and do not give results, and an outdated regulatory

⁴⁶ The coalition was created in 2012 to promote the rights of the child and monitoring the effective implementation of the Concluding observations and recommendations made by the UN Committee for Children's Rights.

Tasks of the Coalition:

- To promote children's rights in Ukraine.
- Track and promote the recommendations of the UN Committee on the Rights of the Child on the UN Convention on the Rights of the Child.
- Share best practices in the area of children's rights.

Values of the Coalition:

- the best interests of the child, equality, openness, voluntariness, responsibility of each participant of the Coalition.

Participants of the Coalition:

Public and local organizations and associations working for children's interests in Ukraine.

1. Association of Young Professionals "Class" (Kharkiv)
2. Charitable Foundation "Rokada"
3. Ukrainian public organization "Women's Consortium of Ukraine"
4. All-Ukrainian Foundation "Protection of Children's Rights"
5. Public Movement "Faith, Hope and Love"
6. Children's Environmental NGO "Flora" (Kirovograd)
7. City Youth NGO "M'ART" (Youth Alternative) of the town of Chernigiv
8. Partnership "Every Child" in Ukraine
9. Human Rights Center "Postup" (Lugansk)
10. HAYES Representation in Ukraine
11. Sumy NGO "Kalynove Hrono"
12. Sumy Region NGO "Center for Civic Initiatives "The Intelligence of Sumy Region"
13. Kharkiv Regional Foundation "Social Alternative"
14. Kharkiv Institute for Social Research.

⁴⁷ According to the materials of the research "Torture and Ill-Treatment of Children in Ukraine." / Under gen. Ed. by E. Y. Zakharov — Kharkiv Human Rights, 2013. — 244 p.

base; almost all regulations governing child protection are characterized by certain declarativity, often there are no mechanisms for implementation of a certain provision; common approach to a child as an object of influence; non-consideration of the fact that a child — is a person who should be primarily subject relationships; insufficient funding of institutions for the protection of children's rights. All this suggests that the work towards recognition and acceptance of a child as a full member of society and his protection is just started.

174. In the course of the work of the Verkhovna Rada of Ukraine of the seventh convocation, which lasted less than two years, were adopted about 28 laws directly or indirectly related to the issue of children's rights. Of these, 8 are holistic laws, other 22 — laws on amendments to the existing laws of Ukraine⁴⁸. It is worth noting that almost all legislative initiatives were purely social in nature and concerned mainly the changes in procedures of social assistance and cash benefits. This situation corresponds to the determined before state approach to children as a subject of protection, but not the object that has its own rights and freedoms. This approach was criticized by the Coalition in preparing the preliminary report on the situation of children's rights, submitted to the Committee on the Rights of the Child⁴⁹.

Prevent Child Abuse

175. Child abuse remains an urgent problem in Ukraine. However, the topics not a taboo topic anymore, which allows to better study the problem, exploring its various manifestations. Thus, recently a series of studies on different manifestations of violence was carried out in state institutions for children (children's homes, orphanages, reception centres for children, in the penitentiary establishments for children).

176. There remains the practice of physical punishment of children in children's establishments. Children under the conditions of closed institutions become victims of violence. Thus, the interviews revealed facts of physical and verbal aggression by police officers and staff of social rehabilitation establishments, use of sleep deprivation as punishment, the prevalence of threats and verbal aggression, sexual harassment, use of one students against the other students "for education"⁵⁰.

177. Forced abortions of female children in schools aged 13–14. In boarding school of Vinnytsia region. seven- and eight-year observed children in the same room with adolescents. 21-year-old resident said that the residents of the orphanage are often beaten by as the staff so other residents. In this orphanage the researchers met a girl Katya, who was pregnant. Management of the orphanage told her that she should have an abortion — either she wants to or not. Gynecologist in Zhmerinskiy mental boarding school for adults said that pregnancy is a common phenomenon in orphanages and forced abortions are carried out often.

178. Involving older children (or youth) in the process of supervision over the behaviour of younger children. In addition to the formal structure of adherence, there is an informal one. In 6 of 7 visited schools administration and staff of correctional facilities dismiss of their duties to protect and maintain

⁴⁸ Summary of all the respective initiatives of the VR are listed in Appendix 1 of this document.

⁴⁹ Alternative report on implementation by Ukraine of the Convention on the Rights of the Child in 2002–2008 // <http://www.unicef.org/ukraine/report-ukr.pdf>

⁵⁰ The Rights of the Child in Social Rehabilitation Institutions in Ukraine: Special report on the Implementation of the National Preventive Mechanism/Ukraine Parliament Commissioner for Human Rights: Official publication. — K., 2013. — 110 p.

the safety of existence and coexistence of pupils, shifting their functions to the persons convicted of (so-called “equity”). This creates unacceptable measures of punishment and the influence on prisoners.⁵¹

179. The problem of violence against children remains relevant in both families and schools. From 24% to 37% of children are exposed to violence in schools (from practically daily to several times a month). The highest rates in the boys of 12–14 years old (interest calculation is without the data of 23 profiles of younger children, 8 children of middle age and 9 — of older age, who did not answer the question).⁵²

180. In boarding schools children with disabilities and “behavioural disorders” are settled in the worst lodge rooms and subject to brutal violence. For example, in Bukiwsky Orphanage (Lviv region) children with more serious disabilities are placed in a dirty barn. We have seen children covered with own urine and faeces, sitting or lying on the floor in a crowded room.

181. It is noted that children with disabilities in some boarding schools are hold tied to wheelchairs. Reported the use of sedatives and psychoactive drugs as chemical means to limit movement in order to punish or control children. In one orphanage staff reported that chemicals were used for all residents to more easily manage their behaviour.⁵³

182. The physical and psychological abuse by law enforcement officers during arrest and pre-trial stage. The violence during the arrest is admitted by almost a third (23 of 80) child. It should be noted that describing attitude that was applied with respect to them, the children pointed out that violence is not aimed to cease their unlawful actions, had the character of unjustified cruelty and humiliation. In several cases, police officers, who carried out the detention, wore civilian clothes and refused to produce documents which did not allow to confidently identify them as the Interior Ministry workers from the start. Also disturbing is the fact that in four cases, children believe that ill-treatment by police officers was justified (because of the alcoholic intoxication or aggressive behaviour). Almost half of children (37 of 80) during the inquiry were coerced to testify by means of physical violence combined with psychological pressure from the Interior Ministry staff, only psychological pressure was observed in 33 interviews. In most cases this happened on the first day of detention; but in several cases physical abuse and (or) ill-treatment was longer, from several days to several months and had a form of torture. Mentioned were tortures through asphyxia (breathing apparatus, balls on head) or beating by means that do not leave obvious marks on the body. In one case, according to the respondent, for the purpose of torture to him was applied electric current⁵⁴.

Survival, quality of life and health

183. According to UNICEF Representative Office in Ukraine, Ukrainian government has developed a number of national strategies and programs aimed at the needs of children. However, implementation

⁵¹ Complying with the rights of juveniles in correctional facilities of the State Penitentiary Service of Ukraine: Special Report on the Implementation of the National Preventive Mechanism/Ukraine Parliament Commissioner for Human Rights: an official publication. — K., 2014. — 120 p. — <http://khisr.kharkov.ua/files/docs/1419178922.pdf>

⁵² Violence in schools: analysis of the problem and the assistance needed to children and teachers in solving it. Authors: E. Dubrovskaya, Yassenovska M., Alekseenko M. Kyiv: Women's Consortium of Ukraine — 2008. // <http://wcu-network.org.ua/public/upload/files/schulNAS111.pdf>

⁵³ Disability Rights International: There is no way home. Exploitation and abuse of children in orphanages of Ukraine. — Ukraine, 2015 // <http://www.driadvocacy.org/media-gallery/our-reports-publications/>

⁵⁴ Torture and ill-treatment of children in conflict with the law in Ukraine. A brief overview. The research team of the Kharkiv Institute for Social Research: Kobxin D. O., Chernousov A. M., Scherban S. V., Kolokolova M. O. — Ukraine: UNICEF — 2013. // http://www.unicef.org/ukraine/B_Zone_v04-.pdf

mechanisms and budgetary allocations to these efforts are often ineffective and insufficient. Policy making is not always based on objective information due to lack of information and inadequate analysis. In addition, children have few opportunities to participate in political decisions that affect their lives and well-being.

184. Currently there is no single State program of socio-economic development of Ukraine, while there are regional programs for socio-economic development.

185. There is a resolution of the Cabinet of Ministers of Ukraine of 31 August 2011 No. 1057 "On Approval of the National Programme for Overcoming and Preventing Poverty for the Period till 2015."⁵⁵ Regional state administrations adopted appropriate programs for the period 2012–2015. This outlined in the program strategy to combat poverty among families with children and low-income families lies in the increase of state aid to families with children considering the increasing the minimum cost of living. National Action Plan to implement the UN Convention on the Rights of the Child is not mentioned in the program.

186. According to the data of the Multi-indicative cluster household survey (MIX), in 2012 exclusively breast feeding up to 6 months received 19.7% of children. The situation on this issue is exacerbated by the lack of implementation of International Code of Marketing of Breast milk Substitutes in Ukraine.

187. According to the UNICEF in Ukraine, Ukrainian mothers of children up to 5 years recently changed their attitudes to vaccination to a more loyal and positive. However, only 63% of mothers do immunizations to children according to Ukrainian calendar. The lowest rate is in Kiev — only 49% of mothers do vaccinate children according to the calendar. To protect against polio, only 44% of mothers believe that their child is fully vaccinated against it. Thus, Ukrainian children remain almost completely protected from polio virus — in Ukraine there are less than half of vaccinated children. According to the head of the Ministry of Health of Ukraine (27.01.2015), Polio vaccination coverage in Ukraine is less than 30%⁵⁶. According to the data of the Multi-indicative cluster household survey (MIX), in 2012 the highest level of vaccination of children was against tuberculosis (94.5%), the lowest — against Hepatitis B (26.1%). Among those who do not vaccinate their children, the main barriers to vaccination are the basic distrust to vaccination in general and the fear of adverse reactions. Majority of moms do not independently seek information on vaccination and rely on information from the doctor or the media. Every third mother has heard before about the campaign against the vaccination⁵⁷.

188. There is conducted a comprehensive study of health problems in adolescence age "Health and Behavioral Orientations of Students — 2014" within the framework of the international project WHO. Partially adolescent health issues are reflected in the State Program "Reproductive Health of the Nation" up to 2015 (approved by the Cabinet of Ministers of Ukraine on 27 December 2006 No. 1849), in the Strategy of Demographic Development till 2015 (approved by the Cabinet Ministers Ukraine on June 24, 2006 No. 879) in government target social program "Youth of Ukraine" for the period 2009–2015.

189. As to the programs for prevention pregnancies in adolescence, prevention of unsafe abortion and prevention of diseases transmitted sexually, in Ukraine is valid the regulation that a child under 14 years is provided with medical assistance only with the consent of a legal representative, and from 14 to 18 years — upon parental consent. The problem is that doctors-obstetricians have in practice accepted

⁵⁵ <http://zakon1.rada.gov.ua/laws/show/1057-2011-%D0%BF>

⁵⁶ <http://www.unian.ua/society/1037036-vaktsinatsiya-naselennya-y-ditey-mae-buti-chastinoyu-bezpeki-krajini-kvitashvili.html>

⁵⁷ http://www.unicef.org/ukraine/ukr/media_26832.html

the norm p. 1.8. of the Procedure for provision comprehensive medical care to a pregnant woman during unwanted pregnancy of the Ministry of Health of Ukraine Order No. 423 as one that allows not to give consent to the intervention of a legal representative of a person who has reached 14 years of age. And if that person addresses a gynaecologist, abortion I carried out without notifying a parent or legal guardian. But lawyers argue that there must be consent of the legal representatives of a child.

190. According to the Ministry of Health, in 2013 in Ukraine the girls of 14 years have made 54 abortions, in the age of 15–17 years — 1,592⁵⁸. Statistics show that despite the huge reduction in the number of abortions among girls aged 15–17, the abortion rate among the age group under 14 years has not changed in recent years⁵⁹.

191. As of October 2014, the current system of “teenagers therapists” is changing, there are added abbreviations; curation of teenagers will be done by family physicians⁶⁰.

192. Information on mortality indices in children under 1 year, children under 5 and maternal mortality in Ukraine are of uncoordinated nature — even according to the official government sources of the Ministry of Health of Ukraine and Cabinet of Ministers (based on statistical data), not to mention the data of alternative research. Thus, the mortality rate in children under 1 year in 2013, according to Ukrstat — is 8.0 in 1000⁶¹. And according the Multi-indicative cluster household survey (MIX) — 7.0. Mortality of children under 5 in 2013, according to annual monitoring report prepared by experts of the Institute of Demography and Social Studies named after M. Ptukha with the assistance of the United Nations Development Programme — 9.4 per 1,000 born alive⁶². At the same time there is indicated a relatively high mortality rate of children aged 1 to 4 years due to external causes, that is those which could be prevented. Because of these unnatural factors every third baby is dying.

Children in armed conflict and IDPs

193. The Law of Ukraine “On Securing the Rights and Freedoms of Internally Displaced Persons” and the Order of registration and issuance of a certificate of registration of a person who is moved from temporarily occupied territory of Ukraine or area of the antiterrorist operation, approved by the Cabinet of Ministers of Ukraine of 01.10.2014 No. 509 are not coordinated. As a result — children who do not have a legal representative, who can confirm with documents his powers, are under the risk not to be registered as IDPs and not to exercise their rights. The legislation does not contains a special procedure for placing an IDP-child in a family of persons (relatives), who are his legal representative, but are accompanying the child and care about him and are willing to take responsibility for the child. The Law on IDPs amidst one of the conditions, under which the certificate of registration is not available or is terminated, does not contain exceptions for children — IDPs.

194. Discrepancy between the existing legislation and international standards leads to the involvement of children in the conflict in various capacities, including with weapons in hand. In the media there is constantly information about the presence of children-soldiers and the involvement of children to participate in the armed conflict, both with each other and with other parties. However, the confirmation or refutation of information is much not enough. For example, the self-proclaimed fighters of the Donetsk People’s Republic fight involving children aged of 16–18 years. Children in the occupied

⁵⁸ <http://z-l.com.ua/ua/newsid/2034>

⁵⁹ <http://tsn.ua/ukrayina/fond-narodonaselennya-oon-zaklikav-do-rozshirenniya-prav-zhinok-u-sviti-301726.html>

⁶⁰ <http://www.vz.kiev.ua/zdorovya-pidlitkiv-turbota-simejnogo-likarya-chi-yuvenologa/>

⁶¹ http://www.ukrstat.gov.ua/operativ/operativ2007/ds/nas_rik/nas_u/nas_rik_u.html

⁶² <http://time-ua.com/novini/suspilstvo/6254-uprodovj-desyatirchchya-v-ukran-skorotilasya-dityacha-smertnst>

territories of Luhansk region are taking part in hostilities; children are involved in community activities against Ukraine. In schools children are told that when going to the territory controlled by Ukraine, they will have their documents taken away, or will be sold into slavery. According to the evidences of Luhansk volunteers, children in the ATO territory controlled by Ukraine are not taking direct part in hostilities, but often run to the military at checkpoints, offer help. In both territories under the auspices of "military-patriotic education" there are created a lot of troops and paramilitary camps with children aged 12–17 years. For example, in Kiev, on the Obolonska promenade one of the battalions just allows to play with real weapon.

195. Since March 2014, at least 109 children were seriously injured and 42 killed as a result of collision with mines and explosive objects remaining after fighting in Donetsk and Lugansk regions. At the end of March 2015, the State Emergency Service of Ukraine seized 33,717 pieces of munitions in Donetsk and Lugansk regions. Only in one day the Service removes an average of 21 to 36 munitions⁶³.

196. Currently, as of July 2015 the State has not developed a mechanism for evacuation from the war zone. In connection with the threat to life and health of the children (about 150,000 children) together with their parents had to go to other areas of Ukraine and the rest — more than 500 thousand children continue to reside in the territory that is not controlled by the authorities of Ukraine. The most vulnerable category of children are orphans and children deprived of parental care. According to Article 52 of the Constitution of Ukraine, upbringing and education of orphans and children deprived of parental care is entrusted to the state. As of October 2014, from the institutions that were located in the area of ATO, were evacuated more than 1,600 children. However, in the area of ATO, as of July 2015 remained: the regional department of the Rovenky children's boarding hospital for people with disabilities (27 children) and Krasnodon Regional orphanage of Luhansk region (80 children).

197. Strategies to ensure the integrity of the family, movement of a child and his family due to the military conflict, the systematic works with a divorced family, is not usually carried out in Ukraine, but if carried out — rather unprofessionally and chaotic.

198. In general, because of the consequences of the conflict in Ukraine were affected about 1.7 million children — estimated by the UN. Lack of medicines and insufficient number of vaccinations against various diseases make children in the East even more vulnerable, UNICEF stresses. Volunteers always note the difficulty in addressing issues related to the provision of quality health care. Primarily because of the lack of medicines that can be granted to the families and the inability to regularly buy expensive medicines. There are also certain difficulties with medical care in areas where IDPs compactly live. Many families do not have funds to purchase the necessary medicines. Humanitarian missions are not able to provide all the medical needs of displaced children and children in the occupied territories. Very often parents of children with serious health defects are faced with the problem of obtaining drugs, which are guaranteed by Ukrainian legislation.

199. Currently Ukraine State is unable to provide all in need with quality, systematic psychological and medical assistance. The question is in the level of personnel training, information campaigns on the system and the services market, providing essential drugs. Another problem is identification of the actual needs, particularly among children. Training of specialists is conducted in insufficient extent and is fragmented.

200. The question is in the plane of personnel training, information campaign on the system and the market of services, provision with essential drugs. 10,700 students from the ATO zone of Donetsk and 3,800 of Luhansk regions study on peaceful territories of the respected regions. To schools in other regions of Ukraine are enrolled 25, 3 students of Donetsk and 15,2 pupils of Luhansk region. To obtain education to vocational schools of other regions of Ukraine addressed 1,216 people from Donetsk and

⁶³ http://www.unicef.org/ukraine/ukr/media_27604.html

Lugansk regions. At the end of November 2014, from the ATO area were evacuated 3 higher educational institutions of the III–IV accreditation levels and two institutions of the I–II levels of accreditation. To the universities of other regions of Ukraine as temporarily admitted for studies transferred are 5,538 students. From Luhansk region permanently transferred are 3,163 students, and from Donetsk — 2366. In the districts of Donetsk region, where currently war actions take place, 147 schools remain closed. 187 educational establishments are partially or completely destroyed. In addition, only in the western part of the Donetsk region destroyed are more than 150 schools, so about 50 thousand children are not able to study in normal conditions.

201. On the part of Donetsk region, which is currently controlled by militants, are situated 490 secondary schools of different types, and in Luhansk region — 363 institutions. On the non-controlled site learning is conducted with Russian textbooks, programs, assessment is transferred to the “five-point system.” Children receive certificates and certificate of the sample of Luhansk and Donetsk Republic.

202. Access to education is complicated by the permit system: so, in spring children-school leavers who wanted to make external independent testing could not get to trial exams because they were not allowed in the checkpoints or LNR or DNR, as well as in the Ukrainian checkpoints.

203. Because of the difficult financial situation of families with children among the IDPs are unable to attend after-school educational institutions (art schools, dance groups, sports sections, etc.). Also, in summer not all families are able to improve children’s health. Volunteers are unable to cover the entire layer of providing children of immigrants with the right to leisure and recreation.

1.8. Social-economic rights

Report is prepared by:



Ukrainian Helsinki Human Rights Union
04070, Kyiv, Frolovskaya Str., 3/34, 3-d storey
Tel./fax: +38 044 417-41-18,
www.helsinki.org.ua, e-mail: office@helsinki.org.ua

Contact person: *Maksym Shcherbatyuk*
E-mail: shcherbatuc@helsinki.org.ua

204. In conditions of revolutionary changes and war in the east the situation with complying with the social-economic rights in Ukraine is extremely difficult. Given this situation, the problems of poverty have just acquired a new urgency and, unfortunately, the government was not ready to accept new challenges. The government in 2014 “froze” the values of minimum standards that led by increasing of prices to further impoverishment of the population. In addition, the difference in incomes of rich and poor people is continuing to deepen.

205. It should be noted that the cost of living, which is the basic indicator for the whole social security system, for many years does not reflect the real basic needs of a person because it does not take into account many essential for the human costs, and is based on a set of food products, nonfood goods and services, which has long been outdated. Moreover, in order to determine the amount of certain types of social security further applied is the guaranteed rate of the subsistence level, which reflects the inability of the state to fulfill today even less than the minimum standard of living.

206. Despite certain efforts undertaken by the state there arise significant problems of social protection of internally displaced persons, soldiers and other persons involved in the ATO. In the legislative field

significant changes that have affected the state social security have not happened, although reforming of the social security sphere remains an extremely topical issue.

207. There are no special changes and to ensure affordability of housing. It is clear that the main focus of the state in recent years is aimed at solving the housing problems of settlers and soldiers. At the same time we can not say that the actions of the state in this area are effective, and you can not even talk about any system changes regarding the right to affordable housing.

208. Also significant changes over the period 2012-14 did not take place to address the inefficiency of the pension system, and because of it the negative aspects of pension reform, which are felt by the most citizens, continue to exist. It is obvious that the government was not going to solve certain systemic problems in this area, since its main task was to ensure trivial payment of pensions.

The right to the substantial standard of living

Guarantees of the right to the substantial standard of living

209. Despite the fact that revenues of the 60% of population remain stable, over the past 5 years the feeling of poverty among the population increased from 53 to 65%⁶⁴. In particular, during the first 9 months of 2013 about half of the poor lived in a state of extreme poverty (47.0%), i. e. had overall equivalent expenses below 938 UAH per person per month. The depth ratio poverty according to the relative criterion was 21.9%, according to the absolute (living wage criterion) — 20.9% using the variable of expenses and 18.3% — using revenues.⁶⁵

210. Since 2011, in Ukraine is implemented a government social program to overcome and prevent poverty for the period until 2015. The program aims to reduce the number of poor people among various social groups by: facilitating employment and labor market development; improvement of the mechanism of labor payment and social dialogue as the main factors creating the conditions for decent work; development of social insurance; improving the pension system; reform of social protection etc.⁶⁶. However, due to the extremely poor performance of the tasks under the Programme, the level of poverty in Ukraine is quite a serious and urgent problem.

211. Also one should pay attention to the problem of the minimum social standards in the field of income of the population. The basic state standards in the field of income is subsistence level on the basis of which are calculated such social benefits as minimum wages; minimum retirement pension together with financial aid; minimum unemployment benefit; assistance for child care until it reaches 3 years of age; funeral help etc. In 2014, the subsistence minimum was set below the size of the actual subsistence minimums in December 2013. Also, the minimum wage was kept at even less than its actual size in 2013, which allows calling 2014 the year of extreme economy.

212. Despite the fact that minimal wage is a state social guarantee, its legally specified level is insufficient to provide extended presentation of labor force because it does not take into account family (the cost of maintenance and education of children) and tax components (contributions for obligatory state

⁶⁴ Unemployment rate in Europe is much higher than in Ukraine — expert // <http://portal.lviv.ua/news/2014/04/28/161828.html>

⁶⁵ Monitoring of the situation in the social sphere in Ukraine for April 2014 // http://cpsr.org.ua/index.php?option=com_content&view=article&id=392:-2014-&catid=17:2010-06-10-20-44-31&Itemid=24

⁶⁶ State grant social program to overcome and prevent poverty in the period to 2015 // <http://zakon2.rada.gov.ua/laws/show/1057-2011-%D0%BF>

social insurance and income tax for individuals)⁶⁷. The minimum wage from 1 January 2014 is set at the rate of 1218 UAH, which made 38.7% of the average salary for the previous month (3148 UAH), and in dollar terms (\$1/UAH 7.99) allowed spending in average in January for one person almost \$4.9 per day (threshold value — US \$5.0 PPP per day).

213. In Ukraine are continued to be used for calculation many types of social assistance even not the subsistence level, but the rate of the guaranteed minimum subsistence level, which makes only a part of this as if the minimum guarantee. Thus, for working persons it is 21%, and for children — 85% of the subsistence minimum. Using of this indicator shows the state's inability to provide even the minimum legal guarantees of the social-economic rights.

Ensuring proper water quality

214. Analysis of water quality research in many areas of Ukraine indicates a deterioration of the water compared to previous years. Percentage of excess for chemical indicators is increasing every year. There are problems with the quality and safety of water resources in Ukraine and other studies conducted by the Central Geophysical Observatory⁶⁸, Kyiv Sanitary and Epidemiological Station⁶⁹, State Water Resources Agency of Ukraine "Zhytomyr Regional Management of Water Resources"⁷⁰ and the Dnipro Basin Management for Water Resources⁷¹. Violation in the field of quality of water are found by the Volovets district prosecutor's office, which conducted audit in the management of Svalyava inter-district department of the Main Directorate of the State Sanitary and Epidemiological Service in the Transcarpathian region.⁷²

The right to sufficient housing

215. The problem of accessible housing is an important issue in Ukraine, so as a significant number of people can not buy a home because of too high prices. Thus, the average salary in Ukraine as of September 2014 was 3481 UAH⁷³ (about 267.7 US dollars), the average price for 1 sq. m of living space not in the central areas of cities of Ukraine, as of October 2014 is 883.64 US dollars (about 11,487 UAH)⁷⁴. In order to buy an one-bedroom apartment, for example 40 sq. m, not in the city center at an average price, a person must save about 35 345.6 US dollars. If you count, it turns out that in 11 years people can save money for an apartment, if they put off all their wages.

⁶⁷ Ensuring social justice <http://www.psv.org.ua/arts/Spetcvipusk/view-1443.html>

⁶⁸ On the stage of environmental pollution in Kyiv and Kyiv region in September 2014 // http://cgo.org.ua/index.php?fn=k_zabrud&f=kyiv&p=1

⁶⁹ Because of dirty water bathing at all beaches in Kyiv was banned <http://kiev-ukr.segodnya.ua/kpeople/v-kieve-iz-za-gryaznoy-vody-zapretili-kupanie-na-vseh-plyazhah-543577.html>

⁷⁰ Water quality in Novohrad-Volynsky was improved, but still not "normal" // <http://zhitomir-online.com/2014/10/17/yakist-vody-v-novogradi-volynskomu-pokraschylasya-ale-sche-ne-normalna.html>

⁷¹ <http://dbuwr.com.ua/upravlinnya-vodnimi-resursami/monitoring-yakosti-vodi/685-stan-vod-protyagom-grudnya-2013-r-sichnya-2014-r.html>

⁷² In Volovechchyna prosecutor's office demands to eliminate violations of sanitary norms in the field of drinking water and drinking water-supply // <http://transcarpatia.net/transcarpathia/social/36519-na-volovechchin-prokuratura-vimagaye-usunuti-porushennya-santarnih-norm-u-sfer-pitnoyi-vodi-ta-pitnogo-vodopostachannya.html>

⁷³ Data of the State Statistics Committee <http://www.ukrstat.gov.ua/>

⁷⁴ http://www.numbeo.com/cost-of-living/country_result.jsp?country=Ukraine

216. According to the methodology of the UN-Habitat was introduced a deduction formula coefficient of afford ability of housing⁷⁵. In Ukraine it is 16.72⁷⁶. This indicator reflects the ratio of the median price of a residential unit (this is the price that is 50% lower than itself, and 50% higher than itself) to the median annual family income. Namely, for how many years will a family save money for an apartment, if saves all their income on its acquisition. Index 16.72 is certainly not consistent with the concept of affordable housing in Ukraine. Last year it amounted to 15.52⁷⁷. In the US it is 2.41, Sweden — 9.62, Netherlands — 6.54, Poland — 11.05.

217. Existing state programs in recent years, and particular in 2014 were ineffective due to difficult conditions for participation in them, and the actual deficit of financing these programs.

218. A significant obstacle to solving the problem of affordable housing is the rapid aging of housing and this is due to objective reasons — the pace of construction of new housing slowed dramatically, capital expenditures from the state budget for repair and reconstruction of housing reduced by many times. The volume of reconstruction and capital repairs account for only 30% of needs⁷⁸. Unfortunately, you can find numerous violations of the right to affordable housing, which occurs in the case of too much lingering construction of residential buildings, as well as in cases where such homes are not put into operation at all.

The right to social security

The system of social protection and social security

219. The main problems in the area of social protection of the population of Ukraine, which require urgent attention, include the following:

- extremely rapid increase in the cost of services, including those that are provided by the institutions for health care, education, culture that does not meet their quality;
- ineffectiveness of the budgetary management of the available financial resources as by the main managers so by the individual social institutions;
- “manual” control by the government by the size of social securities, establishment of the size of these payments depending on the financial capacity of the state;
- lack of funding for financing of events in the field of social protection of population.

220. Social protection and social security — the largest expense item of the State Budget of Ukraine, which is in volume ahead of health care, education and spending on economic activity. During the years 2009–2011 the volume of annual expenditures on social protection and social security made 61456,37 UAH or 28.6% of the total expenditures of the State Budget of Ukraine. While carrying out the analysis of social protection and social security of the state budget in absolute terms can be observed their growth. The volume of expenditures of the State Budget of Ukraine for social protection amounted to 63.5402 billion UAH, which is 12,022, 6 billion UAH more compared to 2009, but 5,771, 17 billion UAH less than in 2010. However, despite the significant amount of social spending, the quality of social services and other measures of social protection

⁷⁵ http://ww2.unhabitat.org/programmes/guo/guo_guide.asp#ind3

⁷⁶ http://www.numbeo.com/property-investment/rankings_by_country.jsp

⁷⁷ http://www.numbeo.com/property-investment/rankings_by_country.jsp?title=2013

⁷⁸ Legal aspects of the housing problem in Ukraine http://www.zgia.zp.ua/gazeta/VISNIK_34_14.pdf

in Ukraine remains relatively low compared with other countries⁷⁹. Social needs of the most vulnerable groups are not met adequately, so as social benefits in 2014 can not be considered sufficient to guarantee such needs.⁸⁰

Guarantees of social security of the elderly

221. The current pension system Ukraine can not protect the elderly people from poverty. Lack of pension culture, social justice, reliable financial mechanisms that make it possible to provide funds for old age — the characteristic features of the national pension system.

222. The current pension system does not properly fulfill its main task, so as pensions for the most part do not allow maintaining a minimum level of life. There are such major problems of the pension system Ukraine at present stage: low pensions of the most people, who have reached retirement age; unbalanced budget of the Pension Fund.

223. Pensions for most people remain scarce, means entering their payments on a national scale are enormous, and their amount increases from year to year with incompatible for the economy opportunities and rates. The main factors of poor functioning of the pension system is a complicated demographic situation and the negative prospects for its development; macroeconomic state of the state (inflation, unemployment, economic crisis, etc.); significant “shadowing” of the payments to employees.⁸¹

224. Also among the shortcomings that remain unregulated by law, should be mentioned:

- there are preserved disparities in pensions fund scheme, due to the perseverance for certain categories of persons of special pension schemes (according to occupational feature), which establish different (from the general) conditions for pensions schemes;
- the final demarcation of sources of funding pensions was not established;
- despite the measures that were carried out in connection with the revision of the Unified Tariff Scale and the minimum wage, about a third of employees pay insurance contributions from wages not above a minimum size, while certain categories of persons are entitled to benefits from the payment of insurance contributions;
- size of pension contributions for employers is extremely high (33.2% — for employers and 2.5% — for employees), which also inhibits critical the growth of legal wages, and hence the base of insurance premiums.

⁷⁹ The current state and problems of the system for social protection system in Ukraine // <http://webcache.googleusercontent.com/search?q=cache:eFsEocOIYLkJ:mino.esrae.ru/pdf/2012/1%2520Sp/690.doc+&cd=3&hl=uk&ct=clnk&gl=ua>

⁸⁰ According to the Law of Ukraine “On the State Budget of Ukraine for 2014” the minimum subsistence level (the guaranteed minimum) for the appointment of help under the Law of Ukraine “On State Social Assistance to Families with Low-Income” in the percentage ratio to the subsistence minimum for basic social and demographic groups of population is: for working people — 21 percent, for children — 85 per cent, for persons unable to work, and disabled persons — 100 percent of the appropriate living wage.
http://cpsr.org.ua/index.php?option=com_content&view=article&id=392:-2014-&catid=17:2010-06-10-20-44-31&Itemid=24#_ftn2

⁸¹ The problems of the pension system in Ukraine // http://papers.univ.kiev.ua/vijskovo_specialni_nauky/articles/The_problems_of_the_pension_system_in_Ukraine_and_the_ways_of_its_improvement_18255.pdf

1.9. Protection of personal data in Ukraine⁸²

Report prepared by:



NGO "Territory of Success"⁸³
Kirovohrad, Ehorova St., 40, room 205
Tel. 0522 32 26 59
<http://watchdog-kr.com.ua>

Contact person: *Dudnik Inga*
E-mail: teritory_ing@i.ua

225. The right to privacy is protected in Ukraine at the constitutional level. In 2010, the Verkhovna Rada adopted the Law of Ukraine "On Protection of personal Data", amended is the Law of Ukraine "On Information" and the Law "On Access to Public Information." It should be noted that the control over the observance of legislation on protection of personal data within the powers provided by law, is entrusted to the Commissioner of the Verkhovna Rada of Ukraine on Human Rights and the courts.

226. The threat to preservation of the confidentiality of personal information is that the normative — legal acts regulating relations in the education and medical sectors, in the sphere of responsibility of the Interior Ministry, Security Service, immigration and prison services are still not aligned with the requirements of the Law of Ukraine "On Protection of Personal Data."

227. The system of saving patients' medical records is organized so that almost any — employee has access to the clinic medical card, and the patient himself has no access to the information contained in his personal medical file.

228. In accordance with the norms of the Law "On Personal Data Protection", a person has the right to free obtaining of information stored in databases of personal data and concerns him personally. In practice, the subject of personal data is virtually deprived of the ability to control the process of gathering, storage and processing of information about him. Getting by a person of information about him or her from the public registers foresees payment, and at this different in different registers, although their support is provided through the budget and it belongs to the state's obligation to provide a person with the information gathered about him or her.

229. The composition and content of the personal data that is collected in the Interior Ministry, Security Service are usually excessive and do not meet the particular purpose of their processing. These structures are struggling by all means to keep conditions in order to know as much as possible about each citizen of the country, while not revealing their secrets under the guise of operational necessity. UN regulated remains the issue of destruction of personal data in the accounting systems of the Interior Ministry after the expiry of their processing and storing the information not necessary for the performance of official duties.

⁸² The issue of personal data protection was not touched within UPR 2012, because it was novel for Ukraine, but today it has been approved the legislation and determined the responsible authorities in this area, thus we can talk about the evaluation of the existing system of protection of personal data in Ukraine

⁸³ NGO "Territory of Success" is created in Kirovohrad in May 2008 to validate the principles of democracy, rule of law, complying with the human rights in all spheres of life.

Mission: promotion of the development of civil society, construction in Ukraine of the law-governed state, social, legal protection of citizens, providing the citizens with the necessary knowledge and skills to protect their rights and interests, creation of conditions for the full development of an individual, regardless of affiliation to specific gender — age and social groups.

230. Not regulated by law are the issues of functioning of video cameras in public places as part of the system of crime detection, there are no legal requirements regarding the manner of keeping records and the procedure of access to them.

231. Periodically, the Interior Ministry is trying to encourage the *Ministry of Infrastructure* to collect personal data of the passengers of Ukrainian Railway, entry them in the specialized information search system “Wanted –main road” that will automatically compare the data with the information on wanted persons. There are considerable doubts concerning protection of this system from outside interference and transmitting information to a third party.

232. Does not meet the principles of keeping confidentiality of personal data also the electoral legislation of Ukraine. In the lists there is information: last name, first name, — name, date of birth, address, there are marks that a person is not able to move by himself/herself. Access to these lists have political parties, election commission members, there are no conditions for storage for a month at the polls. There is a common practice of copying lists by third parties.

233. Wiretapping of citizens by the representatives of government agencies still remains a topical issue, given the deciphering of telephone conversations that the journalists get themselves or the records themselves — directly to the Internet.

234. Inadmissible is the practice by which the authorities marked the present in a certain place citizens according to the mobile phone numbers and then sent a message on their future liability for violations for violation of “dictatorial laws” as of January 16, 2014.

235. In spite of the considerable social importance in conditions when the public interests prevail over the interests of a person, closed remains the State register of property rights to real estate.

236. It is known that today the main electronic classifier used for gathering and processing of personal data of citizens of Ukraine by the state authorities, still remains the identification number provided by the State Tax Administration.

237. The scope of its use goes far beyond the purpose for which it was introduced — tax accounting. Without an identification code it is impossible to realize the right to work, education, social protection, get a scholarship or unemployment benefits, to formalize a subsidy, open a bank account, register a business entity, to formalize any kind of documents by a notary. In fact, there was created an administrative practice of knowingly violating by state authorities of Ukraine of the Law of Ukraine on the unified register of natural persons — taxpayers use of the tax number for purposes not covered by this Law.

The impact of the existing system of documenting a person on the implementation by a human of his rights

238. According to the evaluations of the experts, today in Ukraine live about 2% of the population who are not documented in any way — they lack any documents. This prevents almost 1 million people to exercise their rights.

239. Unacceptable is the fact that in Ukraine there is still preserved the shameful practice of binding the opportunity to realize own rights to receive health, education services, legal assistance from the place of registration of a person. Even the possibility of obtaining a document proving the person’s identity is tied to the possibility to register a place of residence.

240. The system of documenting a person has much complicated the process of socialization of the forcibly displaced persons.



2. NEW CHALLENGES

2.1. Human rights violations during the protest movement Euromaidan

Report is prepared by:



The Centre for Civil Liberties⁸³
01004 Ukraine, Kyiv, Baseina St. 9-G, Of. 25
Tel.: (044) 246 71 36 ccl.org.ua
E-mail: ccl.org.ua@gmail.com
FB: <https://www.facebook.com/ccl.org.ua>



Initiative Euromaidan SOS⁸⁴
01004 Ukraine, Kyiv, Baseina St. 9-G, Of.25, tel.: +38 067 449 48 39
E-mail: evromaidansos@gmail.com
FB: www.facebook.com/EvromaidanSOS

Contact person: *Olexandra Matviichuk*
E-mail: avalaina@gmail.com

241. During the entire period of Euromaidan from November 2013 to February 2014, the participants of the protest movement were persecuted by the authoritarian regime of the President of Ukraine Viktor Yanukovych in different ways. The most difficult of them were murders, while widely used was also destruction of property, beatings, torture, kidnapping, illegal arrests, deprivation of a driver's license, violation of the fabricated administrative and criminal cases, taking into custody etc. Persecutions also included a variety of government actions to limit freedom of expression and media, spreading of false information to discredit the protest systematic ban on peaceful gatherings in different regions, the use of torture by law enforcement.

242. The result of these crimes was the murder of at least 115 people, of which 95 were Euromaidan activists, imprisonment for different periods of at least several hundred people, causing injuries to more than a thousand activists. Still is not known the fate of the missing 27 protesters. Observed are numerous cases of illegal detentions and arrests of people, kidnapping of protesters, tortures and ill-treatment by law enforcement and affiliated with them criminal groups. These crimes were systematic, well-organized and committed in a short period of time. As evidence of these crimes, there is a large array of video and photo materials with the facts of open criminal behavior of law enforcement officers during a confrontation with protesters, however, indicative photography of cynical abuse cases serves as proof of the realization by the perpetrators of their complete impunity.

243. Together, all these crimes were part of a large-scale and systematic attack of the authorities on the rights and freedoms of peaceful civilians, whose purpose was to intimidate the people and suppress peaceful protest. It was a deliberate government policy, which the authoritarian regime carried out for

⁸⁴ Center for Civil Liberties (CCL) was established in 2007 to promote human rights and respect for human dignity in Ukraine and the independent states that emerged after the collapse of the USSR. CCL monitors and analyzes draft laws for compliance with human rights standards, conducts public control over the actions of law enforcement agencies, courts and local authorities, over the investigation of crimes committed during the Euromaidan, has been documenting political persecution in the temporarily occupied Crimea, human rights violations and war crimes in Donbass, education on human rights and democracy, international solidarity programs etc.

⁸⁵ Euromaidan SOS — is self-organized initiative, created as a response to the violent dispersal of peaceful students demonstration in Independence Square on Nov. 30, 2013. During the Euromaidan events the volunteers of Initiative had been worked around the clock to provide legal and other assistance to persecuted protesters throughout Ukraine. Currently Euromaidan SOS continues its work on documenting of the politically motivated persecution in occupied Crimea and war crimes in Donbass.

a period of three months in large parts of the country by the representatives of various government agencies affiliated with the involvement of law enforcement bodies of the criminal groups. Actually, the persecution of Euromaidan was the culmination of the created in the course of the past years repressive suppression system of any other than the ruling point of view.

244. On the systematic nature of the attacks indicates the organized nature of the major crimes, the frequency and inability of their spontaneous occurrence. The crimes were committed according to the typical and usual scheme, which included constant and linked between themselves actions. Thus, the arrests were almost always accompanied by beating, towards many detainees various kinds of torture were applied, the authorities did not inform relatives about the location of a person, so one had to wait near the district departments and courts in hope of finding the missing person, despite visible injuries and necessity of hospitalization, the court printing as if a blueprint, ruled decisions about a preventive measure in the form of detention for two months. Such criminal actions by the authorities were planned and coordinated from a single center, because they looked like not scattered but well-organized acts given the existence of connection between them on time and method of implementation. The fact that the attack was planned is confirmed by the coordinated actions of government authorities and illegal criminal groups of “titushky.” Criminal actions of the government are characterized by the existence of a coherent and clear link between the actions of paramilitary forces — police officers — prosecutors — courts — decisions of parliament and government — performances of the highest state officials.

245. The cumulative effect of all the crimes committed under the attack on the protestors is underscores its extensive nature. The attack was comprehensive in scope and geographic coverage, frequency of crimes and the number of victims. In Vinnytsia, Dnipropetrovsk, Donetsk, Zhytomyr, Zaporizhia, Kyiv, Luhansk, Lviv, Odessa, Poltava, Sumy, Ternopil, Kharkiv, Cherkasy regions and Kyiv the protests became widespread. In most of these regions authorities attempted illegal violent suppression of peaceful protest as using legal procedures, so also extralegal means. Some protesters in the regions during the illegal dispersals were injured and beaten were subjected to torture or ill-treatment. Some participants were arrested and accused of organizing riots after the court ordered the preventive measures in the form of a house arrest (combined with wearing a bracelet), detention for two months, etc.

246. A large-scale and systematic attack was organized by the President of Ukraine Viktor Yanukovich and his administration, high ranking officials, heads of law enforcement bodies and special divisions. The political decision to crush the protest movement, which was adopted by the former leadership of the state, is confirmed by the coordination of criminal acts between different public authorities, collective mobilization of law enforcement bodies and affiliated with them criminal gangs, so a variety of forms and methods involved to implement an attack. This is confirmed by the absence of any response in the people with authority to prevent the commission of crimes and non-use of any civilized form of resolving conflict — negotiations, concessions, compromises, which clearly shows the aim to suppress the protest by force. Except for the use of law enforcement bodies and the judicial system to prosecute the protesters, the government has created, organized, supported and financed paramilitary groups, the so-called “titushky” for intimidation and attacks on protesters, destruction of property and carrying out provocations.

247. Despite assurances of the new top officials on the importance of effective investigation of all crimes committed during the systematic and large-scale attack on the protest movement, exactly investigating for a long time was dispersed to different proceedings and investigations were carried out by different bodies. Therefore, no investigator or prosecutor had an idea of the overall picture of the investigation and could not establish the relationship between episodes. Moreover, a large number of episodes have totally fallen out of the process. The episodes under investigation, in turn, were focused only on the performers, neglecting the study of the so-called “chain of orders.” The situation was complicated by the sabotage of the investigation by the Ministry of the Interior representatives, and the lack of cooperation between the Prosecutor General of Ukraine, Ministry of Interior, and Security Service of Ukraine. After

the pressure from the public and the lawyers of the affected only in 10 months after the beginning of the investigation as a part of the General Prosecutor of Ukraine was established the Directorate of Special Investigations as a single center to investigate all the crimes committed during the protests in Ukraine.

248. In general, the investigation of the crimes committed during the Euromaidan, can be confidently called ineffective. Criteria of the speed and thoroughness, independence and objectivity, accountability of the investigators to the interested parties, unfortunately, are not met. The lawyers of the victims note the lack of qualifications of the alleged crimes, continued neglect of the pre-trial investigation, no investigation actions, actual sabotage on the part of the prosecutor's office of Kyiv, lack of technical means for investigators, under-funding of the needs of the investigation, lack of proper coordination between the various criminal proceedings, particularly those that are being outside the specially created management, impeding timely investigation by the judges and other.

2.2. Human rights violations during the armed conflict

Report is prepared by:



The Centre for Civil Liberties⁸⁵
01004 Ukraine, Kyiv, Baseina St. 9-G, Of. 25
Tel.: (044) 246 71 36 ccl.org.ua
E-mail: ccl.org.ua@gmail.com
FB: <https://www.facebook.com/ccl.org.ua>



Initiative Euromaidan SOS⁸⁶
01004 Ukraine, Kyiv, Baseina St. 9-G, Of.25, tel.: +380674494839
E-mail: evromaidansos@gmail.com
FB: www.facebook.com/EvromaidanSOS

Contact person: *Olexandra Matviichuk*
E-mail: avalaina@gmail.com

249. In the east and south of Ukraine with the active participation of the Russian Federation in March-April 2014 started to be established illegal armed formations. Using the assistance of local elites of the previous repressive regime, they violently dispersed rallies for the unity of Ukraine, beat participants of peaceful actions, regardless of age and article with batons and fittings, threw noise grenades, smoke bombs, tear gas and used cold steel. These groups began formation of a system of total terror and violence against the peaceful civilians to establish control over the region. A common practice was the seizure of administrative buildings, beatings, enforced disappearances, tortures, extra judicial executions, forced alienation of private property, robbings of banks and commercial firms etc. There began a first wave

⁸⁶ Center for Civil Liberties (CCL) was established in 2007 to promote human rights and respect for human dignity in Ukraine and the independent states that emerged after the collapse of the USSR. CCL monitors and analyzes draft laws for compliance with human rights standards, conducts public control over the actions of law enforcement agencies, courts and local authorities, over the investigation of crimes committed during the Euromaidan, has been documenting political persecution in the temporarily occupied Crimea, human rights violations and war crimes in Donbass, education on human rights and democracy, international solidarity programs etc.

⁸⁷ Euromaidan SOS — is self-organized initiative, created as a response to the violent dispersal of peaceful students demonstration in Independence Square on Nov. 30, 2013. During the Euromaidan events the volunteers of Initiative had been worked around the clock to provide legal and other assistance to persecuted protesters throughout Ukraine. Currently Euromaidan SOS continues its work on documenting of the politically motivated persecution in occupied Crimea and war crimes in Donbass.

of evacuation from the region, the majority of which were members of civil society — human rights activists, public figures, journalists, local MPs, leaders of students, etc.

250. The catalyst for the violence in the region was largely the Russian systemic propaganda aimed at inciting hatred and enmity. Since the beginning of the Euromaidan, Russian media called the protesters “fascists” and intimidated residents of the region with “bloody junta” that would “destroy the Russian-speaking population.” After the fall of the authoritarian regime of Yanukovych the cultivated by the Russian press fear of the “fascists benderivtsi” led to a wave of brutal violence in response to any manifestation of Ukrainian patriotism in eastern Ukraine. The real work of Russian mass media to spread false information has become an integral part of the military operation.

251. Illegal armed groups started the persecution of actual or alleged supporters of the state sovereignty of Ukraine, to which were attributed people on different grounds — political views, religious beliefs, language, and affiliation to public service in the event of refusal to converse to their side. Consistency and scale of committing these acts indicate the existence of a deliberate policy of holding terror, planned and organized acts of violence. Thus, on the non-controlled by the illegal armed groups areas was established an organized system of mass kidnappings and tortures of civilians. There were formed special units by the Soviet example, which have the same names — NKVD and SMERSH. The employees of these units are preparing “firing lists”, kidnap activists and members of their families, torture and shot.

252. In the controlled by the illegal armed formations territories there are no remedies for legal protection of human rights. Members of these groups are guided, as a rule, by oral orders of their management and have broad discretion to independent decisions-making about property, health and life of civilians. There are no institutions of human rights protection. The so-called “ombudsmen” of the so-called “Lugansk” or “Donetsk People’s Republic” deal with the exchange of prisoners of war. In these areas there are “people’s courts” and death sentences are carried out. In the overcomplicated situation found themselves the whole group a on the controlled by the organized armed formations areas including: national minorities, religious communities, representatives of LGBT and HIV-positive, prisoners.

253. We can state systematically violations of the articles of the International Covenant on Civil and Political Rights (hereinafter — ICCPR), which guarantee the right to life (Article 6), freedom from torture (Article 7), liberty and security of person (Article 9), the right to freedom of movement (Article 12), the right to a fair trial (Article 14), the right to privacy (article 17), freedom of thought, conscience and religion (Article 18), freedom of expression (Article 19), the right to peaceful assembly (Article 21), freedom of association (Article 22), prohibition of discrimination (Article 26). All these violations of the articles of the ICCPR are carried out within an organized system of terror against civilians, who are real or alleged supporters of Ukraine’s state sovereignty.

254. It should be noted that illegal armed groups that exist under the name “Lugansk” and “Donetsk People’s Republic” are proxy agents of the Russian Federation, because they were created and exist only because of its financial, political, technical, and military aid and aren’t independent in decision making. Some of them were at once headed by intelligence officers of the Russian Federation, in particular, Igor Girkin (“Strelkov”), Igor Bezler (“Bes”) and others. In parallel, the Russian Federation physically liquidates the leaders of groups that come out from under its control.

255. There is direct evidence of the participation of the Armed Forces of the Russian Federation in the armed conflict. Typically, military equipment from the Russian Federation has no insignia, Russian soldiers are not dressed in uniforms of the Russian army, have chevrons and insignia, and often look like members of organized armed groups. However, in many cases they are in possession of documents proving their identity to individual military units and formations of the Armed Forces of the Russian Federation. Exactly the participation of the Russian troops has allowed to greatly increase the area controlled by the so-called “Donetsk” and “People’s Republic of Luhansk”, we can recollect the surrounding of the Ukrainian army near Ilovaisk, capture of Debaltseve immediately after the signing of the Second Minsk Agreements, etc.

256. All this gives reason to believe that the Russian Federation has total control over military groups and effective control over military operations (that is, in fact, control and planning of the specific military operations). Thus, Russian Federation is the state, which, actually, occupies and controls certain parts of Donetsk and Lugansk regions, and is therefore responsible for all human rights violations in these areas.

257. Documented are cases of human rights violations by the Ukrainian forces, fighting on the side of ATO, including kidnapping, illegal detention, abuse, theft, extortion. All these facts in each case require an effective investigation and in the case of confirmation — bringing the perpetrators to justice. We have to note that in the case of application of additional efforts, government agencies open relevant criminal proceedings. At the same time, according to a number of criteria, most investigations of this kind can hardly be called effective.

258. In the spring and summer of 2014 was approved a number of laws that are contrary to the national law and international human rights standards. The need for acceptance of the needs was based on the effective execution of the tasks public authorities “to neutralize terrorists during the ATO.” This is the right for police officers to use unannounced physical force, special means and weapons in the area of the ATO; of “preventive” detention of persons involved in terrorist activities without any court decision for up to 30 days; on the permit of the prosecutor without the court decision to authorize the arrest of a person for up to 3 days, search, access to goods and documents and so on.

2.3. Human rights in the conditions of the annexation of Crimea

Report is prepared by:



Ukrainian Helsinki Human Rights Union
04070, Kyiv, Frolovskaya St., 3/34, 3-d floor
Tel./fax: +38 044 417-41-18,
www.helsinki.org.ua, e-mail: office@helsinki.org.ua



Public organization “Regional Center of Human Rights”⁸⁸
Kyiv, Antonovycha St. 38-a, Office 17
<https://www.facebook.com/sebastopolcenterforhumanrights>
<http://rchr.org.ua>
Tel.: +38 (044) 284-30-33; E-mail: rchr.sev@gmail.com



Centre Civic Education «Almenda»⁸⁹,
Kyiv
<http://almenda.org/> E-mail: almenda.ngo@gmail.com
Contact person: *Daria Svyrydova*
E-mail: almenda.ngo@gmail.com

259. This report covers the period after the beginning of the occupation of the territory of Crimea and Sevastopol by the Russian Federation (from February 23, 2014 to June 2015) and applies to the new

⁸⁸ Main directions of activities: legal protection of the rights of internally displaced persons from Crimea, representation of the interests in the ECHR and the UN Committee on Human Rights; carrying out of advocacy to improve legislation on the rights of IDPs and the legal regime in the occupied territories.

⁸⁹ Main directions of activities: legal assistance to internally displaced persons and those who remained in the occupied territory; methodical and educational work on forming values of human rights and tolerance, critical thinking; monitoring — participation in the work of the Crimean field mission on Human Rights.

problems of adherence to international human rights standards arising as a result of occupation and for which the Government of Ukraine is responsible.⁹⁰

260. Since February 2014, for human rights violations in the occupied territories of Crimea's responsible the Russian Federation. The facts of human rights violations in the occupied territories can be found in the publication "Peninsula of Fear: Chronicle of Occupation and Human Rights Violations in the Crimea"⁹¹, in the relevant section and of the report of the human rights organizations "Human Rights in Ukraine 2014"⁹².

261. This survey concerns mostly violations that Ukraine committed against the people who moved to mainland Ukraine or remained in the occupied territory of the Crimean Peninsula. In particular, from the side of Ukraine occurred the violation of the prohibition of discrimination, freedom of movement, the right to a fair trial, right to property, right to education, freedom of association, the recognition of documents establishing legal facts, and more.

262. These problems concern the interests of more than 20 thousand of people, who are internally displaced persons from the territory of Crimea and from Sevastopol⁹³, and more than 2 million citizens of Ukraine⁹⁴, who remained in temporarily occupied territory of the Crimean peninsula.

Violation of the prohibition of discrimination

263. In most cases discrimination of the internally displaced persons from the Crimean peninsula is indirect, but there are recorded several cases of *direct discrimination*.

264. Thus, the National Bank of Ukraine Resolution No. 699 of November 3, 2014 "On Application of Certain Rules of Currency Legislation during the Temporary Occupation of the Territory of the Free Economic Zone "Crimea"⁹⁵ persons, who actually residing or have a registered residence on the Crimean peninsula, are equivalent to non-residents. As a result, there is limited access for this category of citizens to a number of banking services (opening bank accounts, receiving payments, etc.). Such prohibition affected not only people who are internally displaced persons, but also persons who are long-term residents in mainland Ukraine, keeping registration of residence on the Crimean peninsula.

265. Article 14 of the Law of Ukraine "On Creation of the Free Economic Zone "Crimea" and on the Peculiarities of the Economic Activity in the Temporarily Occupied Territory of Ukraine"⁹⁶ introduced a moratorium on the payment of mortgage loans to the persons displaced from the territory of Crimea, but this right can not use the same persons who lived in Sevastopol.

266. Manifestation of direct discrimination is deprivation of privileges and guarantees for internally displaced people, who are foreign citizens, stateless persons and citizens of Ukraine, who temporarily

⁹⁰ The authors draw attention to the peculiarities of terminology: the term "Crimea" or Crimean Peninsula "has a geographic meaning and denotes the geographical area within which there are two administrative-territorial formations — the Autonomous Republic of Crimea and the city of Sevastopol.

⁹¹ See the publication here: <http://precedent.in.ua/files/docs/1430823389.pdf>

⁹² See the publication here: <http://helsinki.org.ua/en/index.php?r=3.3.1.11>

⁹³ See UNHCR statistics: <http://unhcr.org.ua/attachments/article/1232/IDPUKR.pdf>

⁹⁴ Seedata of the State Statistics Service of Ukraine // http://ukrstat.org/uk/druk/publicat/Arhiv_u/13/Arch_nnas_zb.htm

⁹⁵ See text: <http://zakon2.rada.gov.ua/laws/show/v0810500-14>

⁹⁶ Text of the law see: <http://zakon2.rada.gov.ua/laws/show/1636-18/print1385973506728600>

left the Crimean peninsula before the begin of the occupation (in connection with training, work, care for sick relatives, etc.) and are unable to return to the occupied territory.

267. Signs of direct discrimination are also noticed in imposing on the IDPs of additional responsibilities compared to other citizens of Ukraine — such as, for instance, the duty to appear every six months to the relevant business unit of the authorized migration policy (see P. 5 Ch. 2, Art. 9 of the Law of Ukraine “On the Rights and Freedoms of Internally displaced persons”⁹⁷).

268. A separate category of persons subjected to discrimination by public authorities is unemployed persons who are released from work in the Crimea and are moved from the occupied territory to the territory of continental Ukraine. They automatically lose the right to receive of the envisaged by the Law “On Compulsory State Social Unemployment Insurance”⁹⁸ unemployment benefits in the amount which corresponds to their pensionable service and average salary. The problem is caused by the existing procedure for calculating of unemployment benefits (approved by the resolution of the Cabinet of Ministers No. 1266 from 26.09.2001 year⁹⁹), according to which in the calculation of the amount of assistance is taken into account only the period for which the employer had paid a single social contribution to the state budget. So as of March 2014, treasury bills of Ukraine in the Crimea were closed, employers no longer pay this contribution to the budget of Ukraine. This, in turn, deprived the dismissed workers to confirm the size of their average earnings over the last full 6 months. Courts of Ukraine deny the internally displaced people, who lost their jobs because of the occupation of the Crimea, to satisfy their claims to the State Employment Centre, referring to the existing procedure for calculating unemployment benefits, actually imposing on citizens the consequences of occupation.

269. *Indirect discrimination* stems from a systemic problem which is inherent in Ukrainian legislation, and is associated with the possibility of administrative and other services for according to the registered place of residence. As an example: obtaining of a status of a businessman, registration of the road transport, registration of rights to inheritance, which was opened before the occupation, and so on. In addition, signs of indirect discrimination are seen in the implementation of the rights and freedoms, when formally enforceable right stumbles upon the impossibility of its actual implementation (e.g., sections on documents, freedom of association, etc.).

Freedom of association

270. In Ukraine there is not provided the mechanism of the freedom of association to persons who are constant residents or are forced to leave the occupied territory of the AR Crimea or Sevastopol. They are deprived of the opportunity to exercise their right to membership in national public associations.

271. According to Art. 19 of the Law of Ukraine “On Public Associations”¹⁰⁰ the status of national associations requires such organizations to have separate subdivisions. With the status of national associations in Ukraine are active more than 300 public associations¹⁰¹. The majority of them were subdivisions in the city of Sevastopol and the Crimea. However, after the occupation of the Crimea such subdivisions continue to exist only on paper, because people who live in the

⁹⁷ Text of the law see: <http://zakon1.rada.gov.ua/laws/show/1706-18/print1396285747478674>

⁹⁸ Див. закон: <http://zakon2.rada.gov.ua/laws/show/1533-14>

⁹⁹ See: <http://zakon4.rada.gov.ua/laws/show/1266-2001-%D0%BF>

¹⁰⁰ See text of the law under the link: <http://zakon4.rada.gov.ua/laws/show/4572-17/print1435671248219515>

¹⁰¹ See official register: <http://rgo.informjust.ua/>

occupied territories or are internally displaced, are deprived of the opportunity to participate in such associations and exercise their right to participate in management of the association because this participation is usually only possible through local branches. This is especially important for those of them that mediate access to the profession (lawyers, appraisers, writers, journalists, etc.).

272. One of the examples is the situation in violation of the legal profession. For the time after the begin of the occupation were held several congresses of the Advocates of Ukraine (an extraordinary congress in Odessa on April 26–27, 2014¹⁰², the Third Congress of Advocates of Ukraine, which was held intermittently: on 20.11.2014 in the town of Mukachevo of the Transcarpathian region, on 25.04.2015 and 12.06.2015 in Kyiv). At the extraordinary congress in Odessa 26–27.04.2014 the representatives of the Sevastopol and Crimean advocacy were admitted only as guests without the right to vote, in the subsequent meetings these representatives of these regional centres were not represented at all. This problem is also characteristic of other associations' representatives. Measures aimed to ensure the realization of the rights should include the preservation of separate territorial units, which would have included such persons.

The right to a final decision on civil rights and obligations or concerning a criminal charge

273. In the proceedings of the courts working in the AR Crimea and in Sevastopol at the beginning of occupation were tens of thousands of cases, consideration of which has not been completed. Article 12 of the Law of Ukraine "On the Rights and Freedoms of Citizens and Legal Regime in the Temporarily Occupied Territory of Ukraine" is changed the territorial jurisdiction of cases which were under the proceedings of the courts of the Crimea and consideration of them is not complete, and there is provided the need to transfer such cases to the appropriate courts in Kyiv according to the new rules of jurisdiction. However, in fact the courts located in the Crimea, did not transfer any cases to the courts located in mainland Ukraine.

274. Courts, located on the mainland Ukraine, refuse to continue the consideration of such cases, citing the lack of available case materials (in particular, it also applies to cases in which were opened appeal or cassation proceeding). Thus, citizens are deprived of the opportunity to receive a final decision in their cases. This particularly affects the certainty of the status of individuals in criminal cases.

The right to security of person and the right not to be punished twice

275. In the territory of Crimea, there existed several places where persons sentenced to imprisonment were serving sentences. In addition, in Simferopol pre-trial detention centre and temporary detention facilities were persons against whom Ukrainian courts chose preventive measure in the form of detention. After March 2014, the fate of these persons was decided by occupation authorities according to the laws of the RF. Release of such persons from custody (as a result of the review of the preventive measure, parole or full punishment) from the point of view of legislation Ukraine has no legal value. Therefore, such persons are deemed to not have served their sentence or have illegally left detention

¹⁰² See official messages: <http://unba.org.ua/news/20-news.html>; <http://unba.org.ua/news/484-news.html>; <http://unba.org.ua/news/533-news.html>.

facilities. Accordingly, there is a serious risk of repeated punishment by persons, who after their release by the occupation authorities, move to the territory of Ukraine

Freedom of movement

276. The occupation of the Crimean peninsula led to serious system violations of the said international law norms. After the occupation of the Crimean peninsula, on the border with the peninsula were established checkpoints to the occupied territories (still not properly equipped for the admission of people and transport¹⁰³), controlled by SPSU and the actual border, controlled by the RF authorities. This led to systemic violations of the freedom of movement of all citizens of Ukraine to the occupied territories and especially certain categories of persons (children under 16, citizens of Ukraine who have lost/damaged passport of Ukraine in Crimea, foreigners, persons with limited mobility and other).

277. At the end of December 2014, Ukraine's NSDC adopted a decision on prohibition of passenger transport in the temporarily occupied territory¹⁰⁴. After this were discontinued bus and rail transportation to Crimea for indefinite period¹⁰⁵. The decision itself was not published and brought to the population. Although the decision did not contain an absolute prohibition on crossing checkpoints with the Crimea, it caused systemic corruption abuses by the police border service, resulted in the violation of personal and family relationships between citizens, problems in carrying out business activity, violations of property rights, the right to education and so on.

278. On 04.06.2015, the Cabinet of Ministers of Ukraine adopted resolution No. 367, which approved the procedure for entering the temporarily occupied territory of Ukraine and exit from it¹⁰⁶, which put on the citizens of Ukraine, foreigners and stateless persons restrictions of freedom of movement in the territory of Ukraine not provided by its Constitution and laws.

279. Contrary to Law "On the Rights and Freedoms of Citizens and Legal Regime in the Temporary Occupied Territory of Ukraine"¹⁰⁷, the Procedure established restrictions on the right to freedom of movement for *citizens of Ukraine* who have not attained the age of 16 (actually there is established the need to comply with the order and rules of crossing by the citizens of Ukraine of the national border¹⁰⁸).

280. No foreseen by the law limitations are established for foreigners and stateless persons, namely, such as the need to obtain further permission to enter the occupied territories (excluding visas and other permits for stay on the territory of Ukraine), the possibility of refusing of the entry on the temporary occupied territory/exit from it (for example, if the person was unable to confirm the purpose of entry) and other restrictions.

281. The approved by the CMU Procedure establishes an unjustified difference in treatment of persons on the grounds of their belonging to a particular territory, which poses discrimination. At this, any purpose of the Government of Ukraine to justify such limitation of the freedom of movement with the temporarily occupied Crimea is not achieved through the adoption of the Resolution, so as there is the

¹⁰³ See: <http://ua.krymr.com/content/article/26911574.html>

¹⁰⁴ See: <http://www.radiosvoboda.org/content/article/26765143.html>

¹⁰⁵ See: http://dt.ua/UKRAINE/ukrzaliznicya-povnistyu-pripinila-zaliznichne-spoluchennya-z-krimom-160173_.html

¹⁰⁶ See: <http://zakon3.rada.gov.ua/laws/show/367-2015-%D0%BF>

¹⁰⁷ See: <http://zakon4.rada.gov.ua/laws/show/1207-18>

¹⁰⁸ See: <http://zakon2.rada.gov.ua/laws/show/57-95-%D0%BF>

possibility of uncontrolled entering of persons to / from the Crimea through the territory of the state-occupier.

Legal facts and documents issued on the confirmation of them in the occupied territories

282. According to Art. 9 of the Law of Ukraine “On the Rights and Freedoms of Citizens and Legal Regime in the Temporarily Occupied Territory of Ukraine”, any act (decision, document), issued by the bodies and/or persons unlawfully established in the occupied territories of the AR Crimea and the city of Sevastopol, is invalid and does not create legal consequences. At this, in the territory of Crimea there are no bodies representing the authorities of Ukraine. And after the transport blockade of the Crimean peninsula the possibilities of unimpeded entry on the mainland territory of Ukraine, where the relevant authorities and structures are situated, are significantly complicated.

283. Consequently, the citizens of Ukraine in the territory of Crimea are deprived of the possibility of registering marriages, birth of children, the facts of death, and receive other documents of the appropriate Ukrainian sample. The documents issued by the state-occupant in Crimea are invalid for Ukraine and the international community. Rejection by Ukraine of the following legal facts (established by the documents of the country-occupant) leads to serious violations of the rights of its citizens who remain in the occupied territory. The mentioned problem is only gaining scale and actually applies to around 2 million of residents of Crimea¹⁰⁹.

284. The issue of registration and establishment of legal facts in the occupied territories should be resolved by Ukraine on the basis of international practice (for example, the position of the International Court of Justice in the advisory opinion June 21, 1971 on Namibia) and the need to prevent possible damage and violation of the rights of the citizens of Ukraine temporarily living in the occupied territories of Crimea.

The right to education for citizens of Ukraine on the temporarily occupied territory in Crimea

285. In 2015, on the territory of the temporarily occupied Crimea in 586 schools learn 191.1 thousand students¹¹⁰. However, at the website of the State Statistics Service there are data on “Secondary schools (1990–2015)”¹¹¹ For 2014/2015 that “1 Information is provided without the consideration of the temporarily occupied territory of the AR Crimea and Sevastopol”, on the website of the Ukrainian Centre for Educational Quality Assessment (centre, which conducts External Independent Testing) in the statement about the EIT-2015 Crimea is missing¹¹². Accordingly, Ukraine ceased to consider individuals living in the occupied territory of the Crimea Ukrainian students.

286. Since the beginning of the occupation, on the website of the Ministry of Education and Science of Ukraine is created a separate section “For Residents of Donbass and Crimea”, which contains only 4 documents regulating the right to education for the residents of the Crimea (for example for Donbass — 46 documents). In addition, unlike the territory of the ATO, there was made no attempt to transfer schools of Crimea in safe areas of the country.

¹⁰⁹ Seedata of the State Statistics Service of Ukraine: http://ukrstat.org/uk/druk/publicat/Arhiv_u/13/Arch_nnas_zb.htm

¹¹⁰ See: <http://monm.rk.gov.ru/rus/info.php?id=607652>

¹¹¹ See: http://www.ukrstat.gov.ua/operativ/operativ2005/osv_rik/osv_u/znz_u.html

¹¹² See: <http://testportal.gov.ua/view/10623/>

287. Realization of the right to education in accordance with the basic human rights instruments must adhere to certain principles.

Availability

288. Educational institutions that are actually subordinate to Ukraine are absent in Crimea. Documents on Education issued in the temporarily occupied territory of Crimea are not recognized by the Ukrainian government (letter of MES No. 1/9-535 from 14.10.2014¹¹³). Ukraine has offered receiving education and certificate of education (certificate) through external form of studies (MES letter No. 1/9-21 from 20.01.2015¹¹⁴, No. 1/9-164 from 31.03.2015¹¹⁵, № 1/9-194 from 10.04.2015¹¹⁶). According to the Provision on external studies (Order by the Ministry of Education and Science of Ukraine of 19.05.2008 No. 431¹¹⁷) for obtaining a certificate Ukrainian school students must prove their knowledge by a document (but graduates of the temporarily occupied Crimea receive education documents that are not recognized by Ukraine) or test their level of knowledge in each subject that is in the certificate. This means that Crimean graduates must pass at least eighteen examinations. The result of such policy of Ukraine became the fact that only 0.004% of Crimean graduates (65 people) participated in the EIT 19.04.2015. MES of Ukraine attempted to organize distance learning (MES letter No. 1/ 9-26¹¹⁸ of 22.01.2015), but none of the distance learning courses is able to give students a certificate on education. In addition, the International Ukrainian School¹¹⁹, to which MES offers students to apply, does not have any information about study process for Crimea. In addition, there happened no changes in the statutes of the IUS, which is aimed at learning citizens of Ukraine abroad.

Accessibility

289. *Physical accessibility.* Conduct of transport blockade with the occupied Crimea practically made impossible physical access to the Ukrainian educational institutions located in mainland Ukraine. Most Crimean graduates do not have Ukrainian passports, which also makes it difficult for them to cross the administrative border of the Crimea. *Economic availability.* Passing of external studies requires substantial financial costs. This are primarily transport costs. Second — is the cost of accommodation and meals of a graduate and accompanying persons at the time of passing of external examinations and testing.

Eligibility

290. The content of history textbooks does not meet the needs of society, because it contributes to the formation of negative stereotypes about the Crimea and the people who live in Crimea.¹²⁰

¹¹³ See: <http://old.mon.gov.ua/ua/about-ministry/normative/2957->

¹¹⁴ See: http://osvita.ua/legislation/Ser_osv/45451/

¹¹⁵ See: <http://old.mon.gov.ua/ua/about-ministry/normative/3726->

¹¹⁶ See: <http://old.mon.gov.ua/ua/about-ministry/normative/3763->

¹¹⁷ See: <http://zakon2.rada.gov.ua/laws/show/z0498-08>

¹¹⁸ See: http://osvita.ua/legislation/Ser_osv/45548/

¹¹⁹ See: <http://ukrintschool.org.ua/>

¹²⁰ See: <http://almenda.org/informacijne-osvitnye-pole-pidruchnik/>

2.4. Complying with the rights of internally displaced persons

Report is prepared by:



All-Ukrainian charitable foundation
"The right for protection"
Dashavska St., 22,
Kyiv, 03056,
Tel./fax: +38 044 453-16-53
e-mail: r2pall@r2p.org.ua



www.vostok-sos.org

Vostok SOS
Frunze St., 13d
Tel. +38 050 055 67 73,
e-mail: postup.hrc@gmail.com
web: <http://vostok-sos.org/>



"CrimeaSOS"
Suvorova St., House 9,
Kyiv, 01010
Tel.: +38 044 280 34 69
e-mail: help@krymsos.com
web: <http://krymsos.com/>

Contact person: *Maria Alekseenko*
E-mail: r2pall@r2p.org.ua

291. As a result of the occupation of the Crimea and armed conflict in Donbass Ukraine for the first time faced with the phenomenon of internal displacement and, like any other country in the world, was not ready for this. The state has not immediately recognized that the causes of displacement are long-lasting and displaced persons need special attention and special mechanisms of realization of their rights. Therefore, when preparing an alternative report to the Universal Periodic Review there appeared a necessity to illuminate the state of adhering to human rights of the internally displaced persons (further — IDPs), including Ukraine's implementation of the international standards — Guidelines on the movement of people within the country (hereinafter — the Guidelines).

292. The Law of Ukraine "On the Rights and Freedoms of Internally Displaced Persons" (hereinafter — the Law)¹²¹ — the first of Parliament legal act, which regulated the implementation of the rights and freedoms of IDPs, which entered into force only on 22.11.2014, after 8.5 months from the beginning of internal displacement where the official number of IDPs was almost half a million.

293. Pursuant to the Guidelines¹²², article 14 of the law stipulates that IDPs enjoy the same rights and freedoms under the Constitution, laws and international agreements of Ukraine, like other citizens of Ukraine, permanently residing in Ukraine. The law states the responsibility for its violation. Discrimination of persons during the exercise of them of any rights and freedoms on the grounds that they are IDPs is prohibited.

294. At this, there is no legislation act that determines responsibility for discrimination of IDPs. Therefore, at the time of preparation of this material, cases of discrimination of IDPs can be recorded only as part of the acts, for which the law provides for responsibility and for which exists official statistics (e. g., judicial or law enforcement). Accordingly, the information on cases of discrimination of IDPs is not systematized by public authorities.

295. At the same time, advocates say that examples of discrimination of IDPs became widespread, particularly in hiring, rental housing and so on. For example, in most cities in Ukraine landlords refuse

¹²¹ <http://zakon4.rada.gov.ua/laws/show/1706-18>

¹²² http://www.un.org/ru/documents/decl_conv/conventions/internal_displacement_principles.shtml

to provide settlement to IDPs, there are also many cases where the apartments offered for rent for the displaced from Donbass, are worse and more expensive than those offered to other persons¹²³.

296. A striking example of direct discrimination at the state level — is the Resolution of the National Bank of Ukraine dated 03.11.2014 No. 699, which recognized citizens of Ukraine with registered place of residence in Crimea as non-residents¹²⁴ that virtually makes access to by this citizens to financial services impossible.

297. At the time of preparation of this material the state has not created a state body that would take care of the problems of IDPs and be responsible for fixing and prevention of the cases of their discrimination.

298. According to Principle 6 of the Guidelines, all government bodies and international organizations must in any circumstances comply and enforce its obligations under international law, including human rights law and humanitarian law, in order to prevent and avoid the occurrence of situations that could lead to displacement of persons.

299. Nearly two million citizens of Ukraine, foreign citizens and stateless persons have been forced to move inland because of the occupation and armed conflict, of which about a million of immigrants are persons receiving a pension. However, unfortunately, the Government of Ukraine is besides of not implementing the measures to minimize displacement and its consequences, but also adopted regulations that are contrary to this principle and force certain categories of persons to move.

300. Thus, on 07.11.2014, the Cabinet of Ministers of Ukraine adopted Resolution No. 595¹²⁵, which approved the interim order of financing of budgetary institutions, the implementation of social benefits and financial support to enterprises and organizations of Donetsk and Lugansk regions. According to this order, Ukraine ceases to make expenditures from the state budget, the Pension Fund of Ukraine and budgets of other funds of compulsory social insurance in the towns of Donetsk and Lugansk regions that are not under the control of public authorities until return of such control.

301. In addition, on 05.11.2014 the Government adopted Resolution No. 637¹²⁶, which set forth that the residents of areas not under the control of Ukraine, can receive pensions only after their registration as displaced persons under the Government Resolution of 01.10.2014 No. 509¹²⁷.

302. The adoption of the above mentioned regulations led, in particular, to the fact that pensioners, recipients of various types of state social assistance, who live in areas outside the control of Ukraine, can receive pensions and benefits only after registering as IDPs.

303. For many people the inability to receive pension and other state aid, which is usually the only source for existence, was the main reason for displacement.

304. Current procedure of renovation of pension payments and failure of the state to fulfill its obligations on providing free temporary housing, force a large number of retirees to actually “deceive” the state and register as IDPs, and then return to their place of residence in the non-controlled territory. This phenomenon was called “retirement tourism”¹²⁸, which is associated with negative connotations in the public mind and forms discriminatory treatment towards residents of non-controlled territories and most IDPs as well.

¹²³ <http://dn.vgorode.ua/news/obzory/247795-skandalnyi-eksperiment-kak-sniat-kvartyru-bezhentsam-yz-donbassa>

¹²⁴ <http://ua.krymr.com/content/article/26724516.html>

¹²⁵ <http://zakon4.rada.gov.ua/laws/show/595-2014-%D0%BF>

¹²⁶ <http://zakon4.rada.gov.ua/laws/show/637-2014-%D0%BF>

¹²⁷ <http://zakon4.rada.gov.ua/laws/show/509-2014-%D0%BF>

¹²⁸ News of the Ministry of Social Policy, the official website // http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=168156&cat_id=107177

305. It should be noted that according to the current practice, the implementation of rights and additional guarantees for IDPs (from receiving humanitarian assistance in providing medical and educational services) is put in direct dependence on their registration as IDPs. Such registration is carried out but the authorized state body on social protection of population. However, human rights organizations fix common practices of refusing to register IDPs — particularly the students of universities, who, after moving registered their place of residence in the dormitories on the controlled territory, or persons, who actually lived without registration of the place of residence in the temporarily occupied territory of Ukraine or in the areas of the ATO. Such persons, in fact, find themselves in a “vacuum” and do not qualify for help from the state or non-state institutions.

306. The State actively promotes internal displacement not only through the adoption of specific regulations, but also because of the lack of response to existing problems, caused by armed conflict. For instance, the number of “front-line” settlements in Stanichno-Luhansk, Novoaydarsky, Popasniansky districts of Lugansk region, Volnovakha, Artemovsk, Maryinsky, Yasinovatskiy Donetsk region, located along the contact line, i. e. along the line of distinction between the controlled and uncontrolled territory of Ukraine. These villages are located in the so-called “gray zone”¹²⁹ — formally located on the territory controlled by Ukraine, they are not occupied by illegal armed groups, but, in fact, some of them are outside the extreme Ukrainian army roadblocks, some of which are occasionally fired.

307. Common problems in this area: the limited functioning of the executive and local authorities, lack of regular and irregular transport communication with these villages (in fact, access to the “gray zone” is limited), medical and social institutions, problems with the delivery of food and so on. Ignoring by the authorities of these problems leads to displacement.

308. A separate reason which encourages residents of Donetsk and Lugansk regions¹³⁰ to move into the country, is the activity of security forces in the liberated territories. Often such activity is illegal in nature. People are “detained” without complying with procedural requirements (or rather — are kidnapped from their homes) by the armed persons in uniform without labeling using physical force, and sometimes — tortured to obtain evidences or confessions of having connections with illegal armed groups¹³¹. Victims of such treatment reasonably fear for their lives and the lives of their relatives, so in the absence of an effective system for investigating of complaints of illegal actions of security forces¹³² displacement is a certain way out of the situation.

309. It should be noted that the unresolved questions of exchange of civilian prisoners impact on the situation of displacement of people. In the absence of a regulatory framework, the “exchange fund” from Ukrainian side includes persons suspected of having committed crimes connected with military operations in the Donetsk and Lugansk regions, or pro-Russian persons, which are often residents of other regions of Ukraine, but they are exchanged as “supporters” of the self-proclaimed DNR and LNR. Persons, who have been exchanged, as a rule, remain to reside in the non-controlled areas, and their families move together with them.

310. According to the Guidelines (Principle 13), the recruitment of displaced children into the army (as well as forcing or allowing them to participate in war actions), is prohibited. According to the Ministry of Social Policy of Ukraine, as of 01.06.2015, the number of only the officially registered IDPs under 18 years is 167,000¹³³. The most vulnerable groups of children that participated in the armed conflict

¹²⁹ “GreyZone” and forgotten settlements, release of the BF “Vostok-SOS” <https://goo.gl/SmkWts>

¹³⁰ <http://amnesty.org.ua/materiali/human-rights-in-ukraine/dopovid-pozasudovi-strati-pid-chas-konfliktu-v-shidnij-ukrayini/>

¹³¹ <http://amnesty.org.ua/materiali/human-rights-in-ukraine/dopovid-vikradennya-i-katuvannya-v-shidnij-ukrayini/>

¹³² <http://amnesty.org.ua/materiali/human-rights-in-ukraine/zlovzhivannya-ta-voyenni-zlochiny-z-boku-d/>

¹³³ <http://www.radiosvoboda.org/content/news/27047735.html>

are children without parental care and children with special needs. The problem of protection of their life and the complying with the rights, particularly by means of ensuring the evacuation of uncontrolled territories remains almost unsolved. The state did not established the coordination center that would solve problems on children protection from the armed conflict and its consequences.

311. On 23.06.2004, Ukraine ratified the Optional Protocol to the UN Convention on the Rights of the Child of 27.02.1991 on the participation of children in armed conflicts¹³⁴. However, the national legislation does not define the possibility of direct application of the Optional Protocol before the court while protecting the rights of children. On 05.10.2000, Ukraine ratified International Labour Organisation Convention No. 182, which prohibits forced or compulsory recruitment of children for participation in armed conflicts.

312. National legislation requires quickly implementation and enforcement of the Optional Protocol, the Paris commitments to protect children from unlawful recruitment or use by armed forces or armed groups¹³⁵, the Paris Principles and Guidelines On Children Associated With Armed Forces or Armed Groups¹³⁶. Adequate legal response to the situation requires appropriate changes in the following Laws of Ukraine: "On Combating Human Trafficking"¹³⁷, "On Childhood Protection"¹³⁸, "On Free Legal Aid"¹³⁹, "On Rehabilitation and Recreation of Children"¹⁴⁰ and the Criminal Code of Ukraine¹⁴¹. This will ensure the imposition on the state of the duty to provide free legal aid and organizing the evacuation of children from areas of the war actions.

313. Article 30 of the Law of Ukraine "On Protection of Childhood"¹⁴² prohibits the participation of children in war actions and armed conflicts, the creation of children's military organizations and paramilitary formations, propaganda of war and violence among the children. However, the criminal responsibility for involvement and use of children in armed conflicts is not provided expressly. Responsibility for committing illegal transaction, the object of which is a person, including recruitment or obtaining a person with the aim of his exploitation, foreseen by Article 149 of the Criminal Code of Ukraine. Exploitation of a person means, in particular, his use in armed conflicts. The same Article establishes responsibility for the illegal actions regarding minors and children.

314. Thus, on the one hand, Ukraine has taken the commitments to protect the rights of children in armed conflicts. At the same time, the problem of responsibility of the persons for forcing children to participate in an armed conflict, particularly in territories outside the control of Ukraine, remains unresolved¹⁴³.

315. Principle 14 specifies that IDPs have the right to freedom of movement and freedom to choose their place of residence. IDPs are free to leave their settlements and return to them. On 17.07.1997, the Verkhovna Rada of Ukraine ratified Protocol No. 4 to the European Convention on Human Rights and Basic Freedoms¹⁴⁴. Article 2 of the Protocol sets forth the right of everyone who is in the territory

¹³⁴ http://zakon2.rada.gov.ua/laws/show/995_795

¹³⁵ https://www.icrc.org/eng/assets/files/other/pariscommitments_en.pdf

¹³⁶ <http://www.unicef.org/emerg/files/ParisPrinciples310107English.pdf>

¹³⁷ <http://zakon4.rada.gov.ua/laws/show/3739-17>

¹³⁸ <http://zakon4.rada.gov.ua/laws/show/2402-14>

¹³⁹ <http://zakon3.rada.gov.ua/laws/show/3460-17>

¹⁴⁰ <http://zakon2.rada.gov.ua/laws/show/375-17>

¹⁴¹ <http://zakon4.rada.gov.ua/laws/show/2341-14>

¹⁴² <http://zakon4.rada.gov.ua/laws/show/2402-14>

¹⁴³ http://zn.ua/UKRAINE/boeviki-vooruzhili-nesovershennoletnih-i-vystavili-na-blokposty-obse-179127_.html

¹⁴⁴ http://zakon1.rada.gov.ua/laws/show/994_059

of any state, for freedom of movement and free choice of residence within that territory. Article 33 of the Constitution of Ukraine¹⁴⁵ reflects this obligation. It provides that each person, who is legally present on the territory of Ukraine, has guarantees to freedom of movement, free choice of residence, the right to freely leave the territory of Ukraine. The said article also notes that only law can establish any restriction of freedom of movement. Nevertheless, on 22.01.2015, the First Deputy Head of the Antiterrorist Center at SBU approved by Order No. 27 the Temporary Order of Exercising Control over the Movement of Persons, Vehicles and Goods along the Contact Line within the Donetsk and Lugansk Regions (hereinafter — the Order)¹⁴⁶.

316. Introduction of permit system caused massive problems, in particular: lack of uniform application of the provisions of the Order, formation of huge queues at checkpoints and formation of corrupt schemes for obtaining permits outside of the procedure. Introduction of the Order coincided with the escalation of armed conflict in Luhansk and Donetsk regions. The Order established an exhaustive list of grounds, according to which a person can get a permit. It should be noted that evacuation to preserve life was not mentioned in the proposed grounds. Therefore, the residents of these areas were limited in the ability to evacuate. Due to the implementation of imperfect regime of crossing the contact line, many people, who were living in conflict-ridden territory, were forced to leave the uncontrolled territory of Ukraine through the Russian Federation. Moreover, these persons shall bear the administrative responsibility under the law (payment of administrative fines) for violations of rules regulating movement at the checkpoints and illegal crossing of the state border of Ukraine. Such practice of imposing fine raises many questions. It is unlikely that the restriction of right to freedom of movement is justified if a person saves his/her life. At this, it is apparent that the closure of the state border of Ukraine in the non-controlled area was out of control of these people. According to the messages of IDPs, the opportunity to avoid paying fines appeared simultaneously with the creation of appropriate corrupt schemes. Other persons are moving from uncontrolled territory by passing the official entry/exit checkpoints. Mined fields are the main risk for those who chose to use this method of movement along the contact line.

317. The Antiterrorist center at SBU, in response to massive criticism against the Order by human rights watchdogs, established the Working group to develop amendments to the Order. The Working group gathered the representatives of state authorities as well as NGOs. On 16.06.2015, the Antiterrorist center published amended Order. Despite the amendments included many propositions of the Working Group, there were also provisions that NGOs were previously not aware of, specifically, item 1.6 of the Order, which prohibits the movement of public passenger transport along the contact line. As a result, many people were forced to cross a certain distance at the checkpoints on foot. Moreover, the travel costs markedly increased since those, who have no own cars, were compelled to change passenger transport several times.^{147 148}

¹⁴⁵ <http://zakon2.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>

¹⁴⁶ http://www.ssu.gov.ua/sbu/control/uk/publish/article?art_id=136472

¹⁴⁷ Procedure also sets forth the following amendments: cancellation of the paper passes and introduction of passes in electronic form deposited in an electronic data base; all state officials, who carry out the control at the checkpoints, shall have official IDs; the procedure on refusal of a request for permission was specified; exhaustive list of grounds for crossing the contact line was extended (labour activity, education, scientific and cultural activity, etc.); procedure on crossing the contact line by minors (under 18) was specified; rules on crossing the contact line by persons released from institutions which carry out punishment in the form of imprisonment, were specified; it was foreseen that, in case of visible threat to life, a person can cross the contact line without permission.

¹⁴⁸ On 7 July 2015, Antiterrorist center at SBU, pursuant to the decision of the National Security and Defense Council of Ukraine, introduced an electronic pass system. The electronic system is available on the website <https://urp.ssu.gov.ua/>. Until mid of September 2015, only Ukrainian citizens could use it. At present foreign citizens and stateless persons can apply for the electronic pass on the website. Despite the fact the permit should be granted within 10 days from the date of submission of the electronic application, applicants are often wait longer (up to 20 days on average). As of

318. According to Principle 17, the provisions of Article 11 of the Law put the responsibility on the State Migration Service of Ukraine to facilitate the reunification of families of IDPs by providing information about the place of actual residence of family members.

319. However, the Law does not provide for the corresponding right of IDPs to the unity of the family and information about their relatives, therefore, there is no mechanism for the implementation of this right.

320. At the same time, partners of the Legal Protection Cluster inform about the separation of many families during the armed conflict, union of which is complicated by the pass system for crossing the contact line. Sometimes obtaining of passes is impossible because of the loss of documents. Many families are separated because the parents send the children out of armed conflict separately.¹⁴⁹

321. According to the Law, Ukraine take all possible measures to solve problems related to social protection, including social benefits to recover IDPs. Thus, the Law stated that IDPs receive social services and realize the right to employment, pension, compulsory state social insurance, etc. according to the legislation of Ukraine.

322. Government Resolution of 01.10.2014 No. 505¹⁵⁰ determines that persons, which are moved, get living costs covered, including housing and utilities in the amount of subsistence minimum for persons unable to work, for people with disabilities, UAH 884 (approximately USD 40), for disabled persons, pensioners and children and UAH 442 (approximately USD 20) for able-bodied persons.

323. According to the law, IDPs are entitled to obtain necessary medical care in public health facilities (reflected in Principles 18 and 19).

324. In accordance with the appointment of the Minister of Health of Ukraine, medical check-ups should be conducted in organized habitats of IDPs to ensure proper medical care. For the implementation of the healthcare for IDPs families, Kharkiv regional center of medical and social examination ordered the simplified mechanism to review IDPs with disabilities, occupational disease and creation, if necessary, an individual rehabilitation program. "Chuguivska Human Rights Group", according to the results of random survey of IDPs in the Kharkiv region, found that in most of cases clinical examination of IDPs is not conducted, and individual rehabilitation programs of rehabilitation are also not created. IDPs are not informed of the locations of medical facilities and the opportunity to provide the necessary preparations.¹⁵¹

325. According to the Law, Ukraine is obliged to ensure the equitable distribution of humanitarian, charitable, technical and other assistance to IDPs, especially to the needs of vulnerable groups, the disabled, women and children, pensioners and others. Government Resolution of 01.10.2014 No. 535¹⁵² provides that IDPs may qualify for financial aid from the funds received from individuals and legal entities for such purposes.

326. Government Resolution No. 535 provides for the lengthy procedure of allocation of aid: submission of applications from citizens, drawing up registers of beneficiaries at the local level to the regional

mid-September 2015, technical problems remain when using the electronic pass system, for example, the impossibility to self-correct data when filling in the electronic application. It should be noted that progress on eliminating of some problems in the operation of electronic pass system was achieved (in July and August 2015 the website of the electronic pass system was frequently unavailable due to a large number of applicants).

¹⁴⁹ https://www.humanitarianresponse.info/en/system/files/documents/files/ocha_ukraine_situation_report_39_-_8_may_2015.pdf

¹⁵⁰ <http://zakon4.rada.gov.ua/laws/show/505-2014-%D0%BF>

¹⁵¹ <http://pereselenci-med.kh.ua/?p=93>

¹⁵² <http://zakon4.rada.gov.ua/laws/show/535-2014-%D0%BF>

referral registers, and later — at national level, numerous approvals and so on. Further, relevant funds to an applicant are transferred to the personal account opened in a bank. This complicated procedure causes significant slowdown of relevant payments. Besides, there is not established a clear size of the one-time financial assistance, which depends on the availability of funds and the nature of a specific applicant's difficulties of life.¹⁵³

327. To ensure the right to documents of identity (Principle 20), the Act requires the State Migration Service (hereinafter — SMS) to prepare such documents of IDPs at their place of residence.

328. However, recovery of documents remains one of the most acute problems. As a result of the occupation of the Crimea and armed conflict in eastern Ukraine, SMS lost all data on individuals in these areas as the information existed only in paper form. If prior to these events a person applied to obtain a passport for travelling abroad, his/her data remained in the SMS database, facilitating the recovery of the passport. The problem of identification arises for those who lost their passport and did not get passport for travelling abroad. Such persons must undergo the procedure of identification (evidence of the relatives).¹⁵⁴

329. Under the Law, the Ministry of Education and Science of Ukraine shall create conditions for citizens to obtain proper education on the basis of data on IDPs. Local state administrations and local authorities provide the placement of children in pre-school and general educational institutions of state ownership.

330. According to the reports of non-government organizations on pre-school and secondary education: starting from spring 2014, all necessary and possible regulatory and management algorithm for responding to emergency with securing the rights of IDPs' children for education effectively worked. None of the studies found significant problems related to discrimination or violation of rights of IDPs' children in educational field. In some areas in the contrary, there are recorded positive actions towards IDPs children of under school age (preferably on enrollment of IDPs children in kindergartens). The support for IDPs families in education issues is provided mainly by local resources (teachers, parent committees and school administrations). Respondents also noted the assistance provided by volunteer organizations.¹⁵⁵

331. Since the occupation and armed conflict, Ukraine as the guarantor of the rights and freedoms of a person and citizen is obliged to provide on the controlled territory humanitarian aid to IDPs and others affected by the conflict. The corresponding responsibilities are enshrined in Article 11 of the International Covenant on Economic, Social and Cultural Rights¹⁵⁶ and the Guidelines (Principle 25)¹⁵⁷. In areas non-government controlled areas illegal armed groups are responsible for providing humanitarian assistance.

332. Ukraine has simplified to some extent the system of providing humanitarian aid. The law declares that international donors that contribute to the programs of assistance to IDPs shall receive assistance to accelerate the import of humanitarian goods. International humanitarian, charitable, technical and any other non-repayable assistance provided to IDPs is exempt from taxation and customs duties.¹⁵⁸ IDPs and persons living in the occupied / non-controlled territories are exempt from paying tax on income

¹⁵³ <http://ato.vobu.com.ua/page1.ukr.html>

¹⁵⁴ <http://podpricelom.com.ua/read/krymchani-otrymaly-ponad-20-tysyach-zakordonnyh-pasportiv-v-ukrayini.html>

¹⁵⁵ http://www.irf.ua/knowledgebase/news/prezentats_dostupu_vpo_osvit_monitor/

¹⁵⁶ http://zakon4.rada.gov.ua/laws/show/995_042

¹⁵⁷ Guiding Principles on Internal Displacement, U.N., 1998 // http://www.un.org/ru/documents/decl_conv/conventions/internal_displacement_principles.shtml

¹⁵⁸ <http://zakon4.rada.gov.ua/laws/show/1706-18/conv>

received as charity from national and international charities¹⁵⁹¹⁶⁰. The state exercises control over the targeted use of humanitarian aid.

333. At the initiative of the Minister of Social Policy, a Working Group started operating in the Donetsk region, in particular, on issues of humanitarian assistance¹⁶¹. On 24.02.2015, the plan for humanitarian response in 2015 for Ukraine for up to 316 million dollar¹⁶², supported by the UN Office for the Coordination of Humanitarian Affairs has been presented. The process of transporting and distributing humanitarian aid is implemented with complications. The main reason: the failure of the cease fire in the East of Ukraine, restrictions of freedom of movement imposed by the public authorities of Ukraine, the emergence of corrupt schemes in such conflict areas as a result of restrictions and sharp increase in the number of IDPs.

334. According to the Cluster on the matters of housing and the provision of non-food items of the UNHCR¹⁶³, due to the lack of resources and opportunities, only the most vulnerable people (families with many children, single mothers, people of retirement age, people with disabilities, etc.) get primarily humanitarian aid. Most of the poor, especially in rural areas, and along the contact line in the East Ukraine do not receive sufficient assistance.

335. A significant role in humanitarian provision of the entire territory of Ukraine is played by the international humanitarian organizations (United Nations Population Fund in Ukraine, the OSCE, the International Committee of the Red Cross, the UN Agency for Refugees, the UN Children's Fund) and the governments of foreign countries (Germany, Latvia, Lithuania, Poland, Kazakhstan, Estonia, Slovenia, France, Austria, Croatia).

336. However, the failure to fulfill the Minsk Agreements and systematic violations of humanitarian law by illegal armed groups in Eastern Ukraine pose a threat to the security of members of such organizations during implementation of tasks in the conflict zone. According to the information of the UN Human Rights Monitoring Mission in Ukraine (HRMMU), reports of serious violations of human rights, harassment of local people, carried out by illegal armed groups, continue to appear. In the temporarily occupied territories and the uncontrolled by Ukraine territories, harassment and intimidation against the suspects in support of Ukraine's armed forces or people with pro-Ukrainian position¹⁶⁴ continues.

337. Approximately since June 3 till June 13, 2015, it was nearly impossible to deliver humanitarian assistance to the territory not controlled by Ukraine due to the closures of checkpoints because of the intensification of war actions in the area of Marjinka of Donetsk region. According to Rinat Akhmetov's Foundation, during this time around 400,000 people in the uncontrolled territories could not receive food packages¹⁶⁵. The transportation of humanitarian supplies to the Trojitskevillage

¹⁵⁹ <http://zakon2.rada.gov.ua/laws/show/1668-18/paran8#n8>

¹⁶⁰ http://www.kmu.gov.ua/control/uk/publish/article?art_id=248252253&cat_id=244274160

¹⁶¹ http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=178486&cat_id=107177

¹⁶² Ukraine, Humanitarian Needs Overview (HNO), 2015 // <https://www.humanitarianresponse.info/en/operations/ukraine/document/2015-ukraine-humanitarian-response-plan>

¹⁶³ ShelterClusterStrategy http://www.sheltercluster.org/sites/default/files/docs/shelter_nfi_cluster_strategy_final_june2015_eng.pdf

¹⁶⁴ Доповідь УВКПЛ щодо ситуації з правами людини в Україні 16 лютого — 15 травня 2015 р. http://www.un.org.ua/images/stories/10th_HRMMU_report_executive_summary-UA_translation.docx

¹⁶⁵ Ukraine: Situation update No. 4 as of 12 June, UN OCHA, 2015 // http://www.humanitarianresponse.info/ru/system/files/documents/files/ocha_ukraine_situation_update_number_4_as_of_12_june_2015_1.pdf

of Lugansk region¹⁶⁶ was stopped due to disruption of the bridge over the river Luhan by the militia group.

338. Notwithstanding the foregoing, international organizations continue to perform their functions. In the areas outside the control of Ukraine, in May UNHCR delivered assistance for housing, consumer goods to more than 6 thousand people¹⁶⁷, and the International Committee of the Red Cross since January to April 2015, delivered more than 3,000 tons of humanitarian aid¹⁶⁸.

339. Therefore, the overall situation with the provision of humanitarian assistance and necessary protection of IDPs and others affected by conflict remains extremely volatile and tense.

340. The law states that Ukraine takes all possible measures provided by national laws and international agreements concerning the return of IDPs to their abandoned residence in Ukraine and their reintegration.

341. However, until today no document defines the national policy on internal displacement (including long-term solutions). The Ministry of Social Policy of Ukraine drafted the Complex State Program of Integration, social adaptation, reintegration, and protection of IDPs in 2015–2016¹⁶⁹. The draft was directed to the public for proposals several times, but was not adopted.

342. Guidelines (Principle 21) stipulate that in all circumstances the protection of the assets and property of IDPs (including abandoned properties) must be secured, in particular against: robbery, expropriation, direct or indiscriminate attacks, destruction, etc.¹⁷⁰

343. The Law does not provide the rights of IDPs for compensation of lost or damaged property, as defined by the Principles on housing and property restitution of refugees and displaced persons¹⁷¹; Resolution of PACE No. 1708 (2010) "Resolution of Property Issues of Refugees and Internally Displaced Persons"¹⁷², as well as Guidelines (Principle 29). Relevant legislative initiative was developed with the participation of civil society and registered in the Parliament on 18.02.2015 (Reg. No. 2167)¹⁷³, but as per date of this material, was not considered in the session hall.

344. The Law provides the possibility of participation of IDPs in public affairs; in particular, the IDPs exercise their right to vote in the Presidential and Parliament elections, local elections and referendums. For this, IDPs shall change their voting place under the procedure prescribed by the Law "On the State Register of Voters", (Principle 29)¹⁷⁴. However, unfortunately, other regulations in the electoral law are

¹⁶⁶ <http://www.unian.ua/war/1091946-moskal-cherez-pidirvaniy-boyovikami-mist-do-trojitskogo-nemojlivo-dostaviti-gumdopomogu.html>

¹⁶⁷ Ситуація в Україні: інформація про роботу УВКБ ООН, 1–21 травня 2015 року // <http://unhcr.org.ua/attachments/article/1299/UNHCR%20UKRAINE%20Operational%20Update%2021MAY15%20Ukr%20amended.pdf>

¹⁶⁸ «Украинский кризис: спустя год с начала конфликта многим нужна срочная помощь» // <https://www.icrc.org/ru/document/ukrainskiy-krizis-spustya-god-s-nachala-konflikta-mnogim-nuzhna-srochnaya-pomoshch>

¹⁶⁹ http://www.mlsp.gov.ua/labour/cont6rol/uk/publish/article?art_id=169301&cat_id=169302

¹⁷⁰ http://www.un.org/ru/documents/decl_conv/conventions/internal_displacement_principles.shtml

¹⁷¹ <http://unhcr.org.ua/img/uploads/docs/Pinheiro%20Principles%20rus.pdf>

¹⁷² <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17814&lang=en>

¹⁷³ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=54094

¹⁷⁴ http://www.un.org/ru/documents/decl_conv/conventions/internal_displacement_principles.shtml

not consistent with the law. As a result, there is a risk of a failure to involve IDPs to vote in local elections¹⁷⁵.

345. Pursuant to Principle 30, the Law provides for a right of an IDP to humanitarian and charitable assistance; and Article 18¹⁷⁶ establishes the general principles of international cooperation on internal displacement issues. In particular, Ukraine cooperates with other states and international organizations in order to: prevent possible internal displacement, adhere to rights and freedoms of IDPs, facilitate the return of such persons to their previous places of residence in Ukraine, and their reintegration.

¹⁷⁵ On 8 August 2015, the Law of Ukraine “On local elections” came into force. The Law de facto deprived the right of IDPs to vote in local elections (the next local elections will be held in late October 2015). The Law is contrary to both national legislation and international standards to protect the rights of IDPs. Especially, according to the Constitution of Ukraine, the people exercise power directly, inter alia, through the local self-governments. According to the Law of Ukraine “On Local Self-Government in Ukraine”, restrictions of the right to participate in local self-government, are prohibited, including the term of residence of a citizen on respective territory. The UN Guiding Principles on Internal Displacement (Principle 22) stipulate that IDPs shall not be discriminated against as a result of their displacement, in particular, in the enjoyment of the right to vote and to participate in governmental and public affairs. A large part of the IDPs is already part of the territorial community where they live today. In addition, there are no guarantees that the occupation and armed conflict will end soon and IDPs can return to their homes. Moreover, IDPs pay taxes, including local and use administrative services. At the same time, according to current law, if an IDP initiates the procedure for obtaining the right to vote in local elections at the new place of residence (by changing the registered address of permanent place of residence), he/she will automatically lose the legal basis to be IDP. As of September, three draft laws are registered at the Parliament of Ukraine aimed to provide IDPs the right to vote at the local elections.

¹⁷⁶ <http://zakon4.rada.gov.ua/laws/show/1706-18/conv>

III. RECOMMENDATIONS

346. The results of the assessment of the rights and freedoms in Ukraine, as well as the recommendations of the recommendations UPR 2012 during the reporting period, it is considered appropriate to complement the recommendations with the following:

Rule of Law

- 346.1. To speed up the reform process in the area of enforcement of court decisions;
- 346.2. For unloading the system of the state executive service to implement non-state form of enforcement of court decisions;
- 346.3. To solve the issue of increasing the financial motivation of bailiffs by means of increasing of salary and bonuses for the timely and effective enforcement of court decisions.
- 346.4. To solve the issue of the return of funds to recipients that have been recovered from debtors but not transferred to the recoverers at the time of the occupation of Crimea;
- 346.5. Strengthen control over the enforcement of decisions in the Donetsk and Lugansk regions in order to prevent the negligence of specific officials not to be disguised by the fact of the conduct of the ATO in these territories.

Respect for the rights in the penal system

- 346.6. Significantly expand the range of subjects NPM (National Preventive Mechanism), giving the legal possibility to non-governmental organizations to inspect prisons under the NPM.
- 346.7. Create a mechanism for quick and effective response to reports of ill-treatment and prosecution of law enforcement officials responsible for torture and ill-treatment of prisoners.
- 346.8. Pay attention to the improvement of conditions of detention of prisoners according to the European standards. To put efforts to accelerate the transition of keeping prisoners in the rooms for several people. Explore possibilities for closure of some prisons and building new ones.
- 346.9. Significantly increase the level and quality of medical services, to review the working conditions of doctors in prisons and to solve the issue of subordination of medical units in colonies of the Ministry of Health. To provide a significant reduction in the number of suicides and mortality of prisoners.
- 346.10. Refrain from using free labor of prisoners at the enterprises of institutions; severely punish violations by penal administration in the field of employment, to ensure adequate payment for prisoners and transparency of the procedures for calculation for prisoners of their salaries.
- 346.11. Create effective mechanism for filing and reviewing the prisoners' claims, to bring to responsibility employees who violate the law in the sphere of address of citizens

346.12. Severely punish for obstruction to filing complaints and harassment of prisoners for their submission.

346.13. Not punish convicted for abusing the procedure of complaints sending.

346.14. Significantly increase the social protection of personnel agencies. Adopt total training of personnel on human rights.

Combating discrimination

346.15. Improve the Procedure of conduct by executive bodies of anti-discrimination review of the draft regulations (approved by the Cabinet of Ministers of Ukraine No. 61).

346.16. Amend the Criminal Code of Ukraine to ensure punishment for crimes committed on the grounds of homophobia — namely to Art. 67, p. 2, Art. 115, p. 14 Art. 121, p. 2, Art. 122, p. 2, Art. 126, p. 2, Art. 127, p. 2, Art. 129, p. 293.

346.17. Decriminalize discrimination by extracting Art. 161 of the Criminal Code.

346.18. Extend labour guarantees provided for women with young children or a disabled child, men (p. 3 of Art. 33, p. 4. Art. 51, p. 1, Art. 56, p. 1 Art. 182¹, p. 1, 3 Art. 184 of the Code of Ukraine on Labor).

346.19. Review the internal regulations of penal institutions to provide reasonable accommodation for members of religious communities, people with disabilities and other groups that require such adaptation.

346.20. Review the terms of gender *reassignment* according to the Procedure of inspection of persons who require change (correction) of sex, approved by the Ministry of Health of Ukraine No.60. In particular, replace p. 2.2. of the Procedure with a less invasive way.

346.21. Provide measures to prevent and combat discrimination in Ukraine under the Action Plan to implement the National Strategy on Human Rights.

346.22. Add signs “sexual orientation” and “gender identity” to the explicitly cited list of traits in Article 1 of the Law of Ukraine “On Principles of Prevention and Combating Discrimination in Ukraine.”

346.23. Add signs “sexual orientation” and “gender identity” to the list of attributes in Article 2 of the Code of Ukraine on Labor.

346.24. Develop an algorithm for collection data on hate crimes, add it to the Instruction on the unified record of crimes.

346.25. Develop provisions for cooperation between police and prosecutors in cases of hate crimes.

346.26. Adopt a law on indigenous peoples.

346.27. Remove from the law rules that lead to discrimination:

— Part 4 of Art. 21 of the Law of Ukraine “On Freedom of Conscience and Religious Organizations”, which involves authorization procedure of peaceful assemblies, stipulating instead in Part 5 Art. 21 procedure of notification about arranging assembly of religious nature without limitation of the term for such notification.

— Paragraph 21 of Part. 1 of Art. 10 of the Law of Ukraine “On Police”, which requires police to identify and report to medical institutions about people who are at risk of infection with AIDS, and at the request of health institutions to issue warrants for such persons, as well as people living with HIV.

— Paragraph 4 of the Law of Ukraine “On Protection of Population Against Infectious diseases”, prohibiting people with HIV-positive entry to Ukraine.

346.28. Develop a national strategy on prevention of discrimination and a step by step action plan to this strategy, involving civil society experts. As an orienting point can serve the Reference developed by the office of the Commissioner. This strategy and action plan should cover all aspects of life, clearly establish responsibilities of state and local government and have realistic objectives and measurement, including the mechanism for evaluating the effectiveness of implementation.

346.29. To conduct a systematic study on the topic of equality and non-discrimination, and the duty to fulfill the Law “On Principles of Prevention and Combating Discrimination” for civil servants and local government.

346.30. Establish a training program on human rights for police officers, prosecutors, judges and border guards, and establish an effective procedure for reports on violations of equality and discrimination by the police against Roma, members of other ethnic groups and LGBT; ensure effective investigation of such complaints and bringing the perpetrators to justice.

346.31. Take steps to cease the incitement of hatred (the use of language of ill-will and declaration of consciously false information), in particular in the statements of politicians and officials in the context of law, human rights and implementation of the European integration commitments of Ukraine.

Freedom of Thought, Conscience and Religion

346.32. Agencies of state power and their public officials on all levels should adhere to the position of neutrality towards any religion or opinions with aim of provision equality before the law and extension of atmosphere of religious tolerance and mutual respect in society.

346.33. To form principles of nationwide state policy in sphere of provision of freedom of conscience and religion, this should be based on democratic principles and to provide full participation of religious organization in public life.

346.34. To downsize the list and specify competence of public authorities, on which state controlled on statutory compliance of freedom conscience and religious organizations, is administered.

346.35. To provide legislatively constitutional right of clergymen and other citizens of Ukraine for substitution of military duty during draft for military service with alternative (non-military) service outside the number of any troop formations, respecting religious opinions of such persons.

346.36. To lawfully ensure the constitutional right of clergy and other citizens of Ukraine to replace military duty during mobilization of alternative (non-military) service outside any military formations, given the religious convictions of such persons, and without any discrimination, including on the basis of belonging to a registered or unregistered religious communities or to specific government beliefs.

346.37. To regularize guarantees of freedom of parents and tutors at law in appropriate cases on legislative level, to provide religious and moral upbringing of their children in accordance with their own opinions, as it is stipulated in article 18 of International Covenant of UNO on Civil and Political Rights. Specifically, to give to religious organizations the right to found educational institutions of state standard of education of accreditations of different forms and levels.

346.38. To improve the procedure of acquiring status of legal entity by religious organization by way of providing bigger precision uniqueness in interpretation and actual use of statutes of the national law.

346.39. To eliminate equivocal and legal gaps, which lead to ambiguous practice in the application of legislative regulations concerning execution of approval of religious activity of foreigners in Ukraine, creating chargeable and durable bureaucratic barriers for them.

346.40. To ensure fulfillment of international obligations of Ukraine concerning return of church property for the purpose of religious worship, expropriated by Soviet regime.

346.41. Eliminate in the Constitution of Ukraine the discrepancy of Article 18 of the International Covenant on Civil and Political Rights and Article 9 of the European Convention on Human Rights by the inclusion of the right to freedom of belief and religion to the list of rights and freedoms that can not be restricted under martial law or state of emergency.

The rights of people with disabilities

346.42. With the participation of public organizations of persons with disabilities to develop and adopt amendments to the legislation to bring it into line with the requirements of the Convention on the Rights of Disabled.

346.43. Ensure implementation (including appropriate financial support) of the National Action Plan to implement the Convention on the Rights of Disabled Persons.

346.44. Make an assessment of existing public programs in various fields, according to the requirements of the KPI, and funding for their improvement, optimization of resources to improve the quality of life of people with disabilities and their families, emphasizing their integration in the life of the society.

346.45. Maintain effective departmental control and monitoring of the adherence to the current legislation concerning the Convention on the Rights of the disabled, protect and fulfill the rights of persons with disabilities. Introduce parliamentary control over the implementation of the KPI and implementation of the National Plan of Action.

346.46. To ensure availability of public information sites for people with disabilities of various nosology.

346.47. Take measures to encourage private companies providing public services, to the provision in the formats accessible and affordable for people with disabilities format.

346.48. Introduce in the courses for training of civil servants mandatory training courses on the matters of disability, formation of inclusion policy, accessibility and universal design.

346.49. Raise level of awareness of society of disability to improve attitudes towards people with disabilities as active and full members of society.

346.50. Conduct analysis of the international financial assistance provided to health care, job creation, education, rehabilitation (major maintenance of buildings, their reconstruction, purchase of equipment, training and retraining, etc.) in order to prevent the use of funds to create architectural and other barriers in facilities and services.

346.51. Develop and approve the state program of prevention of institutionalization of people with disabilities in need of a significant amount of external assistance.

346.52. Develop and adopt an action plan with a view to introducing of the protection mechanisms of the rights of persons with disabilities who do not understand the meaning of their actions and can not control them, alternative systems of care of incapacitated persons and entities whose capacity is limited.

346.53. Promote creation of the system state program for providing medical support for forcibly displaced persons, paying attention to people with disabilities and people with chronic diseases.

Combating human trafficking and domestic violence. Women's rights

346.54. Advance the ratification and ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence.

346.55. Develop and adopt regulations to improve implementation of the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men."

346.56. Increase resources for effective implementation of the Law of Ukraine "On Combating Human Trafficking."

346.57. Strengthen coordination of anti-trafficking activity, including through the creation of an interagency council.

346.58. Take measures to reduce failures in obtaining the status of victims of trafficking.

346.59. Create additional shelters for the rehabilitation and social integration for persons affected by trafficking and domestic violence.

Rights of the child

346.60. Resume the systematic fulfillment of recommendations within the last UPR, including those that were not adopted by the State at the time of provision of the recommendations — in particular this applies to international treaties on children's rights. In particular, we strongly encourage the State to ratify the Rome Statute and the 3rd Protocol to the Convention on the Rights of the Child.

346.61. Bring legislation into line with international standards on children's rights, including prohibition of the involvement of children in armed conflicts.

346.62. Create a comprehensive program to address the pressing issues of observance of the rights of children affected by armed conflict and children-IDPs, which would include all categories of children and would not allow exceptions. Improve the guarantees of complying with the right to life, security, and right to education, medical and psychological support for children.

346.63. Develop the National Action Plan to implement the Convention on the Rights of the Child for the new period of cooperation with NGOs and provide its adequate funding.

346.64. In modern conditions the rights and interests of the child should be the main areas of public policy, respectively they have to become the subject of public reform strategies in all areas and at all levels.

346.65. Adopt the Law "On Amendments to the Criminal Code of Ukraine on Protection of Children from Sexual Abuse and Sexual Exploitation" registered in the Parliament in February of 2015 under No. 2016.

346.66. Ratify the Hague *Protection of Children and Co-operation in Respect of Intercountry Adoption*.

Social and economic rights

346.67. Reform the system of social benefits, divide legal norms into those guaranteeing social and economic rights and those granting certain privileges in connection with a particular position or particular achievements.

346.68. End the practice of non-enforcement of the legal norms guaranteeing the implementation of socio-economic rights.

346.69. Provide in full scale the funding of the statutory guarantees of socio-economic rights, to stop the practice of “manual control” in determining the amount of social assistance.

346.70. Improve the calculation of the subsistence minimum, in particular — adopt a new set of food package and nonfood items and services, to adopt a new method for calculating this indicator.

346.71. Refuse to Stop using the indicator “minimum subsistence level” that unreasonably reduces the minimum social guarantees declared in the legislation.

346.72. Implement procedures for regulation of food quality and safety and quality of drinking water.

346.73. Implement measures to ensure the availability of housing, to prevent arbitrary evictions from housing (for the particularly vulnerable groups of population), infringement of the rights of housing affordability for vulnerable groups of population.

346.74. Provide adequate funding, clear and effective mechanisms for implementing the program of social housing and development of a network of reintegration centres, social accommodation for the homeless.

346.75. Improve the work on ensuring social protection to the vulnerable groups of population in connection with the increase of tariffs for housing and communal services, including operation of a transparent and effective system of housing and utility benefits and subsidies.

346.76. Gradually reduce the share of direct government funding for social needs and increase the amount of funding from the population on basis of increase of all incomes, especially wages, pensions and other social transfers.

346.77. Ensure strict connection between social benefits provided and the sources and mechanisms for compensation of their value to providers;

346.78. Introduce standardized approaches for determining the size of the state budget to compensate expenses to the providers of the benefit services.

346.79. Continue the reform of the pension system through the introduction of legislation provisions on savings of this system and create the relative preconditions.

346.80. To solve the issue of payment of pensions to persons leaving for permanent residence abroad to countries which have not signed international agreements regarding pensions provision.

346.81. Avoid discretionary minimum pension increases; introduce indexation rule under which pension increases will be linked with the consumer price index calculated for adequate income brackets;

346.82. Provide guarantees of domestic judicial decisions relating to social assistance benefits where the claimant is the State.

Personal rights protection

346.83. Review the practice of administrative services. According to the Law of Ukraine “On Access to Public Information” and “On Personal Data Protection” all the information about a person, including various extracts, excerpts and certificates from the state registers shall be issued to a person for free.

346.84. Cease the administrative practice of unlawful use of an identification number (code) of the taxpayer for other purposes not provided for by law, also by means of stopping the use of the term “personal number”, the use of which is not provided by any law.

346.85. To bring the laws of Ukraine governing the activities of law enforcement, educational and medical institutions, departmental regulations into compliance with the Law “On Access to Public Information” and “On Personal Data Protection”:

346.86. Amend the legislation providing for the publication of an annual report with depersonalized data regarding removal of information from the communication channels in the order of covert investigative (detective) actions.

346.87. Stop unmotivated collection of sensitive personal information about individuals (information about political views, religious beliefs, sexual orientation, participation in the program of substitution therapy, etc.).

346.88. Adopt a law and other regulations that should protect patients’ rights to protect confidential health information.

346.89. Regulate carrying out of video surveillance in public places, providing, among other things, storage and deleting of records.

346.90. Regulate video surveillance of prisoners so that it complied with the balance between the security requirements and human dignity.

346.91. Adopt a law that would have made more open access to the State Register of Property Rights to Real Estate, because of its public importance.

346.92. Unify the system of obtaining by a person of information on about him from public registers, refusing to pay for getting information about person.

346.93. Bring the procedure of gathering of personal data of parents of students of schools for the Unified State Electronic Database on Education (USEDE) in accordance with the Law of Ukraine “On Personal Data Protection.”

346.94. To resolve at the legislative level the issue of receiving services from the government for the realization of its rights and make the process independent from the place of registration.

346.95. Liberalize the conditions of documentation of people who have been living in Ukraine for many years and who do not have identity documents.

Human rights violations during the protest movement Euromaidan

346.96. Eliminate system flaws identified in the report of the International Advisory Panel of the Council of Europe to conduct supervision over the investigation of events on the Maidan to ensure the effective investigation of crimes.

Human rights violations during the armed conflict

346.97. To adopt bill No. 1788 of 16.01.2015 providing a supplement of Article 124 of the Constitution of Ukraine with the following provision: “Ukraine may recognize the jurisdiction of the International Criminal Court under the terms of the Rome Statute of the International Criminal Court.”

346.98. Amend section 20 of the Criminal Code of Ukraine “Crimes against peace, human security and international law” in order to harmonize its provisions with the norms of the international criminal law.

346.99. Adopt a resolution which shall determine the legal status of the territory that is now under the control of organized armed groups LNR/DNR and adjacent areas, which are under constant shelling and attacks or under the real threat of shootings or attacks.

346.100. Create a temporary commission for parliamentary control over the process of gathering and recording evidence of crimes against humanity and war crimes, as well as the process of investigation of such crimes by the relevant state bodies.

346.101. To create a coordinating group, the competence of which includes monitoring of the compliance with the law in the area of ATO and responding to reports of illegal actions of state representatives.

346.102. To ensure the effective activity of division on investigation of crimes against the peace and security of mankind and international crimes, which was created as part of the Main Military Prosecutor's Office (MMPO) in respect of gathering evidence and commitment of such crimes (including surveys of IDPs) to prepare materials for the International Criminal Court.

346.103. Conduct training of law enforcement officials on the provisions of the Rome Statute, to clarify the responsible persons about the crimes against humanity, war crimes, which articles of the Criminal Code of Ukraine envisage responsibility for crimes against humanity, war crimes, under what circumstances. Require all law enforcement officials, especially those who are in the area of the ATO, to record all cases of crimes against humanity and war crimes, to perform all necessary actions to preserve evidence and report about such cases. Inform — what kind of evidence these can be and what steps one needs to perform for their preservation/registering.

346.104. Develop criteria for all law enforcement officers who carry out proceedings for crimes which under the Rome Statute provisions relate to crimes against humanity or war crimes, have to distinguish these crimes among others. Oblige law enforcement officials to report about such crimes to special units of the Security Service and MMPO. Develop special scheme for investigating such crimes, which would provide maximum registration of the evidence in a uniform (electronic) form and transmission of the unified consolidated data (and if necessary — the evidence itself) to the special department of the Security Service and MMPO, regularly inform the said departments about the investigation.

346.105. The mentioned special department of the Security Service and MMPO to conduct an inventory of the existing criminal proceedings that may contain an offense relating to crimes against humanity or war crimes, including check of all statements relating to the events in the Crimea and in the East in the period from February 2014 and are for any reason not included in Unified Register of Pre-trial Investigation, check all allegations of disappearances in these regions, apply to such proceedings the same rules that provide for a special scheme of investigation and notification of the special department of the Security Service and MMPO.

346.106. The most serious, massive or strategic (good evidence base, high probability of bringing the case to court) crimes against humanity or war crimes shall be under taken for proceedings by the newly created special department of the Security Service and MMPO. In particular, to analyze all the existing criminal proceedings against the kidnappings in the Crimea, which accompanied the annexation of the Crimea; check the connection of these crimes to those that occurred later in the Donbass (subjects, criminal schemes of work, etc.)

346.107. Based on the obtained information submit regularly reasoned and duly confirmed reports concerning the recorded in the East crimes against humanity, war crimes, preferably with the indication of the suspects, including their relationship with the agents of the country-aggressor, on confirmation of the military presence of Russia to all concerned authorities and the international community.

346.108. Assign to the specified special Investigation Department (Department) of the Security Service a group of the SSU prosecutors — judicial leaders for close cooperation on this task and if necessary quickly solve the issues of jurisdiction for criminal proceedings for the best execution by the special

department of its functions. In particular, request for inspection all the proceedings concerning the abduction and torture of citizens of Ukraine in the Crimea, which accompanied the annexation of the Crimea.

346.109. Pay attention to the situation of civilians reported missing on Ukrainian territory. In all such cases conduct inspections and inform the military prosecutor. Identify the responsible persons (body) for communication with relatives allegedly missing on the territory controlled by Ukrainian armed forces.

346.110. Take into account the provisions of Art. 15 of the European Convention on Human Rights, according to which, when taking actions in time of emergency, war or other public danger, which threatens the life of the nation, if such measures involve derogation from the obligations under the Convention, the Secretary General of the Council of Europe should be informed on the actions taken and the reasons therefore and notify the Secretary General of the Council of Europe when such measures have ceased to be applied and the provisions of the Convention are re-applied in full extent. At the same time consider that the given provision can not be a ground for derogation from Article 2 (*right to life*), except in cases of death from lawful acts of war; of Article 3 (*prohibition of torture*) of p. 1, Art. 4 (*prohibition of slavery*) and from the Art. 7 (*no punishment without law*).

346.111. Develop a plan of measures to protect citizens' interests at the international level, in particular, to recognize LNR and DNR terrorist organizations internationally, preparing cases against Russia in the International Court of Justice, relevant cases in the European Court of Human Rights, etc.

346.112. Develop a list of aggravating circumstances that allow to attribute a particular person to the category of combatants with providing respectful explanations on the possibility of such signs in the judicial and law enforcement practice (criminal and administrative responsibility, providing the status of combatant, benefits and social security etc.).

346.113. Resolving the issue of assistance to the released from captivity civilians by means of developing of the relevant order of the Ministry of Healthcare on free examination and medical assistance to such persons on the territory of Ukraine.

346.114. Create a psychological service to provide psychological assistance to those who received psychological trauma and physical injury as a result of being in captivity. In addition, to provide psychological assistance to members of their families, and advice on dealing with people who received a psychological trauma.

346.115. To solve the problems of material support of families whose breadwinners are in captivity and families of missing citizens in the territory of the ATO.

346.116. Properly initiate and investigate criminal proceedings relating to the conditions of ransom for the relatives of hostages (fraud, extortion).

346.117. Perform inspection (inventory) of all criminal proceedings relating to hostage-taking, tortures, killings and other possible crimes against humanity, war crimes committed in the conflict zone. Activate the investigation, to ensure the rights of victims, in particular on informing about the investigation. Coordinate their actions with the special division (department) of the Security Service and MMPO.

346.118. Simplify for the victims of such crimes the process of recovery of the lost (destroyed by the militants) documents, shorten the term of delivery of the documents.

346.119. Create an appropriate department (hotline) to gain control over the cases of violations by the police personnel in areas adjacent to the areas of the ATO.

Human rights under the conditions of the occupation of the Crimea

346.120. With the assistance of the public, to develop and systematically implement national strategy of actions to protect and restore the rights and freedoms of citizens of Ukraine who are constantly on

the temporarily occupied territory or forcibly or temporarily are moved from it. Ensure the development, publication and systematic information on the official state position concerning the occupied territories and citizens of Ukraine who remain in the occupied territories or moved from them.

346.121. Amend the Law of Ukraine “On Free Legal Aid” in terms of expansion of the circle of subjects of the right to free secondary legal assistance following for such categories of persons as internally displaced persons (IDPs). In particular this relates to the opportunity of obtaining of legal assistance in matters related to appeal against refusal to register as IDPs, proof of this status, appealing of the denial of the crossing the administrative border with the Crimea etc.

346.122. To simplify the procedure of education and receiving the documents on education for graduates of general educational establishments from the temporarily occupied territory of the Crimean peninsula.

346.123. Create opportunities for online education and online monitoring (including external testing) for the citizens of Ukraine, permanently residing in the temporarily occupied territory of Crimea and to secure possibilities to obtain documents on educational level of the state-approved format.

346.124. Develop and adopt appropriate amendments to legislative and regulatory legal acts of Ukraine regarding the settlement procedure and the regulation of the matter of recognition of the facts that take place in the occupied territory (marriage, birth, death, etc.) and are certified by the documents issued by the authorities in the occupied territories of the Crimean peninsula.

346.125. Implement measures to restore transport connection with the Crimean peninsula and ensuring proper conditions of checking points with the occupied territory.

346.126. Bring into compliance with the law the Procedure for entering the temporarily occupied territory of Ukraine and exit from it, and the content and grounds of the decision to refuse the crossing of the administrative border of the Crimean peninsula.

346.127. Introduce a mechanism for revision of safety measures for persons held in custody on the Crimean peninsula, which would exclude responsibility of such persons for the decisions and actions of the occupation authorities.

346.128. Introduce a mechanism for revision of the foreseen punishment to persons serving sentences of imprisonment on the Crimean peninsula, which would include responsibility such persons for the decisions and actions of the occupation authorities and/or repeated punishment.

346.129. Introduce a mechanism that would provide the opportunity to complete the trial of cases, which were in the proceedings of the courts located in the Autonomous Republic of Crimea and Sevastopol at the beginning of the occupation, and review of which is pending.

346.130. To introduce changes to the legislation that would ensure the preservation of the existing and creation of the new separate territorial units of national associations, which would have included persons residing in the occupied territories of Crimea and in Sevastopol or were forced to moved from the territories, as well as envisaged the possibility of joining the new members of these units with the same status.

346.131. Amend the law which would exclude restrictions on the right to the services only for registered residence — in particular, provide for the Crimean citizens an opportunity of unhindered receiving of appropriate services at the place of residence.

346.132. Provide the opportunity of completion of estate matters by another notary in mainland Ukraine, not the one that opened this case earlier in Crimea.

346.133. To extend the status of internally displaced persons to foreign citizens and persons without citizenship who were forced to leave the Crimean peninsula because of its occupation and moved to mainland Ukraine.

346.134. To extend the status of internally displaced persons who have temporarily (due to training, work, family caregivers, etc.) moved to mainland Ukraine before the occupation and are unable to return to Crimea because of the occupation.

346.135. Determine the status of people who have for a long time permanently resided in the Crimea at the time of March 18, 2014, but had no registration on the peninsula, as being equivalent to the status of “internally displaced persons.”

346.136. To bring into line with the Constitution of Ukraine separate provisions of the Law of Ukraine “On Creation of Free Economic Zone” Crimea” and the peculiarities of the economic activity in the temporarily occupied territory of Ukraine”, and resolutions of the National Bank of Ukraine of 03.11.2014 No. 699.

346.137. Amend the legislation of Ukraine for redress of the rights of the unemployed IDPs and ensure they receive unemployment benefits in the amount which shall not be less than that of others who lost their jobs on the non-occupied territory of Ukraine.

Observance of the rights and freedoms of internally displaced persons

346.138. Create/identify special authority, functions of which would include the rights and freedoms of IDPs and taking measures to prevent discrimination of IDPs.

346.139. Statutory assign the right of IDPs to family unity and guarantees of prevention of separation of parents and children during displacement. To promote the reunification of families who were separated during displacement, and develop and implement mechanisms for tracing lost family members and their reunion with family.

346.140. Restore social payments to residents of the occupied and uncontrolled territories, cancel the registration of IDPs’ need for social benefits.

346.141. Implement a simple mechanism for transfer of social benefits in Ukraine, regardless of the registered place of residence of a person.

346.142. Provide information of IDPs on the possibilities of obtaining health care and services in health care facilities.

346.143. Create a unified electronic database of passports of citizens of Ukraine.

346.144. To ensure an unhindered access of Ukraine’s citizens to the procedure of recovery of documents proving identity and citizenship in case of their destruction/loss/abduction in the areas outside the control of Ukraine.

346.145. Develop a mechanism for identification a pers on without compulsory involvement of relatives or third parties.

346.146. Provide settlement located in close proximity to the engagement line with transport links, regular deliveries of goods and humanitarian aid, ability to obtain medical services.

346.147. Review the criteria of vulnerability of the recipients of humanitarian aid and draw attention to such category of persons as men of working age.

346.148. To simplify the procedure for obtaining humanitarian, charitable, technical and other irrevocable assistance to IDPs, strengthen cooperation with non-governmental and international organizations on this issue.

346.149. Strengthen departmental control over the actions of law enforcement and military structures in the liberated territories of Luhansk and Donetsk regions.

346.150. Legally regulate the exchange of prisoners.

346.151. To statutory adopt the right of IDPs for compensation of the cost of the lost or damaged property, to develop a procedure for calculating the value of such property and the mechanism of payment for IDPs.

346.152. Ensure implementation of the right of IDPs to vote on the next local elections.

346.153. Create the necessary conditions for the evacuation of orphans and children deprived of parental care from the zone of war actions.

EVALUATION OF THE IMPLEMENTATION OF THE SECOND CYCLE UPR RECOMMENDATIONS TO UKRAINE¹⁷⁷

- — excepted recommendations;
- — partially excepted recommendations;
- — not excepted recommendations.

Evaluation Methodology:

- **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.

¹⁷⁷ A number of the recommendations include measures on various issues or spheres other recommendations related to the same question, thereby the number of the recommendations and the number of measures do not match.

Sphere	Nº	Measure\Provision	Status		Implementation Evaluation	Comments
International Instruments Ratification	97.1, 97.6, 97.7, 97.8, 97.9, 97.10, 97.13, 97.14, 97.15	Ratify the Statute of the International Criminal Court	Not excepted		Satisfactory	January 16, 2015 the Verkhovna Rada of Ukraine registered the draft law “On Amendments to Article 124 of the Constitution of Ukraine (on the recognition of the provisions of the Rome Statute)” (of 1788).
	97.1, 97.2	Ratify the International Convention for the Protection of All Persons from Enforced Disappearance	Not excepted		Implemented	The Draft Law “On Ukraine’s accession to the International Convention on the Protection of All Persons from Enforced Disappearance” was adopted on June 17, 2015.
	97.1	Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights	Not excepted		Not Implemented	Civil society initiatives were not apprehended by the Ministry of Justice. There were no legislative initiatives in this direction put into practice, the issue was not considered at the level of parliament and the government.
	97.2, 97.3, 97.4	Ratify the International Convention on the Rights of All Migrant Workers and Members of Their Families	Not excepted		Partially Satisfactory	The appropriate work on the development of the acts required for the accession to the Convention is done, however, they are still not accepted
	97.4	Consider ratifying the ILO Convention No. 189	Not excepted		Partially Satisfactory	The appropriate work on the development of the acts required for the accession to the Convention is done, however, they are still not accepted
	97.5	Consider an early ratification of the third Optional Protocol to CRC on a communication procedure	Not excepted		Partially Satisfactory	As of June 2015 Protocol is signed by Ukraine on 20 November 2014 but not ratified by the Verkhovna Rada of Ukraine
	97.11	Ratify the 1954 Convention relating to the Status of Stateless Persons	Not excepted		Implemented	January 11, 2013 the Convention was ratified by the Parliament
	97.11	Ratify the 1961 Convention on the Reduction of Statelessness	Not excepted		Implemented	January 11, 2013 the Convention was ratified by the Parliament
	97.11	Ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence	Not excepted		Partially Satisfactory	The working group for development of the Draft Law of Ukraine “On the prevention of domestic violence” was created but the Convention was not ratified. It is necessary to speed up the process of preparing for ratification.
	97.12	Accede to the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption	Excepted		Not Satisfactory	As of June 2015 has not been ratified . Verkhovna Rada of Ukraine, since 2001, six times considered the issue of Ukraine’s accession to the Convention, but each time the draft laws were not accepted, were called back or returned for revision.
Protection the Rights of Persons with Disabilities	97.16	Revise national legislation so as to effectively implement the provisions of the Convention on the Rights of Persons with Disabilities	Excepted		Not Satisfactory	Recommendations are implemented by the state formally and declaratively and do not ensure the full realization of human rights of people with disabilities.
	97.43	Adopt the National Action Plan for equal opportunities for persons with disabilities	Excepted		Not Satisfactory	Recommendations are implemented by the state formally and declaratively and do not ensure the full realization of the human rights of people with disabilities.
	97.133	Ensure implementation of legislation and other measures protecting the rights of persons with disabilities by, inter alia, allocating adequate funding for projects aiming at establishing a barrier-free living environment, and guaranteeing for children with disabilities equal access to education in mainstream schools	Excepted		Partially Satisfactory	Recommendation on the creation barrier-free environment are implemented by the state formally, there is no significant change in addressing this issue. Recommendation regarding the right to education of children with disabilities. It is possible to note improvements on the part of the State to ensure the right to education of persons with disabilities.
	97.134	Adopt a national program for implementation of the Convention on the Rights of Persons with Disabilities	Excepted		Not Satisfactory	Recommendations are implemented by the State formally and declaratively and do not ensure the full realization of the human rights of people with disabilities.
	97.135	Protect persons with mental disabilities and refer to justice those responsible for violations against them in psychiatric hospitals	Excepted		Not Implemented	Legal education of psychiatric establishment’s staff is not provided, the practice of the detention of persons on non-judicial bodies requests remain. The legislation on privacy and confidentiality of information about patient is not adhered; human rights in the application of medical coercive measures are violated. There is no regulation of the use of physical restraints and (or) isolation of persons with mental disorders.

Sphere	Nº	Measure\Provision	Status		Implementation Evaluation	Comments
Anti-discrimination	97.18	Reject any proposed legislation that would restrict freedom of expression relating to sexual orientation	Not excepted		Implemented	Draft laws on prohibition and establishment of responsibility for the so-called promotion of homosexuality (№№ 8711, 0945, 1155) were recalled, rejected or exclude from consideration of the Verkhovna Rada of Ukraine.
	97.19	Withdraw its draft legislation criminalizing the promotion of homosexuality, and refrain from adopting any other legislation that restricts freedom of expression				
	97.73	...abandon legislation work on draft law no. 8711 on so-called “propaganda of homosexuality” and refrain from other legislation infringing on the human rights and fundamental freedoms of LGBT persons				
	97.20	Include provisions in the draft framework law to address the concerns expressed by treaty bodies in the area of discrimination	Excepted		Satisfactory	A comprehensive anti-discrimination law was adopted. The harmonization of national legislation for the efficient work and the appropriate practical implementation of the law are in question. As the existence of the law on paper is not enough to consider it as an achievement; among other things, the law defines the responsibilities of the state and local governments to prevent and counteract discrimination and creates space for the development and implementation of positive actions, which is missing for the period of 2012–2015. The protection on such indicators as “sexual orientation,” “gender identity,” “health,” “criminal record,” “membership in trade unions and/or associations” and others was not provided.
	97.24	Ensure that legislation, including the proposed Bill 8711, is fully compliant with Ukraine’s international commitments, including under the European Convention on Human Rights				
	97.26	Consider measures for the early passage of the proposed anti- discrimination law now being considered by its parliament				
	97.27	Adopt a comprehensive anti-discrimination legislation that would include also a definition of direct and indirect discrimination and a comprehensive list of grounds for discrimination				
	97.28	Accelerate the adoption of a bill on preventing and combating discrimination				
	97.30	Adopt a comprehensive anti-discrimination law that addresses the worrying trend of incidents based on gender, sexual orientation, racial and ethnic discrimination				
	97.55	Take measures to include in its legislation a precise definition of the different forms of discrimination				
	97.56	Remove from the legislation discriminatory provisions based on race, sex or sexual orientation, and adopt comprehensive anti-discrimination legislation				
	97.64	...intensify its efforts in enacting anti-discrimination laws				
	97.66	Issue a comprehensive anti-discrimination law...				
	97.25	Enact legislation that explicitly protects LGBT persons from discrimination and ensure that laws that contain discriminatory provisions against LGBT persons are amended	Not excepted		Not Satisfactory	The anti-discrimination law did not include such grounds as sexual orientation, gender identity. The government still declares its readiness to include such ground as sexual orientation to the new Labour Code, but as of now in the Draft Law registered in the Parliament, this ground is missing. The Yogyakarta Principles have not been integrated into the development policy, as well as the development policy itself providing measures for preventing and counteraction discrimination was not formed. The Council of Europe Recommendation on measures to counteract discrimination on grounds of sexual orientation and/or gender identity was not implemented. There were no measures aimed at protecting of the LGBT community by the state authorities. The only advance can be considered the Strategy of Preventing and Counteraction Discrimination of Parliament Commissioner for Human Rights.
	97.44	Apply the Yogyakarta principles in policy development				
	97.70	Take an active stance to stop any actions or laws that constitute an infringement of the rights of LGBT persons				
	97.71	Implement the recommendation issued in 2010 by the Committee of Ministers of the Council of Europe on measures to combat discrimination based on sexual orientation or gender identity				
	97.72	Adopt legislative and other measures to correct and prevent discrimination based on sexual orientation, and to ensure full respect for freedom of expression and association of LGBT persons				
	97.73	Increase efforts to improve the effective protection of LGBT persons...				

Sphere	Nº	Measure\Provision	Status	Implementation Evaluation	Comments
Anti-discrimination	97.38	Establish an institutional mechanism to counter racial discrimination and re-activate institutions which have ceased to be operational; particularly the Inter-departmental Working Group against xenophobia and ethnic and racial intolerance	Excepted	Not Satisfactory	Activities of the institutional structures that are responsible for the discontinuance of racial discrimination in Ukraine are not systematic and inefficient. The work of the interdepartmental working group was not resumed. There was no attempt to create a new body that would coordinate the work of central bodies of executive authorities and the parliament. During the reporting period, the Government introduced the post of Government Commissioner for Ethnic Policy issues, which is now canceled. It was also created another advisory body at the Government ¹⁷⁸ — the Council of Interethnic Concord ¹⁷⁹ . However, the activities of these bodies did not have any positive effect.
	97.57	Step up the efforts to fight against discrimination by refraining from contradictory legislation and by amending the anti-discrimination legislation to include explicit references to sexual orientation and gender identity as possible grounds of discrimination	Not excepted	Not Implemented	Clear determination of sexual orientation ground in anti-discrimination law is absent.
	97.58	Maintain its programmes aimed at preventing and combating racism, racial discrimination and xenophobia	Excepted	Not Implemented	The recommendations for programs aimed at preventing and counteraction racism and other forms of discrimination were not implemented. The discrimination complaints procedure remains unregulated.
	97.59	Continue its effort to combat discrimination and promote equality in accordance with international treaties establishing guarantees of fundamental human rights and freedoms, and equality in the enjoyment of such rights, without privileges or restrictions based on race, colour, political, religious or other belief, gender, sexual orientation, ethnic or social origin, property status, place of residence, language or other grounds			The Criminal Code includes to the so-called hate crimes only those committed based on “racial, national or religious intolerance”, without an open list of protected grounds, which in practice leads to ignoring the problem of homophobic crimes. Any explanation or initiatives of central authorities regarding implementation of certain provisions of anti-discrimination law and regarding implementation by state authorities their powers on site are absent.
	97.60	Take more effective procedures to counter discrimination and xenophobia			National Plan of law enforcement agencies on counteraction the hate crimes is absent. There is only a periodic cooperation between Ministry of Internal Affairs and Prosecutor's Office in some cases, which does not exclude the need to of system work and education of employees.
	97.61	Continue efforts to combat different forms of discrimination...			
	97.64	Continue its efforts to combat discrimination...			
	97.66	...update the national action plan in order to dedicate special attention to addressing the practices of law-enforcement officials, as well as the legal and practical measures needed to combat incitement and hate crimes			State policy on counteraction discrimination is absent.
	97.69	Respect its international commitments on fundamental rights related to non-discrimination...			
	97.136	Continue the promotion of the rights of national minorities, as well as governmental policy on combating discrimination			
	97.61	Continue efforts to combat different forms of discrimination and ensure respect for the rights of ethnic minorities	Excepted	Not Satisfactory	There were no additional measures to counteract racism and extremism, as well as there was no systematic work on encouraging of peaceful coexistence between different ethnic groups.
	97.62	Take further measures against racism and extremism and encourage peaceful co-existence between different ethnic groups			The law on national minorities was not amended, the State concept of ethnic policy was not accepted, and the law on indigenous peoples was not accepted.
	97.63	Continue moving forward with the adoption of effective measures that promote tolerance and respect for foreigners and members of national, racial and ethnic minorities			
	97.67	Exert all efforts to redress discriminatory treatment imposed on ethnic minorities, including ethnic Koreans			
	97.136	Continue the promotion of the rights of national minorities, as well as governmental policy on combating discrimination			

¹⁷⁸ The Decree of the Cabinet of Ministers of Ukraine of 04.06.2014 № 164, available here <http://zakon4.rada.gov.ua/laws/show/164-2014-%D0%BF>

¹⁷⁹ The Decree of the Cabinet of Ministers of Ukraine of 04.06.2014 № 195, available here <http://zakon4.rada.gov.ua/laws/show/195-2014-%D0%BF>

Sphere	Nº	Measure\Provision	Status	Implementation Evaluation	Comments
Anti-discrimination	97.64	...ensure that manifestations of racial, ethnic and religious hatred are promptly investigated and acted upon accordingly	Excepted	Not Satisfactory	Most hate crimes caused by racism are not recognized as having racist motives, as evidenced by public monitoring ¹⁸⁰ . Moreover, the monitoring data of NGOs and law enforcement bodies data do not match. In most cases, the racist component is excluded from the overall picture, and it is not investigated by law enforcement bodies. Most victims of hate crimes do not report attacks to police in the first place this is due to the lack of confidence in the system. Regarding education. Despite the fact that in 2013 the memorandum on cooperation with the ODIHR / OSCE was signed, which provides the education of law enforcement agencies to prevent and counteract hate crimes, such training has not been started. The only achievement can be considered adding to the course of training of a new patrol in Kyiv, Odessa, Lviv and Kharkiv, of the “tolerance and non-discrimination” discipline, which also includes a section preventing hate crimes.
	97.65	further pursue its efforts to provide human rights training for police personnel to effectively fight hate crimes	Excepted	Not Satisfactory	Activities of institutional structures in this area remain not systematic and at most extend not effective.
	97.105	In line with the observation made by the Committee on the Elimination of Racial Discrimination, ensure proper investigation and continue its actions to stop hate crimes		Not Satisfactory	There is no information about any systematic or sporadic work in this direction.
	97.107	Intensify its efforts to fight hate crimes and encourage senior State officials to take a clear position against these crimes, and publicly condemn racist acts of violence and other offences motivated by hatred		Not Implemented	The government has not carried out such activities at all, work on raising awareness about the issue of discrimination is done by NGOs in cooperation with the Parliament Commissioner for Human Rights.
	97.65	Further pursue its efforts to create appropriate institutional mechanisms to counter all forms of discrimination...		Not Satisfactory	The system of official training of law enforcement officials includes the “HIV / AIDS” topic, but the information on the topic is not enough for understanding the issue, including for the employees who work with children at risk groups.
	97.68	Continue strengthening tolerance in the Ukrainian society and take measures to prevent integration of nationalistic ideas in the political platforms of the public associations	Not excepted	Not Implemented	There is no information on the work on this direction.
	97.69	...raise awareness of civil society on combating all forms of discrimination, including discrimination based on sexual orientation and gender identity	Excepted		
	97.74	Study the possibility of expanding measures to combat discrimination, especially in the case of children with disabilities and HIV	Excepted		
	97.111	Fulfil its commitments on the use of minority languages in justice, in both criminal and civil procedures	Excepted	Not Implemented	Actions are not taken
	97.137	Take further steps to promote education in the languages of the national minorities, including in the areas where the number of students may be decreasing	Partially Excepted		
	97.138	Further ensure, in a sustainable way, the education in minority languages	Excepted		
	97.139	Further improve the situation pertaining to minority issues, especially in the social and economic fields for the disadvantaged groups, and promote equal opportunities for them to have access to education and other related sectors at all levels	Excepted	Not Implemented	Actions are not taken
	97.140	That no effort be spared for the improvement of the current status and living conditions of the Crimean Tatars along with the other minorities	Excepted		
97.141	Take further action in ensuring and preserving the political, economic, social and cultural rights of the Crimean Tatars, which would also be conducive to better inter-communal relations				
Refugees, Migrants, Asylum Seekers	97.117	Ensure... that the statements informing migrants of the justification for their deportation is in one of the languages that the deportee understands	Excepted	Satisfactory	
	97.142	Adopt necessary measures and legislation to protect the rights of all migrant workers in the country	Excepted	Not Implemented	
	97.143	Review the Ukrainian legislative framework on asylum and refugees, so as to ensure respect of the principle of non-refoulement and that asylum seekers are not deported to countries where they might find themselves at risk	Excepted	Partially Satisfactory	On March 26, 2013 the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961 were ratified
	97.144	Respect the principle of non-refoulement			

¹⁸⁰ According to the Monitoring Group on the rights of national minorities more at the link http://eajc.org/data//file/Xenophobia_in_Ukraine_2014.pdf

Sphere	Nº	Measure\Provision	Status	Implementation Evaluation	Comments
Refugees, Migrants, Asylum Seekers	97.145	Ensure the protection of refugees and asylum seekers and reconsider cases in which asylum seekers are to be forcibly returned	Partially Excepted	Partially Satisfactory	
The Rule of Law	97.21	Speed up the work to bring the criminal procedure code in line with European standards, as proposed by the Council of Europe.	Excepted	Satisfactory	The Criminal Procedure Code of 2012 largely takes into account the European standards. However, there are a number of provisions of the new Criminal Procedure Code, which are recognized as violating the obligations on human rights undertaken by Ukraine. For example, during the referral of the case from the prosecutor's office to the court and up to the beginning of the trial the detention is continued automatically without any judicial control. This provision has been recognized as violation of Art. 5 of the ECPHR in the case <i>"Chanyev against Ukraine"</i> .
	97.117	Ensure that the new criminal procedure code respects the human rights of those held in custody...			
	97.45	Continue full and effective implementation of the decisions of the European Court of Human Rights	Excepted	Not Implemented	Negative tendencies are recently observed in the execution of the European Court of Human Rights judgments. The number of ECHR judgments due to execution has increased, and the amount paid out satisfactions decreased. In addition there are violations of terms of payments. There are problems with the implementation of general measures. The Committee of Ministers defined eight main categories of decisions, including pilot decision where there are systemic problems with the implementation of general measures. They relate mainly to a significant duration of judicial proceedings, non- execution of decisions of local courts, system problems in the functioning of the judiciary in Ukraine.
	97.88	Implement genuine measures ensuring truly independent judiciary, including establishing transparent procedures and criteria regarding the appointment and dismissal of judges and the use of disciplinary measures.	Excepted	Partially Satisfactory	February 12, 2015 the Parliament adopted the Law of Ukraine "On ensuring the right to a fair trial." 27 recommendations of the Council of Europe bodies in the judiciary are fully implemented in the Law; another 21 recommendations are taken into account partially. However, the impact of political bodies on issues related to careers of judges is not resolved. The issues of legislative improvements of the trial, execution of judgments, the reform of the legal profession, amendment of the Constitution (for judicial reform) were not considered. In February 2015 as part of judicial reform there was adopted a new version of the Law of Ukraine "On the Judicial System and Status of Judges", which includes progressive provisions to ensure transparency in the selection of judges. The new rules for bringing judges to disciplinary liable are also introduced by the Law. It is not yet possible to make conclusions on the effectiveness of the new procedure.
	97.90	Provide the legal and operational framework for an independent judiciary, inter alia, by establishing fair procedures and criteria regarding the appointment and dismissal of judges.			
	97.91	Consider establishing enhanced procedures and transparent criteria regarding the appointment and dismissal of judges, and the application of disciplinary measures in order to dispel concerns of the international community regarding the independence of the judiciary.			
	97.89	Continue strengthening the independence and impartiality of the judiciary and guaranteeing greater transparency of legal procedures, through measures such as the review of the Criminal Code and of the Public Prosecutor's Office	Partially Excepted		
	97.92	Provide the legal and operational framework for an independent and effective judiciary, and undertake reform of the Prosecutor's Office that ensures its independence and impartiality and separate the criminal prosecution functions from those investigating alleged abuse.	Excepted	Partially Satisfactory	The reform of the prosecution on ensuring of an independent and impartial review of the claims on human rights violations by law enforcement agencies is not implemented. Political manner of appointment of the Prosecutor General does not promote the independence of prosecution. However, there is some progress with the implementation of the new Law "On Prosecution Service", which foresees a competitive procedure for prosecutor's posts. The Prosecution Service will lose the function of the investigation after the adoption of the Law "On State Bureau of Investigation", the draft of which was approved in the first reading in May 2015.
	97.95	Fully implement the new criminal procedure code, including necessary constitutional and statutory reforms needed to limit the powers of the Prosecutor General's office, and establish an impartial and independent criminal justice system, in line with Ukraine's obligations under the ICCPR.			
	97.93	Further strengthening of the judiciary by investigating all allegations of human rights violations by law enforcement officers and the police	Excepted	Not Implemented	There were no significant steps to introduce a mechanism of the revision of all claims on human rights violations by the law enforcement agencies. The complaints on torture in police continue to come to human rights organizations despite of the new CPC. This shows that the law enforcement agencies are not able to work in different way as they feel impunity for their actions
	97.94	Take concrete steps to improve the objectivity and independence of the criminal justice system by incorporating the recommendations of the Venice Commission, implementing the judgments of the European Court of Human Rights, and addressing concerns about selective justice	Partially Excepted	Satisfactory	As off now the problem of selective justice is not relevant. However, the objectivity and independence of the criminal justice system has not been improved. See also comments on the recommendations 97.88–97.91
	97.96	Full implementation of the new criminal procedure code, and that the independency of judges is strengthened, the role of the public prosecution is balanced and corruption in judiciary system is tackled	Excepted	Partially Satisfactory	In 2014 the new package of laws in the field of preventing and counteraction corruption was adopted and the National Anti-Corruption Bureau is in the process of establishment. But the laws at most are not implemented so far. Concerning the role of the prosecution see comments on the recommendations 97.92, 97.95 In relation to the independence of judges — 97.88–97.91

Sphere	Nº	Measure\Provision	Status	Implementation Evaluation	Comments
The Rule of Law	97.97	Rapidly implement the recently adopted criminal procedure code	Excepted	Implemented	The Code is in force
	97.98	Continue to make efforts with regard to reform in criminal proceedings, including enhancing the independence and impartiality of the Prosecutor's Office, as well as the updating of pretrial investigation procedures	Excepted	Satisfactory	The Criminal Procedure Code of 2012 for the most part takes into account European standards. Regarding the role of the Prosecutors Service see comments on the recommendations 97.92, 97.95
	97.106	Protect and promote effectively the right to a fair trial in accordance with internationally established standards	Excepted	Partially Satisfactory	As off now the problem of selective justice is not relevant. However, the objectivity and independence of the criminal justice system has not been improved. See also comments on the recommendations 97.88–97.91
	97.109	Ensure non-selective prosecutions on its territory and a fair trial for persons being prosecuted, in conformity with the standards as under article 14 of the ICCPR, including the right to appeal laid down in paragraph 5	Excepted		
	97.113	Ensure that all citizens, including opposition figures, such as former Prime Minister Tymoshenko, enjoy their right to fair, transparent and impartial treatment in the judicial system	Excepted		
	97.110	Urgently address the problem of the acceptance by the courts of evidence obtained as a result of ill-treatment in detention	Excepted	Partially Satisfactory	The new CPC de jure recognizes the inadmissible evidence obtained as a result of abuse or violence. Court is obliged to conduct a judicial investigation in full. In practice, however, convicts are subject to unlawful influence in places of detention, including providing false testimony in court.
	97.112	Adopt a law on the bar association that recognizes the right of the bar to self-government and guarantees proper representativeness by regular elections and regional representation	Excepted	Not Implemented	The issues of legislative reforming of the advocateship were not considered
	97.114	End politically motivated prosecutions	Not excepted	Partially Satisfactory	Politically motivated cases against opposition of Yanukovich times were closed, but we can say that the new government in 2014 often neglected the rule of law and violated the Constitution, guided by political expediency and necessity of lustration of old authorities.
Torture Prevention and Treatment in Detention Places	97.32	Establish an independent national preventive mechanism in accordance with its obligations under OP-CAT	Excepted	Partially Satisfactory	The National Preventive Mechanism (NPM) in the format Ombudsman + has been established in Ukraine. Instead, the resources of the Ombudsman are not enough to cover a large number of places of detention in Ukraine. The impact of NPM in Ukraine on prevention of torture is quite limited.
	97.33	Establish its effective national preventive mechanism in compliance with OP-CAT	Excepted		
	97.34	Accelerate its efforts to achieve conformity with the provisions of OP-CAT regarding a national mechanism for the prevention of torture	Excepted		
	97.35	Take the necessary measures for the full implementation of the Optional Protocol to the Convention against Torture, and in particular, establish an independent national preventive mechanism	Excepted		
	97.37	Create a mechanism for the prevention of torture that complies with the requirements established by the Optional Protocol to the Convention	Excepted		
	97.36	In the realm of the new criminal procedure code, establish an independent mechanism for the investigation of alleged cases of torture by officers of law-enforcement agencies independent from the Ministry of the Interior and the Prosecutor's Office	Excepted	Not Implemented	The mechanism to investigate cases of torture by law enforcement agencies officers independent of the Ministry of Internal Affairs and Prosecutors was not created and its creation is not even discussed.
	97.51	Pay due attention to the recommendations made by the Special Rapporteur on torture	Excepted	Not Satisfactory	Proper attention to the recommendations of the Special Rapporteur on torture is not given.
	97.75	Take further measures to systematically ensure safeguards against the occurrence of torture or ill-treatment, in particular in prison and detention facilities, while implementing also recommendations of the European Committee for the Prevention of Torture	Excepted	Not Implemented	Measures to ensure systematic safeguards against torture or ill-treatment, including in prisons and detention facilities, and to implement the recommendations of the European Committee for the Prevention of Torture are not carried out.
	97.99	Create an independent body to investigate cases of torture and guarantee compensation for victims. Additionally, bring conditions of detention in line with international standards and ensure respect for the judicial guarantees of detainees	Excepted	Not Satisfactory	The independent body for the investigation of cases of torture and guarantee of compensation for victims is not created. Conditions of detention are driven in line with international standards very slowly and inadequately to needs.

Sphere	Nº	Measure\Provision	Status	Implementation Evaluation	Comments
Torture Prevention and Treatment in Detention Places	97.100	Improve the legislation and its application in order to combat police impunity and increase the number of criminal investigations of suspected perpetrators accused of police brutality, as well as provide training for staff of law-enforcement bodies on the rights of detainees	Excepted	Not Implemented	The number of criminal investigations against offenders guilty of ill-treatment, not increased and it is rare cases. The law enforcement officers are not trained on the observance of human rights of detainees. Measures to bring law enforcement officials responsible for torture and ill-treatment of detainees are not carried out as a systematic practice, except for rare cases. Any, including urgent, measures of prevention cases of abuse and torture by the police and ensuring of their liability for criminal acts are not taken.
	97.102	Take sincere efforts to hold accountable those police and law enforcement officers responsible for the torture and ill-treatment of detainees			
	97.103	Take urgent measures to prevent cases of ill-treatment and torture by police officers and ensure their accountability for any criminal acts			
	97.101	Ensure that the right of victims of torture or other cruel, inhuman or degrading treatment to obtain reparation is respected	Excepted	Not Implemented	The rights of victims of torture or other cruel, inhuman or degrading treatment to obtain compensation are not respected.
	97.104	Strengthen the effectiveness and the independence of the mechanisms to supervise the observance of human rights of inmates and persons under police custody with the aim of preventing ill-treatment	Excepted	Not Satisfactory	There are no effective and independent mechanisms to supervise the observance of human rights of prisoners and persons in police custody to prevent cruel treatment.
	97.108	Take the necessary steps to ensure that all allegations of mistreatment are impartially investigated	Excepted	Not Implemented	Measures to ensure all applicants for mistreatment impartial investigation are not taken.
	97.117	Ensure that the new criminal procedure code respects the human rights of those held in custody	Excepted	Not Satisfactory	Respect for the rights of persons held in custody, in the new Criminal Procedure Code is only a declaration that does not actually performed and violations of which remain unpunished.
Protection the Rights of Children	97.22	Consider bringing national legislation relating to trafficking in and sale of children in line with the Optional Protocol to the CRC, on the sale of children, child prostitution and child pornography	Excepted	Not Implemented	The relevant legislative initiatives (submitted by individual deputies, working with NGOs) that have been registered in the Parliament were intended to bring certain provisions of the Optional Protocol to the UN Convention on the Rights of the Child. From the Government there were no initiatives received.
	97.29	Enact legislation which clearly prohibits child prostitution and other forms of sexual exploitation, consistently with the international obligations undertaken by the country, bearing in mind that the Lanzarote Convention will enter into force as regards Ukraine on 1 December 2012	Excepted	Partially Satisfactory	Changes to the CPC meet the requirements of Lanzarote Convention. However, national legal acts are not brought into conformity with the Convention. In order to bring the national legislation into conformity with the requirements of the Lanzarote Convention the project of the Council of Europe “Strengthening and protecting of the rights of children in Ukraine” is implemented. Center “La Strada — Ukraine” has developed the draft law “On Amendments to the Criminal Code of Ukraine on protection of children from sexual abuse and sexual exploitation”, registered in Parliament in February 2015 under number 2016
	97.39	Ensure effective implementation of the National Plan of Action for children (2010–2016)	Excepted	Partially Satisfactory	In November 2014 the plan and funding for the National Action Plan for the period until 2016 were approved. However, the level of the plan for the last 3 years is not enough.
	97.40	Take effective measures to implement the National Plan of Action for children (2010–2016) and allocate sufficient funding for implementation			The issues of children's immunization, access to health care for children in rural areas, introduction of inclusive education for children with special needs, regulation of child labor and identifying and support for children who are victims of sexual exploitation and abuse remain unresolved.
	97.42	Continue to implement measures and programmes to promote and protect the rights of children, in particular the right to education and the right to health			The Government also paid insufficient attention to the development of action plans of the state program and the there is a lack of coordination of the various executive agencies, many activities do not meet the national program objectives.
	97.41	Efficiently implement recently ratified international conventions, especially in the field of child rights	Excepted	Not Implemented	Ukrainian NGOs that have experience in protection of rights of children, including the Center “La Strada — Ukraine”, implemented in 2014 the monitoring of the implementation in 2010–2013 of Action Plans of the State Program “National Action Plan to implement the Convention on the Rights of the Child” for the period until 2016. The action plan for 2014 was adopted in November 2014 (Resolution of the Cabinet of Ministers of Ukraine of November 19, 2014 № 1140-p). As of June 2015 Action plan for 2015 is not accepted. The draft normative legal act is under agreement at central government agencies.
				Not Implemented	The provisions of the conventions that have been recently ratified were not fully reflected in national regulations, in particular the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse. Also there is no integrated system of education of relevant experts on the work under the newly ratified Conventions, in particular: training institutes and institutions of higher education do not have the mechanism to implement relevant training programs. Most training programs on the use of the newly ratified Conventions are implemented by the international and civic organizations. Accordingly, they do not have full coverage.

Sphere	Nº	Measure\Provision	Status	Implementation Evaluation	Comments
Protection the Rights of Children	97.79	Increase efforts to prevent and combat all forms of abuse of children and adopt preventive measures and provide protection and services for their recovery	Excepted	Partially Satisfactory	<p>A new procedure for handling complaints of ill-treatment against children is developed.</p> <p>A number of new regulations on the mechanisms for responding to cases of abuse is prepared.</p> <p>The ratification of the Istanbul Convention on domestic violence is in process.</p> <p>With the support of the Council of Europe psychologists, investigators and other law enforcement officers were trained on questioning child victim of sexual violence.</p> <p>However, there are still cases when complaints about violence against children are not considered.</p> <p>Since the ratification of the Lanzarote Convention (2012) none of regulations to bring the national legislation to the requirements of the Convention was adopted.</p> <p>At the same time, by the Decree of the Ministry of Social Policy of Ukraine, Ministry of Internal Affairs of Ukraine, Ministry of Education and Science of Ukraine, Ministry of Health of Ukraine of 19.08.2014 № 564/836/945/577 there was approved the Procedure of consideration of appeals and reports on child abuse or threat of such.</p> <p>Since January 2013 at the basis of the International Women's Rights Center "La Strada — Ukraine" NGO the National Children "hot line" works, which is an effective tool to prevent violence and assist abused children.</p> <p>In June 2015 there was signed the agreement on cooperation between the Ministry of Social Policy of Ukraine and IWRC "La Strada — Ukraine" on the organizational and administrative support of the "hot line". Financial support for the "hot line" is provided by international donors, including UNICEF, ECPAT, the Ministry of Foreign Affairs of Germany and so on.</p>
	97.86	Introduce a clear definition of child pornography into national legislation	Excepted	Implemented	February 9, 2010 the Law "On amendments to some legislative acts of Ukraine on combating the spread of child pornography", known as "Act 404", which increases the responsibility for distribution of child pornography, in particular through the Internet came into force. The Law amended Article 1 of the Law "On Protection of Public Morality", which gives the definition of the "child pornography."
	97.87	Take note of the recommendations of the Committee on the Rights of the Child in the National Plan for the application of the CRC until 2016	Excepted	Partially Satisfactory	International Women's Rights Centre "La Strada — Ukraine" in 2014 fulfilled the Monitoring of the implementation by Ukrainian state the Concluding observations of the UN Committee on the Rights of the Child on the results of the combined third and fourth report of Ukraine (2011) ¹⁸¹ , in which it analyzed the achievements, problems and difficulties for the protection of the rights of children, presented recommendations on improvement of public policy in this area.
	97.115	Consider stepping up efforts towards reform in juvenile justice	Excepted	Partially Satisfactory	<p>Juvenile justice as a system in Ukraine is still not established. From 2012 in Ukraine the criminal justice system is built up, which significantly reduces principles, functions and goals of juvenile justice. The proper information campaign on explaining both the conceptual apparatus of JJ, and its objectives and functions is not conducted. The authority responsible for administration of JJ in Ukraine is absent so far, which leads to the lack of coordination of the key players of JJ (evidence: failure to implement the Action Plan on realization of concept of criminal justice development) and the lack of state financial support of JJ development programs in Ukraine. The main activity in this area is mainly conducted by civil society institutes funded by donors.</p> <p>The benefit is the reduction of number of correctional facilities for juveniles and other special institutions for detention of juvenile in conflict with law. However, this fact does not indicate a total reduction of juvenile delinquency. The creation of rehabilitation, correctional centers, including day care centres and probation is not mentioned.</p> <p>November 20, 2012. The new CPC of Ukraine came into force. Along with the democratic changes aimed at humanizing of criminal justice for juveniles, such as: limitation of pre-trial detention period; the introduction of alternative measures of punishment; introducing specializations for judges and prosecutors (and from 2013 for investigators too), the new CPC contains a number of significant collisions and formalities:</p> <ul style="list-style-type: none"> penalties can be imposed only on juveniles who have their own income. The question is what about others? judges avoid sending juveniles to public and remedial work due to lack of adequate infrastructure, coordinating and executive bodies. determination of specialization of judges, prosecutors, investigators is actually formal, since there is no special training/retraining of specialists and it is, in fact, is only the issue of appointment of specialists for review of cases of juveniles. Electronic distribution of cases in the courts also complicates the procedure. the category of children who committed crimes before reaching the age of criminal responsibility is not clearly defined in the new CPC. <p>Children who have not reached the age of criminal responsibility. This category of children is omitted in the current law. System of Social rehabilitation schools, focused on education and rehabilitation of this category of children, was virtually destroyed. Of the 11 schools of social rehabilitation remained 2 (5 schools were closed in 2012 and 4 schools in 2013). Alternative facilities for the rehabilitation of such children are not provided.</p> <p>02.05.2015, there was adopted the Law of Ukraine "On probation", which is certainly a benefit. However, this Law also generated a series of collisions:</p> <ul style="list-style-type: none"> The lack of trained professionals as defined by law "probation body staff" Meanwhile the provision of functions is assigned to the penal inspection, which of course can not be equated to a qualified probation inspector. Programs, training facilities for "probation body staff" training are absent. "Probation programs" and programs of social and educational work foreseen by the Law are also unavailable. The benefit is the creation of the National Preventive Mechanism at the Ukrainian Parliament Commissioner for Human Rights. The functions of the created NPM also include monitoring of closed institutions for juveniles.
	97.116	Strengthen and advance its efforts for establishing a juvenile justice system and promote alternative measures to deprivation of liberty for juvenile offenders			

¹⁸¹ Estimated exchange rate is 1 € = 25 USD.

Sphere	Nº	Measure\Provision	Status	Implementation Evaluation	Comments
Protection the Rights of Children	97.125	Review its legislation to ensure the right of all boys and girls to have a nationality and ensure birth registration, regardless of their ethnic origin or their parents' status.	Excepted	Not Implemented	No actions were taken
Social and Economic Rights	97.23	Do its utmost to bring national legislation in line with the ESPOO and Aarhus Conventions in order to ensure a general enjoyment of the right to an environment that is safe for life and health.	Excepted	Partially Satisfactory	The process of bringing national legislation into conformity with the ESPOO Convention and the Aarhus Convention is not completed. In July 2015 the Protocol on Strategic Environmental Assessment to the ESPOO Convention was ratified. Ministry of Environment prepared a draft law "On strategic environmental assessment" and "On Environmental Impact Assessment" that has already passed the civic consultation. The Aarhus Convention Implementation Strategy is not developed, the legislation and judicial practice are not brought in conformance with its provisions. The Government of Ukraine withdrew itself from the obligations under both conventions, shifting the responsibility for environmental policy and environmental rights of citizens to the Ministry of Environment.
	97.132	Ensure implementation of environment protection legislation.			
	97.46	Take effective measures to increase budgetary allocation to the health sector	Excepted	Partially Satisfactory	The State Budget of Ukraine provides 10.09 billion UAH, which is 500 090 000 UAH more than in 2014 (9.5 billion USD.), including the general fund — UAH 7.877 billion (in 2014 — 8.6 billion UAH), a special fund — UAH 2.208 billion (in 2014 — UAH 0.8 billion). But this increase completely levelled out by the tripling prices for most of the range of medicines, medical supplies and rising costs for maintenance of medical institutions. In such way the growth in spending on UAH 500 090 000 cannot be considered an effective increase in budget allocations for the health care.
	97.126	Ensure adequate funding for the public education system and improve the availability, accessibility and quality of general education in rural areas.	Excepted	Partially Satisfactory	There is the reduction in budget spending, including the education system. In addition, as the result of local government reforming some costs were transferred to local budgets and own community discretion. It is needed to conduct the monitoring on allocation of funds for the education system from local budgets. It is needed to monitor the access to mainstream education in rural areas.
	97.127	Strengthen efforts in mitigating the effects caused by the decline in schools in recent years to ensure that the children's schooling cycle is not left vulnerable.			
	97.128	Continue to develop the national health sector, with special focus on access to health for poorer segments of the population.	Excepted	Not Implemented	Indicators of mortality and diseases are not reduced. Health care reform is implemented, but the poorest segments of the population, including in rural areas do not have adequate access to medical services.
	97.129	Adopt effective measures to ensure access of all categories of citizens to treatment and prevention of HIV.	Excepted	Partially Satisfactory	Ukraine formally introduces a number of measures aimed at facilitating access to treatment and prevention of HIV infection, but there are still some categories of people for whom the access to programs for prevention and treatment of HIV / AIDS is difficult: they are prisoners, representatives of the LGBT community, TB patients and drug addicts, injecting drugs users.
	97.130	Take steps to reverse the negative trend of the decrease in vaccination coverage in Ukraine.	Excepted	Not Implemented	Insufficient information work on the benefits of vaccination, as well as not timely supply of vaccines to health facilities.
	97.131	Apply the relevant international experience in ensuring the protection of human rights in the zones of environmental crisis.	Excepted	Partially Satisfactory	Ukraine legally recognized only two regions of ecological disaster - the area of radioactive contamination after the Chernobyl disaster and the territory of Kalush and adjacent villages in the Kalush district (2010, Ivano-Frankivsk region.) In fact, there are much more areas of ecological crisis. In 2010-2015 the list of social rights for the majority of citizens affected by the Chernobyl disaster was narrowed. The large scale environmental effects of military conflict in Donbass are not evaluated and are not predicted, the means of adherence to environmental safety of the population in the conflict area are not legally defined. In course of introduction of emergency situation it is not given the due attention to the environmental safety.
Gender Equality Issues	97.31	Step up efforts to strengthen the national mechanism for the advancement of women and to provide such mechanism with adequate resources.	Excepted	Not Satisfactory	Regulations that strengthen the implementation of the Law of Ukraine "On ensuring equal rights and opportunities for women and men" were prepared and adopted. Ministry of Social Policy is preparing a new state program to ensure equal rights and opportunities for women and men, to replace the current one, implementation period of which expires in 2016.
	97.47	Further strengthen a gender-sensitive approach in all poverty alleviation programmes.	Excepted	Partially Satisfactory	Ministry of Social Policy currently is only on the stage of developing of the draft Poverty Reduction Strategy, one of the measures of which is the reduction of unjustified income inequality of the population, respect for the principles of social justice in income distribution.
	97.48	Use a gender sensitive approach in all poverty alleviation programmes.			
	97.52	Take appropriate measures aimed at increasing the number of women in decision-making positions as well as address the issue of a persisting wage gap between men and women.	Excepted	Not Satisfactory	Representation of women in civic and political life is very low. Draft Laws were often considered by the Parliamentary Committee on Human Rights, National Minorities and Interethnic Relations but were not adopted. So there are no special measures, including quotas available.
	97.53	Implement temporary special measures, including quotas, to achieve gender equality in areas where women are underrepresented or disadvantaged and for women suffering from multiple discrimination, such as Roma women.	Not excepted	Not Satisfactory	Also see position on recommendations 97.54.

Sphere	Nº	Measure\Provision	Status	Implementation Evaluation	Comments
Gender Equality Issues	97.54	Devote more efforts to harmonizing gender equality for guaranteeing their equal rights and opportunities in both the legislative and executive branches	Excepted	Satisfactory	The Law of Ukraine “On ensuring equal rights and opportunities for women and men” is in force and the State Program on ensuring equal rights and opportunities for women and men for the period until 2016, is approved by the Decree of the Cabinet of Ministers of Ukraine of 26.09.2013 № 717. The development of the National Action Plan for 2015–2019 on implementing of UN Security Council Resolutions №№ 1325, 1820, 1888, 1889, 1960, 2106 “Women, peace and security” is in process. There was created and operates a working group on the development of the regulatory act.
Combating Trafficking in Persons	97.49	Adopt plans and programmes related to trafficking in persons	Excepted	Satisfactory	The draft resolution of the Cabinet of Ministers of Ukraine “On Approval of the Concept of the State Anti-Trafficking Program for the Period till 2020” is developed. There was created and operates a working group on the development of the regulatory act.
	97.80	Allocate adequate resources to ensure the effective implementation of the Combating Trafficking in Persons Act (2011)	Excepted	Not Satisfactory	The allocated resources for the effective implementation of the Law “On Combating Trafficking in Persons” are insufficient.
	97.81	Step up the national efforts in the field of trafficking in persons through a victim-oriented approach that attaches special focus on the protection of children from abuse and sexual exploitation	Excepted	Satisfactory	With the support of international (OSCE and IOM Project Coordinator Office) and the active participation of NGOs, the National mechanism of interaction of anti-trafficking subjects (National Referral Mechanism) is introduced in all areas. There was created the working group to consider issues arising during the implementation of the national policy on combating trafficking and improving the legal framework in this area. The training for investigators and social services on interviews with the child in criminal proceedings was provided.
	97.82	Continue efforts in combating human trafficking and provide the necessary assistance to victims of trafficking	Excepted		
	97.83	Redouble its efforts in regard to combating trafficking in persons, particularly in combating the trafficking of children for sexual and labour exploitation, including through addressing the root causes of trafficking, establishing additional shelters for rehabilitation and social integration of victims and ensuring systematic investigation, prosecution and punishment of traffickers	Excepted	Not Satisfactory	There are no additional shelter-care facilities created. Shelter-care facilities of NGOs are not funded by the state. Reception centers for children of the Ministry of Internal Affairs of Ukraine are not redeveloped into rehabilitation centers for children victims of crime and involved in sexual exploitation. The problem is to bring liable the perpetrators of the crime of human trafficking. The difference between the registered cases and sentences is increased. In 2013 — 64 sentences in 2014 — only 19.
	97.84	Give adequate training on the Law on combating trafficking in human beings to all those involved in the fight against human trafficking, especially border guards	Excepted	Partially Satisfactory	The subject of anti-trafficking is partially included in training and professional development system. Together with the OSCE Project Coordinator in Ukraine and IOM Mission in Ukraine the trainings within the distribution of National mechanism of interaction of the Anti-trafficking subjects are conducted. For the new Ministry of Internal Affairs patrol service the trainings on combating human trafficking and on rights of children are conducted. However, new challenges necessitate the full inclusion of the subject of combating human trafficking into the system of preparation and training of all professionals working in this field. The system of training of specialists of law enforcement agencies, prosecutors and courts on documentation, investigation and prosecution of perpetrators of crimes in human trafficking is not developed.
	97.85	Continue its efforts aimed at fighting trafficking in persons, particularly children and women, and at ensuring compensation and rehabilitation for trafficking victims	Excepted	Not Satisfactory	There are no claims for compensation by victims of human trafficking satisfied. In rare cases, of the decision on compensation is made it is not paid out. There is no effective mechanism for provision of implementation in reasonable terms of court decisions on compensation received in civil proceedings. Regarding rehabilitation see recommendations 97.81 and 97.82
Domestic Violence	97.76	Continue to strengthen provisions to address domestic violence, and programmes to reinforce mechanisms for the protection of women and children.	Excepted	Partially Satisfactory	Council of Europe Convention on preventing and combating violence against women and domestic violence as of June 2015 has not been ratified. There was created and operates the working group on development of the draft Law of Ukraine “On the prevention of domestic violence.” However, complex changes in accordance with the provisions of the Convention are required in other codes and laws of Ukraine.
	97.77	Respect the principles and standards provided by the Council of Europe Convention on preventing and combating violence against women and domestic violence, even prior to its ratification and entry into force.			
	97.78	Continue to work towards a comprehensive approach to preventing and addressing all forms of violence against women.			
Freedom of Expression, Media	97.118	Further promote freedom and pluralism of the media as key elements for enabling the exercise of freedom of expression	Excepted	Partially Satisfactory	For a long time the situation remains more or less stable, the State does not hamper the establishment of new mass media, but also do not struggle with the monopolization of the media market, especially in TV sphere

Sphere	Nº	Measure\Provision	Status	Implementation Evaluation	Comments
Freedom of Expression, Media	97.119	Create an enabling environment for journalists and media professionals and ensure fully transparent and impartial investigation and prosecution in all cases of attacks against them	Excepted	Partially Satisfactory	For a long time the situation remains more or less stable, the State does not hamper the establishment of new mass media, but also do not struggle with the monopolization of the media market, especially in TV sphere
	97.120	Further develop measures to fully guarantee freedom of expression, particularly the protection of the integrity of persons working in the media in the exercise of that right	Excepted	Implemented	After 2011 the situation with the response to violations of the rights of journalists has improved, but the investigation of crimes against them is extremely inefficient. Last month the VR has adopted changes to the Criminal Code to expand its protection to all kinds of journalists, but it is too early to speak about their effectiveness.
	97.121	Ensure better protection of journalists and combat abuse and violence to which they are subject	Excepted	Not Satisfactory	In 2015 the extensive amendments to the Criminal Code were adopted, which equated attacks on the journalist to attacks on law enforcement officers, but such move is more likely the populism, it will be ineffective, because this attacks on journalists could be easily qualified in the aggregate of art. 171 CC + + corresponding article (crime against life and health, etc.). Expanded definition of a journalist in the Criminal Code is a positive change, but in practice currently there were only 3 cases of attacks on journalists registered which reached the court from the beginning of 2015.
	97.122	Pursue measures against State organs which attempt to limit media and journalists	Excepted	Satisfactory	The Expert Commission on morality, which actually had the function of censor was disposed. In addition the function of supervision over observance of legislation on access to information was transferred from the General Prosecutor's Service to the Ombudsman – the response to violations has become more professional, but there is a lack of human resources to cover all violators.
General Issues	97.17	That any draft law that infringes fundamental human rights and violates commitments of Ukraine to international human rights law like the European Convention on Human Rights and the ICCPR be recalled	Excepted	Partially Satisfactory	The Draft Laws mentioned in recommendation 97.18 were really withdrawn, however numerous draft laws developed in 2014 with the aim to improve the fight against separatism contained provisions that violated the Constitution and international standards of human rights
	97.50	Pay more attention to the awareness of the citizens of Ukraine about their rights and to involvement of society in taking important decisions	Excepted	Partially Satisfactory	Recommendations, given to Ukraine by international organizations, usually fails to be translated in time, they are not published in the state media and are not spread by thy state among the target groups. The participation of civic community in decision-making is limited by working groups, public councils at executive authority bodies and is not effective.
Freedom of Assembly	97.123	Implement a law on freedom of assembly that complies with applicable standards under article 21 of the ICCPR	Excepted	Not Implemented	The draft law on freedom of assembly (№ 2508 of 04.07.13), drafted by human rights activists, was withdrawn in November 2014. Three draft laws relating to the regulation of peaceful assembly were drafted, but none of them has not yet been adopted. In 2015 only the Law of Ukraine "On legal regime of martial law" (12 May 2015) was adopted, which allows military command and military administrations the right to prohibit peaceful assembly during the military law.
Elections	97.124	Implement recommendations made by independent electoral observation missions in relation to the conduct of the October 28th Ukrainian parliamentary elections, as a matter of priority	Not excepted	Satisfactory	Snap Presidential elections on May 25 and snap parliamentary elections on October 26, 2014 was held successfully without registering flagrant violations taking into account real situations of actual hostilities in the Donbass

Наукове видання

**ДОПОВІДЬ
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В РАМКАХ УНІВЕРСАЛЬНОГО ПЕРІОДИЧНОГО ОГЛЯДУ
(УПО)**

(ТРЕТІЙ ЦИКЛ — СЕРЕДИНА) 2015

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Комп'ютерна верстка *О. А. Мірошниченко*

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«УКРАЇНСЬКА ГЕЛЬСІНСЬКА СПІЛКА З ПРАВ ЛЮДИНИ»
Юридична адреса: вул. Фролівська, 3/34,
м. Київ – 04070.
Поштова адреса: а/с 100, м. Київ – 04071.
Тел./факс: (044)-417-41-18
<http://helsinki.org.ua/>