

UKRAINE

CERD 26th No. 18 (A/8418) (1971)

28. From its 56th to its 58th meetings, the Committee proceeded to determine formally its view as a Committee (as distinct from the views expressed at previous meetings, which were those of the individual members) as to which reports were “satisfactory”, in the sense that they furnished all or most of the required information, and which reports were “unsatisfactory” or “incomplete” and therefore needed to be supplemented by further information. The initial report (and supplementary report, if any) of each State Party was put before the Committee separately by the Chairman. Where there was no consensus, the question whether a State Party’s report (or reports) was “satisfactory” or whether, failing that, the Committee wished to request additional information from that State Party, was decided by vote.

29. The Committee expressed itself as satisfied with the completeness of the reports submitted by the following 15 States Parties, from which no additional information was requested: ... Ukrainian SSR ...

CERD 28TH No. 18 (A/9018) (1973)

206. The initial report of the Ukrainian SSR, submitted on 30 March 1970, and a supplementary report dated 15 January 1971, were considered by the Committee at its third session and deemed satisfactory. The second periodic report, dated 20 April 1972, was considered at the seventh session (138th meeting).

207. Several members noted the comprehensiveness of the information contained in the report under consideration, notwithstanding the fact that the earlier reports had been considered satisfactory by the Committee, and observed that that information was not confined to legislative measures but related to administrative and other measures as well. It was observed that the report under consideration reflected the progress made in the fields of social welfare and education and provided details of the Labour Code of December 1971 relevant to the provisions of the Convention. The information contained in the report, it was noted, dealt with the implementation of articles 3, 4, 5 and 7 of the Convention, and with the subject of general recommendations I and III, even though the latter was adopted by the Committee after the submission of the report. The reporting State maintained no relations whatsoever with the racist régimes in southern Africa and implemented the relevant decisions of the United Nations. It was emphasized that the ambiguity found in some other reports, concerning the relationship between the Convention as an international instrument and the internal legislation in the reporting States, was not encountered in the report under consideration, which indicated that, in cases where rules other than those contained in the legislation of the reporting State were established under an international treaty to which it was a party, the rules established under that treaty were applied.

208. Some members expressed the wish that the texts of the various legislative provisions that had a bearing on the application of the Convention would be furnished in future reports. A question was raised regarding the implementation of article 6 of the Convention: Apart from article 66 of the Penal Code, which dealt with racial propaganda, what right to legal redress did an individual have? It was asked whether there had been any court cases involving acts of racial discrimination in the Ukrainian SSR. An inquiry was made about the procedure which individuals had to follow in order to bring such cases to court.

209. The representative of the Ukrainian SSR supplemented the information contained in his Government's second periodic report by stating that an education bill had been drawn up, which contained provisions that were directly relevant to the struggle against racial discrimination. If adopted, the bill would strengthen existing judicial, administrative and legal practices in the Ukrainian SSR and would provide a solid foundation for guaranteeing the principle of equality in education. The bill would, *inter alia*, entitle foreigners to education on the same basis as citizens. He stated that there were no cases of racial discrimination on record in his country. He assured the Committee that the comments made by members during the discussion would be conveyed to his Government and would be taken into account in the preparation of the next report.

210. The Committee decided to consider the report satisfactory and to express the hope that the Government of the Ukrainian SSR would continue to co-operate with the Committee as it had done in the past.

CERD 29TH No. 18 (A/9618) (1974)

196. The third periodic report of the Ukrainian SSR, which was considered by the Committee in conjunction with the information submitted by the reporting State in response to decision 3 (VII) of the Committee, was praised for the extensiveness of the information it supplied, for the texts of legislative provisions it furnished, for the responsiveness of its authors to inquiries made by members of the Committee during the consideration of the second periodic report of the reporting State, and for the detailed information on the ethnic composition of the population and on the policies of the Government of the Ukrainian SSR towards racist régimes as well as towards the struggle of oppressed peoples against racism and colonialism. The Committee noted that, in the period covered by the report, there had not been “a single case of criminal prosecution for offences against national and racial equality of rights”.

197. The Committee welcomed the information that, in the period covered by the report, the Ukrainian SSR had ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and signed the International Convention on the Suppression and Punishment of the Crime of Apartheid.

198. The information before the Committee bore directly upon the implementation of the provisions of all the articles in part I of the Convention. In view of the questions raised during the consideration of the second periodic report of the Ukrainian SSR regarding the application of articles 4 and 6 of the Convention, the discussion at the tenth session centred around the information supplied in response to those questions. Article 66 of the Criminal Code, which dealt with propaganda or agitation aimed at inciting racial or national enmity or discord, did not seem to meet all the requirements of article 4, paragraph (b), of the Convention; the obligation to declare illegal and to prohibit organizations which committed such acts and to recognize participation in those organizations which committed such acts and to recognize participation in those organizations as an offence punishable by law were not fulfilled by article 66 of the Criminal Code. Nor was the information before the Committee (article 5 of the Judicial System Act of 1960, article 16 of the Code of Criminal Procedure of 1960, and article 6 of the Code of Civil Procedure of 1963) sufficient to show that the essential provisions of article 6 of the Convention were fully reflected in the legislation of the Ukrainian SSR; it was not clear how and by what means an individual who considered that he was suffering damage as a result of an act of racial discrimination could bring a case before the courts and seek adequate reparation of satisfaction.

199. With regard to article 4, paragraph (b), of the Convention, the representative of the Ukrainian SSR stated that, although there were no specific legal provisions declaring illegal and prohibiting organizations which promoted and incited racial discrimination, certain groups would come automatically under article 103 of the Constitution and article 66 of the Criminal Code. With regard to article 6 of the Convention, he thought that the provisions in the Criminal Code enabled any person who considered that he had suffered damage for racial reasons to bring the matter before the courts and to have the benefit of legal assistance or, alternatively, to refer the matter to the Committee of People’s Control. The next periodic report would provide full information on that question, he assured the Committee.

CERD A/31/18 + Corr.1 (1976)

192. The fourth periodic report of the Ukrainian Soviet Socialist Republic was considered together with the information supplied by the representative of the Government of the reporting State in his introductory statement. The Committee noted with appreciation that the texts of legislative provisions mentioned in the reports of the Ukrainian Soviet Socialist Republic had been supplied in the report under consideration, that account had been taken of the comments made by members of the Committee during the consideration of earlier reports, and that the information envisaged in general recommendations III and IV had been provided. Noting that the current report contained information on legislative, administrative and other measures, it took note of the statement in the report that, in the biennium covered by the report, no cases of alleged offences against national and racial equality or rights had come before the courts.

193. Members of the Committee commented with appreciation on the measures taken to implement the provisions of article 7 of the Convention, with special reference to the use of the mass media to combat racial discrimination and promote understanding; the measures taken in respect of education, labour relations and employment, in keeping with the provisions of article 5 of the Convention; the measures taken at the international level to participate actively in the world-wide struggle against racism and apartheid; and the measures taken with regard to nationalities and minorities, ensuring equality and non-discrimination while at the same time preserving for those groups a sense of identity as well as participation and integration.

194. Members of the Committee discussed the information concerning the implementation of the provisions of article 4 of the Convention in the legal system of the reporting State. It was observed that one of the elements of paragraph (a) of that article - namely, that the provision of "any assistance to racist activities, including the financing thereof", shall be declared an "offence punishable by law" - had not been complied with in the legislation of the Ukrainian Soviet Socialist Republic, as reported to the Committee. Regarding paragraph (b) of article 4 of the Convention, some members were of the view that the provisions of article 103 of the Constitution (Fundamental Law) of the Ukrainian Soviet Socialist Republic and article 66 of the Criminal Code of that State did not give effect to the mandatory obligation of a State party to the Convention to "declare illegal and prohibit" organizations which promoted and incited racial discrimination. Some members asked whether other legislation existed which discharged that obligation. They emphasized that, even in States where the formation of organizations was subject to prior registration or the issue of permits by the authorities, organizations which declared valid objectives might, after their establishment, operate surreptitiously and embark on campaigns of incitement to racial discrimination. In such cases, it should be possible to declare the offending organizations illegal; and constitutional and legislative norms should be supplemented by judicial and administrative measures ensuring effective punishment of violations of the provisions of article 4, paragraph (b), of the Convention. Other members of the Committee, however, were of the opinion that, when the exercise of the right to form or join associations was regulated by law in such a manner as to require prior registration or licensing of associations, and when the legality of the objectives pursued by associations was a prior condition for permitting them to come into being and to operate in the country, then the existing provisions in the Constitution and in the law declaring racial discrimination illegal would suffice; organizations which came into being without prior registration or licensing, as well as organizations which engaged in activities extraneous to or incompatible with their declared objectives and the

principles of the law, would be illegal, and their existence and activities would be subject to the punishments provided for in the applicable legislation.

195. Some members expressed the hope that additional information would be provided in the next report with regard to the implementation of article 5 of the Convention, and that the information promised at an earlier session - regarding the provisions of the Criminal Code giving effect to the provisions of article 6 of the Convention - would also be included in the next report.

196. A member of the Committee asked whether the number of representatives of the various national groups elected to the different bodies corresponded to their percentage in the population. Noting that, although Russians constituted 19.4 per cent of the population and Jews 1.6 per cent, there were no Russian or Jewish schools, although there were Hungarian, Moldavian and Polish ones, a member of the Committee asked whether that was because the former minorities were not geographically concentrated.

197. With regard to the discussion of article 4 of the Convention, the representative of the Government of the Ukrainian Soviet Socialist Republic confirmed that a system of registration of organizations existed in his country, under which organizations had to be registered with local workers' councils before they could exist as legal bodies; such registration required approval of their goals and functions, which must be consistent with the Constitution. He stated that in its next report his Government would provide further information on the implementation of article 5 of the Convention. And he assured the Committee that his Government would be duly informed of all the points raised by members of the Committee, and that the Committee's recommendations would be taken into consideration during the preparation of the next periodic report.

CERD A/34/18 (1979)

155. The fifth periodic report of the Ukrainian Soviet Socialist Republic (CERD/C/20/Add.23) was introduced by the representative of the reporting State who drew attention to some of the relevant provisions of the new Constitution adopted on 20 April 1978, and to the measures taken by the Ukrainian SSR, under articles 3 and 7 of the Convention, to combat racial segregation and apartheid, to support the national liberation movements in southern Africa, to educate the population in the spirit of proletarian internationalism and in tolerance of racial and national prejudice, and to propagate the purposes and principles of the United Nations Charter, the Universal Declaration of Human Rights and the Convention. Legislative texts in force had been brought fully into line with the provisions of the Constitution.

156. Members of the Committee noted with satisfaction the information provided on the breakdown by nationality of the population of the Ukrainian SSR. It was stated, in particular, that, since the population was not homogeneous, the fact that the new Constitution reaffirmed and developed the principle of the equality of citizens without distinction as to nationality or race was to be welcomed. A member, however, asked for an explanation of the decline of the Tartar population.

157. The Committee had already noted, in connection with the previous report, that article 66 of the Criminal Code was partially in keeping with the provisions of article 4 (b) of the Convention. Article 66 provided that “propaganda or agitation aimed at inciting racial or national enmity or discord, or any direct or indirect restriction of the rights of, or conversely, the establishment of any direct or indirect privileges for citizens on account of their race or national origin shall be punishable by deprivation of liberty for a term of six months to three years or by compulsory change of residence for a term of two to five years”. It was pointed out in this connection that the article did not cover all forms of racial or national discrimination and that it made no reference to such acts as insults or defamatory remarks which may be made against persons or groups. Members of the Committee requested more particulars regarding the application of article 4 (a) and (b) of the Convention.

158. It was recalled that when the previous report of the Ukrainian SSR had been considered, the Committee had requested further information concerning the measures taken to give effect to article 5 of the Convention. Some members noted that the new report merely cited article 32 of the Constitution. While recognizing the importance of that article which guaranteed the equality of rights of citizens in all fields of economic, political and cultural life, it was stated that the Committee should be provided with the legislative texts corresponding to that article as well as to articles 37 to 67 of the Constitution. Referring specifically to article 5 (d) (ii) of the Convention, a member noted that there was nothing in the report concerning the right to leave any country, including his own, and to return to one’s country, and asked whether this right was guaranteed by any official text. Another member observed that there was no reference in the report to damages which might be caused to persons or groups by denials of services or admission to a public place, and by discriminatory practices in respect to employment, access to public offices or professional advancement. Further information was also requested in that connection.

159. As regards article 6 of the Convention, members of the Committee regretted the lack of particulars on the manner in which the benefit of this article of the Convention was extended to any

victim of acts of racial discrimination committed by officials or State and public bodies. Members wished to know in particular whether persons who had suffered damages as a result of acts of racial discrimination had the right to refer their complaints to a criminal or civil court, and whether they could institute civil proceedings in the event the Public Prosecutor's Office failed to take legal action.

160. Members of the Committee commended the clear indications of the praiseworthy efforts made by the Ukrainian SSR to meet its obligations under articles 3 and 7 of the Convention. In connection with article 7, a member noted with satisfaction the opening of special schools for Poles, Moldavians and Hungarians, of whom there were relatively few in the Republic, and asked whether establishments of the same kind existed for the better represented nationalities such as Russians, Jews and Byelorussians. Another member asked whether, under article 36 of the Constitution, the right of asylum could be granted to the members of only one national liberation movement in each country or whether it could be granted to those of all movements pursuing the same goal by means of different strategies.

161. The representative of the Ukrainian SSR, replying to some of the questions raised by members of the Committee, stated that, in his opinion, article 66 of the Penal Code sufficiently penalized violations of the principle of equality among nationalities and races; that the Ukrainian citizens and aliens residing in the Ukraine were entitled to lodge complaints with the courts, with the Public Prosecutor's Office or with the Supreme Court, and the Public Prosecutor was responsible for ensuring that all judicial bodies applied procedures and reached decisions consistent with the Constitution; that the right to travel inside the country, and to leave and to return to it, was guaranteed by the Civil Code in conformity with the international obligations assumed by the Ukrainian SSR; and that since other national minorities, such as Greeks, Tartars and Jews, were scattered throughout the Republic, educational establishments could not be provided solely for their needs.

162. The representative stated that the next report of his country would give more detailed information on various matters broached by members of the Committee.

CERD A/35/18 (1980)

423. The sixth periodic report of the Ukrainian Soviet Socialist Republic (CERD/C/66/Add.15) was considered by the Committee, together with the introductory statement made by the representative of the reporting State.

424. Some members of the Committee noted that a major part of the report was devoted to answering questions raised during the discussion of the fifth periodic report, proving that the Ukrainian SSR attached importance to the work of the Committee and the dialogue established between the Committee and the Government.

425. With regard to national composition of the Ukrainian SSR, it was asked what possibilities there were for the Jews, Poles, Bulgarian and other nationalities living in the country to develop cultural, linguistic and other ties with their "mother" nation, whether there were, for instance, exchanges of textbooks, cultural delegations, whether the teachers who provided instruction in the mother tongue of such nationalities received training in the "mother" nation, and if so, whether such exchanges were governed by international or any other type of agreements. It was also requested that the actual provisions granting the rights of aliens be made available to the Committee.

426. With respect to the implementation of article 4 of the Convention, some members noted that the requirements of this article were not fully covered by the country's legislation. Article 66 of the Criminal Code was unsatisfactory for the purposes of the Convention, since it made punishment of discrimination subject to the intentions or objectives of the offender, and did not deal with the organizations prohibited under article 4 (b) of the Convention. Also while 4 (c) was not covered, the text of the Criminal Code would be needed.

427. With regard to the implementation of article 5 of the Convention, some members of the Committee remarked that all the rights covered under this article seemed to be implemented. Other members pointed out, however, that they had problems with regard to social and economic rights exemplified by the right to housing under article 42 of the Constitution. In their view, that article established an obligation for the State rather than an entitlement for the individual and afforded no protection to anyone who, on applying for accommodation, might be refused on the false pretext that none was available. In connection with political rights, the Committee requested the actual text of the Election Acts, additional information on the ethnic composition of the various Soviets, on the manner of selection of the candidates and whether there were non-party members in the Soviets. With regard to the right to leave the country, it was asked whether its enforcement fell within the jurisdiction of the USSR or of the Ukrainian SSR, and whether a person denied the right to leave could apply to the courts or to administrative officials, and if decisions of administrative officials could be appealed to the courts.

428. In connection with article 6 of the Convention, it was noted that while the report dealt with acts of discrimination committed by public officials, the Committee needed to see the actual legal provisions giving effect to that right. No mention had been made of such acts by a private individual against another individual.

429. Replying to questions raised by the members of the Committee the representative of the

reporting State observed that the information contained in the report reflected the broad ethnic composition of the Supreme Soviet and of the local Soviets in the Ukrainian SSR. Specific figures on that subject would be annexed to his country's next report. As to the question of how cultural and other ties were maintained by the nationalities and their "mother" nations, he stressed the importance of the activities of the Ukrainian Society for Friendship and Cultural Relations with Foreign Countries and its various branches, sections and commissions. He stated that the Ukrainian SSR radio programmes were broadcast in some national languages, that books were exchanged with foreign countries and that many young representatives of the different nationalities all over the world did in fact study in the various higher establishments in the Ukraine. An important role in expanding cultural exchange was played by town twinning.

430. As to the rights of foreigners in the territory of the Ukrainian SSR, there were specific laws governing foreigners who did not have Ukrainian citizenship. Article 35 of the Constitution, described in his country's report, concerned the rights of aliens. The right to asylum was guaranteed under article 36 of the Constitution. He stated that foreigners could obtain Ukrainian citizenship, regardless of their race or national origin, in accordance with article 15 of the Citizenship Act. He also observed that, under article 565 of the Ukrainian Civil Code, foreigners living in the Ukrainian SSR enjoyed the same civil rights as Soviet citizens, with some exceptions.

431. Replying to the question concerning implementation of article 4 of the Convention he said that the report encompassed the prohibition of all activities of individuals, as well as groups and associations, which violate the principle of equal rights of citizens of different races and nationalities. The Constitution of the Ukrainian SSR and the Criminal Code of the Republic provided sufficient penalties for activities violating the rights of citizens. There was no need to add to those provisions, especially since, thus far, no such violation had occurred. The provisions of article 66 of the Criminal Code already fulfilled all the requirements of article 4 of the Convention. He pointed out that citizens had the right to join only those organizations that were established in accordance with the purpose of the building of communism. Therefore, no association based on racial discrimination could be established. Moreover, all organizations were required to be registered and to obtain permission in order to carry out their activities and to conduct such activities in keeping with the Constitution.

432. Replying to the question concerning the right to housing, the representative drew attention to the fact that in 1978 alone 1.6 million persons in the Ukraine had their housing conditions improved. If a citizen wished to obtain housing or to obtain better housing, he filed a request with the local authorities, and their requests were filled in the order in which they had been received.

433. With regard to the rights of individuals subjected to racial discrimination to apply to court organs, he noted that Ukrainian legislation contained provisions to protect such rights.

434. In conclusion, he assured the members of the Committee that their comments and questions would be reported to the relevant organizations in his country and would be taken into account in the preparation of its next periodic report.

CERD A/38/18 (1983)

109. The seventh periodic report of the Ukrainian Soviet Socialist Republic (CERD/C/91/Add.20) was introduced by the representative of the reporting State who said that his country was engaged in a process of improving its legislation to bring it into line with the provisions of the new Constitution of 1978 and that the contents of the new laws, along with previous legislation, provided a legal guarantee of the constitutional principle of equal rights for all citizens of different races and nationalities. The report described important new legislation enacted during 1981-1982 relevant to the subject of the Convention and provided answers to main questions raised by members of the Committee during the consideration of the sixth periodic report of the Ukrainian Soviet Socialist Republic in 1980.

110. The Committee expressed satisfaction with the report, which contained ample information on various measures taken for the implementation of the Convention and provided appropriate details on the economic, social and cultural rights and on the situation of minority and ethnic groups in the country. It was suggested, however, that the next report should be prepared in accordance with the guidelines of the Committee.

111. Some members raised questions concerning the relationship between international treaties and the Ukrainian national law. They asked whether internal legislation enacted on the basis of international treaties took precedence, what would happen if a new law contravening the provisions of a treaty was enacted and whether the courts would be able to implement the provisions of the treaty irrespective of the subsequent national law.

112. With regard to article 2 of the Convention, members of the Committee expressed interest in obtaining more detailed information on the national minorities in the country. They asked, in particular, what types of investments were made in certain areas to improve the standard of living of relatively disadvantaged population groups; if cultural agreements had been concluded with the countries from which those national groups originated and if members of the national groups were encouraged to visit their countries of origin; what policy was followed to ensure that such groups maintained their national, ethnic and cultural identities and, in particular, how they were helped to learn and maintain their languages; whether tests for admission to institutions of higher learning were given in the Ukrainian or the Russian language; whether restrictions existed or preference was given on the basis of language for admission to higher posts or university education and if minority and ethnic groups were in any way prevented or discouraged from remaining in the regions which they had traditionally occupied.

113. With reference to article 3 of the Convention, the Committee noted with satisfaction that the Ukrainian SSR provided political, moral and material support to the national liberation movements of the peoples of southern Africa and financial assistance for the victims of the policy of apartheid and racial discrimination in that area.

114. Regarding article 4 of the Convention, one member considered it important to note that not only criminal liability was provided for under the Ukrainian legislation, but also that the commission of one of the offences in question by an individual belonging to an organized group specially established for the purpose constituted an aggravating circumstance, pursuant to article 41,

paragraph 2, of the Criminal Code. Referring to article 66 of the Criminal Code, however, some members wondered whether it covered the prohibition of illegal organizations and requested additional information.

115. With reference to article 5 of the Convention, it was stated that achievements of harmony among more than one hundred nationalities of the Ukrainian SSR were possible on the basis of social and economic changes of the society. It was observed that candidates to legislative bodies were selected by various political organizations. Information was requested on how that process was carried out in practice; whether voters, at a preliminary stage, could reject a candidate because they considered that he did not serve their interests adequately; whether all organizations presented candidates and if a citizen who was not a member of the Communist Party, and wished to stand for election, would encounter any obstacles and if he could invoke any provisions of national legislation in such a case; whether, once the nominations had been made by the Party, trade unions and other organizations, they were final or whether they were screened further; and whether the voters had to vote for an entire slate of candidates or could choose among the individuals listed on that slate. Further clarification was requested on the right to travel abroad and, in particular, the actual texts of Decree No. 801 of the Council of Ministers of the USSR, which governed entry into and exit from the Ukrainian SSR, were requested. It was also asked whether, for citizens who applied to leave permanently, the settlement of outstanding material and property obligations entailed as serious a condition as the relinquishing of all rights to their property. In view of the fact that the Constitution of the Ukrainian SSR mandated the establishment of a new socio-economic order, some members wished to obtain additional information on the country's socio-economic policies and on the Ukrainian SSR's experience in providing education in the native language of its citizens. Questions were also asked concerning the freedoms of religion and speech and the right to form and join trade unions.

116. With regard to the implementation of article 6 of the Convention, it was noted that the Civil Code of the country allowed a defamatory statement to be published if the person publishing the information was able to prove that it was accurate. However, in the view of one member, if such a defamatory statement alluded to the national origin of the person under attack, the statement would constitute a form of racial discrimination. In that connection he asked whether that type of racial discrimination was covered under the provisions of Ukrainian law. Another member of the Committee asked whether a person denied a right by the administrative authorities because of his ethnic or racial origin or nationality could secure an annulment of the administrative action and whether, if such an individual appealed to a higher administrative authority and that authority did not respond or rejected the appeal, the individual could appeal to a judicial body to obtain an annulment of the action which had affected him. One member sought clarification as to the role of the prosecutor, who in his opinion is generally a government official, in protecting a person's rights and how a government official could be impartial in such a situation.

117. The representative of the Ukrainian SSR replied to some questions raised by the Committee. As to whether the provisions of international agreements, whether concluded by the Ukrainian SSR or the USSR, were binding in the Ukrainian courts, he said that the Ukrainian SSR strictly applied the principle of pacta sunt servanda, and that if it signed an international agreement, it fulfilled all, and not just some, of the obligations that that entailed. He referred to article 428 of the Code of Civil Procedure, which applied if an international agreement established rules other than those

contained in Ukrainian legislation.

118. Responding to the question on how investments to raise the standard of living were distributed among the various national groups, the representative said that his Government was committed to the fulfilment of the material needs of the population. The State was constantly increasing its allocations for improvements in health care, education and other services provided to the population free of charge.

119. On the question of the requirements for admission to higher educational institutions, the representative stated that citizens of the Ukrainian SSR could choose to take the entrance examination in either Ukrainian or Russian, and naturally citizens of other Union Republics could take the examination in Russian. In accordance with the provisions of the Convention and of domestic legislation, no distinction of race, colour, or national or ethnic origin was made in respect of admission to higher educational institutions. National groups and minorities did have links with their countries of origin and could study in their own languages.

120. With reference to the electoral process, the representative stated that under article 6 of the law on elections to local Soviets of People's Deputies, citizens of other Union Republics in the territory of the Ukrainian SSR had the same electoral rights as citizens of the Ukrainian SSR. Elections were organized by electoral commissions which included representatives of public organizations, work collectives and meetings of servicemen. Under article 10 of that law, public organizations, work collectives and other bodies had the right to nominate candidates, but that did not impede the enjoyment of electoral rights by all citizens regardless of their party affiliation. Non-party members often belonged to other organizations, such as trade-union organizations or professional associations, both of which had the right to propose candidates. Under article 96 of the Constitution deputies were accountable to their constituents and to the work collectives and public organizations which had nominated them and if they did not justify the confidence of their constituents they could be recalled at any time by decision of a majority of the electors.

121. As to the right to leave the country, the representative said that the legislation and normative acts of the Ukrainian SSR were in accordance with the provisions of the relevant international agreements to which the Ukrainian SSR was a party, particularly the International Covenant on Civil and Political Rights. In practice, the State bodies of the Republic did not go beyond the limitations of the rights set forth in article 12, paragraph 3, of the Covenant. Individuals who had outstanding contractual or financial obligations could be denied permission to leave the country, as could individuals involved in court proceedings or serving penalties; individuals with family responsibilities might be denied permission to leave on humanitarian grounds. In the context of article 5 of the Convention, there was no legislation or practice in the Ukrainian SSR relating to the right to leave the country which allowed the possibility of any discrimination on the basis of race, colour, or national or ethnic origin.

122. In reply to questions concerning the implementation of article 6 of the Convention, the representative stated that during the reporting period there had been no cases of criminal proceedings against citizens for acts of racial discrimination. Nevertheless, the legislation of the Ukrainian SSR provided protection for citizens if their rights were violated by actions carried out by officials, notably under articles 164 to 172 of the Criminal Code. Moreover, article 7 of the Civil Code

provided for the possibility of demanding the retraction of statements defamatory to the honour and reputation of an individual through the courts. Article 125 of the Criminal Code provided for punishment in the form of imprisonment for the deliberate dissemination of slander and article 126 provided for punishment by means of corrective labour or fines for deliberate insults to individuals. The laws made provision for securing moral and material reparation for damage caused.

123. Regarding the role of the prosecutor, he said that the public prosecutor was not a representative of the Government. Under article 162 of the Constitution his functions were to supervise the observance of laws by all State and local bodies, officials and citizens. Under article 165 of the Constitution, the agencies of the public prosecutor exercised their powers independently of any local bodies.

CERD A/40/18 (1985)

115. The eighth periodic report of the Ukrainian Soviet Socialist Republic (CERD/C/118/Add.8) was considered by the Committee as its 704th and 705th meetings on 7 March 1985 (CERD/C/SR.704 and SR.705).

116. The report was introduced by the representative of the Ukrainian SSR who referred to relevant parts of the report and stressed his country's strict observance of the principles of equal rights in all areas of political, economic and cultural life. With the implementation of social and economic development programmes, the range of rights and freedoms of Ukrainian citizens was being further broadened and enhanced. At the international level, the Ukrainian SSR consistently opposed racial discrimination. As a result of the immense losses which it had suffered during the Second World War, his country was especially uncompromising in its opposition to racism and all inhuman ideologies and practices.

117. The Committee congratulated the Ukrainian Government for its useful report, which had followed the Committee's general guidelines (CERD/C/70/Rev.1) and provided answers to many of the questions raised by the Committee during its consideration of the seventh periodic report.

118. The Committee took note of the information in the report to the effect that practically all legal texts contained a special provision regarding the relationship between domestic and international law. Members requested clarification as to whether that meant that courts and administrative authorities could not apply the provisions of the Convention directly in cases involving laws which lacked such provision. They also asked whether there was a general legal provision stipulating that the Convention took precedence over domestic law.

119. With respect to article 2 of the Convention, the Committee commended the valuable demographic data furnished in the report, particularly relating to the smaller minorities. It was hoped, however, that some evaluation could be made of demographic trends affecting those minorities, together with an indication of areas of cultural interaction and social mobility. Members asked whether any of the minorities were declining in numbers and, if so, for what reasons; what specific efforts were being made by the Government to bring groups which, because of cultural legacies, tended to fall behind others into the mainstream of society; whether the nationalities with smaller populations were proportionally represented and whether the nationalities with very small populations such as the Tartars and Armenians, had the same right to be elected to the Supreme Soviet of the Ukrainian SSR as others. They requested information regarding the situation of the Crimean Tartars in other regions of the USSR, who were facing difficulties in returning to their homeland and why there were so few Tartars in the Ukrainian SSR. Members wished to know how the requests made by a number of Crimean Tartars to return to their former place of residence had been handled by the authorities. In that connection it was asked whether the court could automatically apply article 5 (d) (i) and (ii) of the Convention to the Crimean Tartars requesting permission to return to their former place of residence. Members would welcome information regarding the instruction the different nationalities were offered in their mother tongue. They also asked whether the fact that entrance examinations to higher educational establishments were held in Ukrainian and Russian did not prejudice the chances of other nationalities in obtaining access to further education and thus to higher government and administrative posts.

120. Regarding article 3 of the Convention, members of the Committee noted with appreciation the important role played by the Ukrainian SSR in campaigning against apartheid and the Government's determination to spare no efforts to put an end to that policy. Members also referred to the great suffering inflicted on the country during the Second World War and the decisive contribution of the Ukrainian SSR to the defeat of nazism.

121. As far as article 4 of the Convention was concerned, it was pointed out that the national legislation did not fully cover the provisions of that article. According to the report, incitement to racial hatred by an individual belonging to an organized group especially established for that purpose constituted an aggravating circumstance. Under article 4 (b), however, all States parties were obliged to prohibit such organizations and penalize participation in them. Clarification was requested about banishment as a form of punishment; it was asked what it involved and how it was enforced.

122. In relation to article 5 of the Convention, members of the Committee pointed out that the existence of the guarantees by the State of the right to work and the right to housing provided an insight into the way the Convention was being applied. They requested more detailed information concerning the practical effects of the unique system of all-Union citizenship, established under article 31 of the Constitution, in particular whether it provided for greater freedom of movement or better employment opportunities. They pointed out that the definition of religious propaganda in the report was untenable, that freedom to transmit religious values seemed to be restricted and sought clarification as to why such propaganda was allowed only in specifically appointed places whereas atheistic propaganda was permitted everywhere. According to the Convention, religious propaganda should be placed on an equal footing with atheistic propaganda. Clarification was sought on the statement in the report that "most of the population of the Ukrainian SSR now consists of non-believers, many of whom oppose the spread in society of religions prejudices", and it was asked who in the Ukrainian SSR defined religious prejudice. Members of the Committee also wished to know whether believers could receive mail containing religious literature and whether that literature could be distributed to congregations in places of worship; how many mosques there were in the country and what the policy was towards Muslims; to what extent the social homogeneity of society had been achieved through the elimination of class differences, as stated in the report; whether the right to form social organizations also applied to ethnic organizations and what role such organizations played in the daily life of Ukrainian citizens; how many applications to leave the country had been received and how many granted during the last few years and whether there had been a disproportionate number of denials; whether there were schools and institutions where Yiddish and Hebrew were taught and whether the number had increased or decreased in recent years and how many refugees were living in the country. In that context, it was asked why the Government had not acceded to the 1951 Geneva Convention relating to the Status of Refugees.

123. Concerning article 6 of the Convention, the Committee wished to be provided with the texts of the relevant legislation, as well as specific examples, regarding the lodging of complaints against private persons who offended a citizen's honour and dignity, including his national feelings. Noting that violations of existing laws against racism or incitement to racism would be severely punished, members of the Committee asked whether any cases of racial discrimination had actually been brought before the courts. They also wished to know to what extent the average citizen was aware of the remedies available to him and whether he knew where to obtain such information, as well as

whether the Government was contemplating the possibility of making the declaration provided for in article 14 of the Convention.

124. As to the implementation of article 7 of the Convention, it was pointed out that several regions of the Ukrainian SSR maintained friendly links with areas, regions and administrative districts of foreign countries. Information was requested regarding the efforts made to propagate the purposes and principles of the Convention.

125. Replying to questions raised and comments made by members of the Committee, the representative of the Ukrainian SSR stated that international law had priority under the Constitution in matters of racial discrimination. He indicated that 94 per cent of the population was ethnically Ukrainian or Russian; the remaining population included more than 100 nationalities and peoples dispersed through all the cities and regions of the country. Special schools had been established wherever the population was sufficient to warrant them and there were schools with instruction in Moldavian, Hungarian, Russian and Polish. University entrance examinations were not more difficult for minorities, because everyone studied Ukrainian and Russian and knew those two languages well enough to pass the examinations.

126. In relation to articles 2 and 5 of the Convention, he said that the national minorities had the same civil and political rights as Ukrainians and could participate in elections on a basis of full equality. Jews constituted 1.3 per cent of the country's population; 9 per cent of them declared that their native language was Yiddish, with 80 per cent claiming Russian and the rest Ukrainian. Jewish children were currently enrolled in Russian and Ukrainian schools, largely because of such factors as the population dispersal caused by the Second World War, which had resulted in greater contact between the Jews and the other nationalities. As for the right of the Crimean Tartars to return to their place of birth, he said that many had done so, but that there was a problem of work opportunities. Crimea was an important centre for health care and was very crowded. That made the question of admitting settlers very difficult. The right to leave the country was regulated by the appropriate legislative enactments which contained no elements of discrimination. Freedom of conscience was guaranteed in the Ukrainian SSR. The country had nine monasteries, 4,000 orthodox parishes and 7,000 clergymen. Religious propaganda operated within a system in which the Church was separated from the schools and the State. He said that foreigners had the same rights as citizens, except that they did not do military service and could not participate in elections or be elected. Relevant statistics on refugees could be provided to the Committee. He indicated that class distinctions did not exist because there was no exploitation. The distinction between manual and non-manual labour, peasants and workers was being eliminated through education.

127. In connection with observations made concerning article 4 of the Convention, he pointed out that a person could be banished from his place of permanent residence as determined by the competent body, but without regard to nationality.

CERD A/43/18 (1988)

111. The ninth periodic report of the Ukrainian Soviet Socialist Republic (CERD/C/149/Add.10) was considered by the Committee at its 820th and 821st meetings, held on 4 August 1988 (CERD/C/SR.820 and SR. 821).

112. The report was introduced by the representative of the State party who said that, since the submission of the ninth report of the Ukrainian SSR, social, political and economic life in that country, as in the USSR, had been marked by events of great importance for Ukrainian society. In the last three years the country had undertaken many changes which constituted what was known as “perestroika”. The “perestroika” process was being carried out in two key directions: radical economic reform and democratization of all areas of political and social life. Much legislation, including texts dealing with the equality of all citizens, regardless of race or nationality, in all areas of economic, political, social and cultural life, was being reviewed with the aim of clarifying or supplementing it. In that connection, relevant decisions of the plenum of the Central Committee of the Communist Party of the USSR and those taken by the Central Committee of the Ukrainian Communist Party had been examined. The Committee was informed that the Ukrainian SSR was now planning to draw up a law on judicial reform, to re-examine certain chapters of the Criminal Code, to improve the legislation on religious worship and to prepare new rules concerning freedom of conscience and religion. Supplementing the information provided in the report concerning the implementation of article 5 (d), of the Convention, the representative said that, since 1 January 1987, the USSR had been applying new provisions concerning the conditions for admission to and departure from the country, based on the Final Act of the Helsinki Conference on Security and Co-operation in Europe (CSCE). With reference to the implementation of article 6 of the Convention, it was stated that under article 58 of the Constitution of the USSR and article 56 of the Constitution of the Ukrainian SSR, new legislation had been enacted giving effect to the constitutional provisions concerning the right of petition, including in those cases where an authority had violated the right of a Soviet citizen. In connection with the implementation of article 3 of the Convention, the representative described the efforts being made by his country to oppose apartheid and racial segregation.

113. Members of the Committee noted that the report submitted by the Ukrainian SSR was fully in conformity with the guidelines established by the Committee, and was informative and entirely satisfactory from both the quantitative and qualitative standpoints. The report and its presentation by the representative of the State party constituted a further example of the constructive dialogue established by the Committee with the Ukrainian SSR. Having noted that the report had been prepared in early 1986, members of the Committee suggested that it would be helpful if the next report provided more information on the quality of the reforms carried out in the course of “perestroika” and asked whether there were any legislative texts which, as formulated in the course of “perestroika”, did not conform with the fundamental principles established in the Convention. It was also indicated, with reference to the third paragraph of Part I of the report, that the formulation “the present political and social structure of the Ukrainian SSR completely precludes and kind of ... conditions for the emergence or existence of such phenomena as racism and racial discrimination” contained therein excluded human psychology as a source of discrimination. In that connection, it was suggested that the intention might be better expressed by saying that the State had done everything possible to prevent the emergence or existence of racism or racial discrimination.

It was also asked under what conditions courts could apply international conventions directly in the USSR and Ukrainian SSR.

114. It was asked whether the provisions of article 2, paragraphs 1 (c) and 2, of the Convention would continue to be relevant in the Ukrainian SSR, since policy changes were taking place in the Soviet Union, and whether there would be constitutional, legislative or administrative changes. More information was also requested concerning the current resettlement of Tartars in Crimea and concerning any difficulties they might be encountering in returning to Crimea.

115. With reference to the implementation of article 3 of the Convention, members of the Committee congratulated the Ukrainian SSR on the efforts it was making to implement the provisions of article 3 of the Convention and stated that the populations of the third world, in particular those of African countries, attached great importance to the resolute action taken by the Ukrainian SSR in the struggle against apartheid.

116. Concerning the implementation of article 4 of the Convention, it was noted that the measures taken by the Ukrainian SSR to give effect to the provisions of the article provided useful ideas on methods of applying the article.

117. Regarding the implementation of article 5 of the Convention, members of the Committee wished to know whether in the Ukrainian SSR there were any disparities in the development of the various ethnic groups which might hamper the application of the principle of the equality of rights of citizens in all areas of economic, political, social and cultural life. They asked whether information might be furnished on the basis of which it would be possible to evaluate trends in the make-up of the population by nationality and whether there were any links between those trends and the employment situation. In relation to article 5 (d) (vii) of the Convention, clarification was requested concerning the provisions in article 50 of the Constitution of the Ukrainian SSR guaranteeing citizens the right to profess or not to profess a religion, to hold religious services or to propagate atheism. It was pointed out, in that connection, that the existing disparity in the Government's policy of facilitating the practice of atheism as a civil activity restricted the right to freedom of religion to mere religious practice. Reference was also made to the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, article 1 of which provided for "freedom to have a religion or whatever belief of his choice" and it was asked whether article 50 of the Constitution of the Ukrainian SSR was in conformity with article 1 of the Declaration. In the same connection it was asked whether in political representation circles, particularly those of the Communist Party, any believer could openly profess his faith. Note was taken with appreciation of the changes being brought about in Soviet society, particularly in the area of religious freedom, by the new direction taken in the Soviet Union under the leadership of Mikhail Gorbachev, and it was felt that those changes would promote the attainment of the objectives enunciated in the Convention.

118. With regard to equality of rights and freedoms of foreign citizens and stateless persons in the Ukraine, it was asked exactly how many foreign citizens, stateless persons and asylum-seekers there were in the Ukraine and what their status was.

119. Members of the Committee wished to know what measures were being taken in the Ukrainian

SSR to put into effect the ambitious programme announced by the Soviet authorities aimed at ensuring reasonable housing for the entire population of the USSR by the year 2000 and what effect the new co-operatives policy was having on full employment. It was also asked whether the ethnic minorities enjoyed freedom of association, whether there was a refugee problem, and, if so, how it was handled by the authorities.

120. Replying to questions raised and observations made by Committee members, the representative of the Ukrainian SSR stated, with reference to article 2 (c) of the Convention, that his country had undertaken to implement the Convention fully, especially from the standpoint of reviewing national legislation on the rights of all inhabitants of the country.

121. Article 50 of the Constitution of the Ukrainian SSR guaranteed to citizens the right to freedom of conscience, namely the right to engage in religious worship or to carry out atheistic propaganda. Incitement to hatred on the basis of religious belief was prohibited. The provisions relating to atheistic beliefs did not contradict article 18 of the International Covenant on Civil and Political Rights. Currently, important legislation was being prepared, including a law on freedom of conscience. Additional information was given as to new trends in the development of relations between State and Church in the Ukrainian SSR.

122. Referring to the question concerning the Crimean Tartars, he said that a serious analysis of the problem had been made in 1987 and a special State Commission had been set up in the same year to look into the situation. During the past few years, more than 10,000 people had been resettled in Crimea and the process was continuing. During the short period in which the State Commission had been operating, almost 2,500 Tartars had been given jobs in Crimea. However, he pointed out that a serious problem existed in finding employment and housing for Tartars in Crimea; to tackle that problem State farms were being established by decision of the local authorities in the Crimean region and Tartars were being provided with agricultural machinery, housing and building materials, as well as facilities for maintaining their national culture and learning their native language. The basic principle being followed was that the rights of the Tartars must not be reduced when they resettled in the Crimea.

123. Turning to the question of how fundamental rights and freedoms and protection against infringement of personal dignity were reflected in the Constitution, the representative said that those rights were enshrined in articles 52, 55 and 56 of the Constitution, which had been referred to at length in the seventh and eighth periodic reports. With regard to legal safeguards in criminal procedure, he explained that detailed information on that subject had been provided in the second periodic report submitted by the Ukrainian SSR to the Human Rights Committee (CCPR/C/32/Add.4) considered by that Committee at its twenty-fifth session in July 1985. However, since then, important changes had taken place: the Act of 1987 had established procedures for redress in case of improper conduct by State officials and criminal procedure legislation was being reviewed with the aim of extending the rights of citizens to protect their honour and dignity.

124. With regard to family reunification, he said that that was a universally recognized principle of international humanitarian law which was observed by the Ukrainian SSR. There was no reference to nationality or race in the regulations governing the right to departure, nor could there be. With regard to the observation made by one expert concerning priority given to the right of

Jewish people to leave, figures for recent years showed that Jews did not represent an overwhelming majority of those leaving the country. As for processing requests to leave the country, the approximate time required for that purpose was one month, and the proportion of requests refused was approximately 2 per cent.

125. With reference to the exercise of the right to housing, the representative said that in 1987, 363,000 apartments had been built, covering a total surface area of 21 million square metres. In 1987 alone, almost 2 million people had seen an improvement in their housing conditions. There were problems, but efforts were being made to resolve them and ensure speedy implementation of the programme. As for employment, the Government did in fact face a considerable problem in view of the current restructuring process. Fourteen ministries had been disbanded and in productive areas about 240,000 people would change their jobs. A wide range of measures was being taken to tackle that problem. New measures had also been introduced to promote co-operative enterprise and individual economic activity.

126. Finally, the representative of the reporting State said that some questions raised in the Committee might not have been fully answered, but that all the Committee's questions would be examined very carefully and answers to them would be properly reflected in future reports.

CERD A/46/18 (1991)

65. The tenth periodic report of the Ukrainian Soviet Socialist Republic (CERD/C/172/Add.14) was considered by the Committee at its 893rd meeting, held on 3 April 1991 (see CERD/C/SR.893).

66. The report was introduced by the representative of the reporting State, who drew the attention of the Committee to the many political, economic and social changes that had taken place since the submission of the report in 1989. In this connection, he noted that the Declaration of the Sovereign Independence of the Ukraine recognized the precedence of international law over national law and provided for equal treatment of all citizens before the law, and that regulations governing the registration and activities of the religious groups had been made more liberal. He added that the Ukrainian Parliament now included a Human Rights Commission, whose task it was to ensure that any laws passed were consistent with international human rights standards. Among these laws would be the new constitution, which was now in preparation.

67. In addition, the representative recalled that the Ukrainian SSR was a multinational State: out of a total of 52 million inhabitants, there were 11 million Russians, 150,000 Hungarians, and many other minorities. Parliament had passed a law in October 1989 to promote the Ukrainian language and the languages of the country's minorities. With regard to the issue of apartheid, the position of the Ukrainian SSR was that international sanctions against South Africa should not be lifted until that country had acquired a democratic system. He also drew attention to the preparations for the commemoration in autumn 1991 of the fiftieth anniversary of the massacre at Babi Yar, which would include an international conference on the struggle against nazism and racial discrimination, a film festival and a book exhibition. Lastly, the representative said that the Ukrainian SSR, in its efforts to make human rights better known, organized special training courses for judicial and police officials and would widely publicize the opinions expressed by the members of the Committee during the consideration of the report.

68. Members of the Committee noted that the Ukrainian SSR had complied with the periodicity requirement for submission of reports and thanked the representative for his sincere and comprehensive oral introduction, which painted a picture significantly different from that in the report itself. It was regretted that the report contained so little demographic data. Members of the Committee questioned the statement in the report that "the very nature of the present socio-economic and political system in the Ukraine completely precludes the possibility of the emergence or existence of racism or racial discrimination", especially in the light of current social and economic changes. It was also asked whether the results of the referendum to be held on 17 March 1991 might affect relations between ethnic and religious groups. Members of the Committee wished to receive more information on tension between ethnic groups, the claims of the different nationalities and the difficulties experienced by the Uniate Church and the Pentecostal Church with regard to religious observance. They asked for information on the use of Ukrainian, Russian and other languages in official communications and before the courts. They also asked for details of any legal provisions, either existing or proposed, to preserve the existence, culture and traditions of minorities. Furthermore, it was inquired what the current situation of the Jews was with regard to religion, language, education and the right to leave the country, and to what extent the Crimean Tartars had been integrated or resettled in their region of origin. Members of the Committee also expressed the hope that the Ukrainian SSR would make the declaration provided for under article 14 of the

Convention.

69. With reference to article 2 of the Convention, members of the Committee asked whether the need to adopt special measures to give effect to that article had arisen and, if so, on what basis they had been drawn up and which authorities would be responsible for implementing them.

70. In view of article 4 of the Convention, members of the Committee wished to know whether the legislation on criminal liability mentioned in the report had been invoked before the courts and with what results.

71. With regard to article 5 of the Convention, members of the Committee wished to know whether there were any differences or inequalities between citizens on the basis of their nationality and, if so, what steps had been taken to remedy that situation. They also asked for information concerning obstacles remaining to entry into or departure from the country, whether any distinction was made between Soviet citizens and foreigners in that respect and whether that distinction was maintained despite the current changes. More generally, they wished to know what procedures governed departure from and return to the country. Members of the Committee asked for a clarification of the statement in the report to the effect that no religious movement attached prime importance to the question of nationality. They also wished to know what effect the Orthodox Church's being pronounced to be part of the Ukraine's cultural heritage had had on the relations between that church and other religions, particularly in view of certain recent tensions on how large the membership was of religious societies in the Ukrainian SSR.

72. Turning to article 6 of the Convention, members of the Committee wished to know the extent to which the decree on complaints against unlawful actions of officials infringing citizens' rights had been applied and what the corresponding court rulings had been.

73. The first representative of the reporting State, replying to questions of a general nature, furnished additional demographic data from the 1989 census. According to that census, many members of certain minorities regarded Ukrainian as their mother tongue. Ukrainian had now become the official language, but bilingualism and multilingualism were common. Ukrainians were all the more conscious of the status of minorities in that 7 million of them lived in other Republics of the Union. The referendum to be held on 17 March 1991 had given rise to extensive debate in all sectors of Ukrainian society, notably regarding the possible advantages or disadvantages of remaining within the Union or leaving it. With regard to instruction in minority languages, the representative noted that it would not be practical to contemplate opening such schools except in regions where minorities were strongly represented. A number of bodies and associations had been set up to defend the interests of minorities.

74. The second representative of the reporting State explained that although the Ukrainian SSR had announced that its legislation took precedence over that of the Union, that declaration had not been put into practice. Contrary to what had been stated in the report, the socio-economic and political system prevailing in the Ukrainian SSR had not eliminated but rather had perpetuated racial discrimination. The totalitarian régime had been attempting to russianize the Ukrainians, but that situation was gradually being remedied. With regard to religious issues, the representative said that there were indeed links between religious movements and nationality. The Ukrainian Orthodox

Church was making efforts to create a purely national church. Interdenominational tension had increased, but measures had been taken to deal with it. The situation of the Jewish minority had improved, and it now enjoyed the use of a number of facilities, including two theatres, one periodical and synagogues. The return of the Crimean Tartars was proceeding normally, although certain problems had arisen regarding settlement permits and standards of living.

75. With respect to article 2 of the Convention, the representative pointed out that extremist organizations were very much in the minority and had no support from the population. In accordance with article 4 of the Convention, the Ukrainian Penal Code considered any incitement to racial discrimination or any act of racial discrimination a serious offence.

76. Turning to article 5 of the Convention, the representative stated that the obligation to make no distinction between nationals and aliens was not currently respected in the Ukrainian SSR. It was to be hoped, with regard to the exercise of the right to leave any country and the right to nationality, that the problem of depriving Jews or members of another nationality of Soviet citizenship when leaving the country would be resolved if Ukrainian citizenship was created. Problems encountered concerning cultural and social rights were the result of the low level of economic development; they were not political.

77. The third representative of the reporting State summarized some of the historical changes that bore upon the position of minorities. The difficulties which the Ukrainian SSR was encountering were universal ones, but they were increased by the change-over to a market economy. Although many political parties now operated, none upheld racist ideas. The authorities were endeavouring to determine the causes of the current problems in order to devise legislative and preventive measures. The possibility of making the declaration provided for in article 14 of the Convention would be put before the parliamentary Human Rights Commission for consideration. Once the Ukrainian SSR had ratified the Optional Protocol to the International Covenant on Civil and Political Rights, it should have no difficulty in making such a declaration.

Concluding observations

78. Members of the Committee said that the consideration of the report showed that there was a better appreciation of the importance of ethnic problems in the Ukrainian SSR, although many questions had remained unanswered and numerous uncertainties remained. They attached great importance to the next (eleventh) periodic report, which should contain demographic information, information on the legal status of the Ukrainian SSR and steps taken to give practical effect to the Convention. It was hoped that the changes currently taking place would be favourable to the implementation of the Convention.

CERD A/48/18 (1993)

42. The eleventh and twelfth reports of Ukraine (CERD/C/197/Add.5 and CERD/C/226/Add.3) were considered by the Committee at its 958th, 959th and 983rd meetings, held on 2 and 18 March 1993 (CERD/C/SR.958, 959 and 983).

43. The reports were introduced by the representative of the State party, who provided information on the legislation adopted in Ukraine since the submission of its previous report. The Ukrainian Parliament had declared that all laws adopted by the State to which Ukraine was the successor would remain in force as long as they were not in contradiction with new legislation. All obligations entered into by Ukraine after ratification by the Parliament had become an integral part of the State's domestic law.

44. He indicated that, since the submission of the previous report, 122 acts and 336 decrees or legislative texts concerning the Convention had been adopted. These included, in particular, the Act on the Rehabilitation of Victims of Political Repression in Ukraine; the Act relating to the security services; the Act on Citizens' Associations; the Act on National Minorities in Ukraine; the Employment Act; and the Act on Citizenship of Ukraine.

45. He informed the Committee that as part of judicial reform a constitutional court had been set up to rule on the constitutionality of laws and other legislative acts. Under the Constitution, the Parliamentary Ombudsman for Human Rights was vested with the power to refer matters to the Constitutional Court in cases where the State had interfered with the constitutional rights and freedoms of citizens.

46. However, despite all the legislative measures adopted by Ukraine, human rights violations on national or religious grounds, as well as conflicts between national groups, did occur at times. The complex situation in which Ukraine currently found itself, characterized by hyperinflation and a dramatic drop in the standard of living, created tensions which, when combined with national, religious and other factors, might give rise to conflicts or human rights violations. The Ukrainian authorities, at both the national and local levels, were trying to reduce friction between nationalities; as a result Ukraine was free from large-scale open conflict between different groups.

47. Members of the Committee welcomed the timely submission by Ukraine of its twelfth report, which included useful information on recent changes in the country. However, while it provided a good overall view of the present situation, the report contained some extraneous material and did not always specify exactly the extent to which the Convention was being implemented. They asked the delegation whether the provisions of the Convention were directly applicable in a court of law; what the situation was with respect to the envisaged establishment of German colonies on Ukrainian territory; whether Ukraine planned to conclude agreements with other countries on the rights of minorities such as the one it had signed with Hungary in May 1991; and whether Jewish emigration from Ukraine was continuing and, if so, whether the persons concerned emigrated without passports and why. Further information was requested about the situation in Crimea, in particular demographic data on the size of each population group in 1920, 1940 and 1990, and on the content of the Act on the Status of the Crimean Autonomous Republic. Members were concerned that the human rights of the population of Pridnestrovye had been violated and that the Crimean Tartar

problem had not yet been solved. They also wished to know whether there was an accepted definition of the term "minority" in Ukraine and, if so, whether it covered national as well as ethnic, religious or linguistic minorities.

48. With respect to article 2 of the Convention, members of the Committee asked what the Government of Ukraine was doing to encourage integrationist multiracial organizations and movements. They indicated, with reference to article 2.1 of the Convention, that the policy adopted by a State party with regard to the elimination of racial discrimination should be set down in a clear and comprehensive written document which should be brought to the attention of the public and of the persons responsible for the implementation of the policy.

49. Concerning article 3 of the Convention, members of the Committee wished to have more detailed information about the country's attitude with regard to the sanctions against South Africa. They asked whether Ukraine was in favor of maintaining those sanctions and whether it had diplomatic relations with South Africa.

50. With regard to article 4 of the Convention, members of the Committee indicated that although the Convention had been incorporated into Ukrainian domestic law, legislation still had to be enacted to implement the punitive provisions of article 4. In that connection, they noted that a new version of article 66 of the Criminal Code neither prohibited racist organizations nor prevented official bodies from engaging in racial discrimination.

51. With respect to article 5 of the Convention, members of the Committee wished to know more about the rights of individuals belonging to the various ethnic groups; how those groups took part in the executive and legislative powers and, if such participation was provided for by law, whether there were any quotas; whether Ukraine authorized the formation of political parties based on ethnic origin; and what the position was of the Ukrainian legislature regarding dual citizenship.

52. With reference to article 6 of the Convention, members asked how it had been possible that, in 1991, no one had been convicted under article 66 of the Criminal Code; whether any complaints of racial discrimination had been brought; and whether the public was sufficiently aware of article 66. Members noted that the three-year limit for the submission of compensation claims by victims of repression by the previous regime was too short.

53. Concerning article 7 of the Convention, members of the Committee noted that the section of the report dealing with the implementation of that article did not contain sufficient information. Members of the Committee wanted to know exactly what steps Ukraine was taking in the areas of teaching, education, culture and information to combat prejudice which gave rise to racial discrimination and, more generally, to give effect to article 7 of the Convention.

54. With respect to article 14 of the Convention, members of the Committee particularly welcomed the fact that Ukraine had recognized the competence of the Committee to receive and to consider communications from individuals or groups of individuals claiming to be victims of a violation of any of the rights set forth in the Convention.

55. The representative of the State party, replying to the questions asked and comments made by

members of the Committee, said that the views of the members of the Committee would be an important factor in future efforts by the Government to establish conditions for the implementation of the provisions of the Convention. The way in which reports were considered by the Committee enabled States parties to consider their domestic legislation from a more critical standpoint and to remedy shortcomings.

56. He further stated that as a result of the ratification by Ukraine of international human rights instruments, those instruments had been incorporated into Ukrainian law and could be invoked in courts of law. However, rules of principle could not be applied automatically or directly unless they were supported by the necessary practical machinery for their implementation, and a great deal of domestic legislation still had to be adopted for that purpose. In regard to demographic data, that information would be provided in table form in the next periodic report.

57. He provided the Committee with detailed information on the issues relating to the Crimea and the Pridnestrovye region, emphasizing that the problem of Crimea was based not on issues of nationality or race, but rather on political conflicts and that therefore it did not come within the scope of the Convention. He explained the situation with regard to emigration to Israel, indicating that, in spite of the efforts undertaken by the Government, emigration continued because life was hard in Ukraine and the prospects of better living conditions always prompted departure. Individuals emigrating from Ukraine maintained their right to Ukrainian citizenship and kept their Ukrainian passports. The representative further explained that article 1 of the Ukrainian law on nationality had maintained the rule set forth in the Constitution of the former Soviet Union granting a single nationality to the inhabitants of Ukraine. However, dual citizenship could be granted on the basis of intergovernmental agreements and the Russian Federation and Ukraine were currently engaged in negotiations to that end.

58. Under the Act on National Minorities, Ukraine had established a special ministry at the national level for dealing with the problems of national groups. In addition, it was also possible to form voluntary advisory bodies made up of representatives of national minorities. The Act defined a national minority as a group of Ukrainian citizens who were not Ukrainian by nationality and who shared a sense of national self-identification and community. According to that definition, members of religious denominations, such as Catholics, or members of linguistic minorities, were not considered national minorities.

59. With regard to article 3 of the Convention, in March 1992 an agreement had been reached on the establishment of diplomatic relations between Ukraine and South Africa. At the same time, Ukraine was fully committed to implementing the Security Council decisions which had been taken with regard to South Africa.

60. Referring to article 5 of the Convention, the problems of religion and freedom of expression that had arisen were often due to the dire economic situation and particularly to the very high rate of inflation, rather than genuine religious discrimination. Cultural organizations specific to an ethnic group were permissible, but political parties based on ethnicity were not legal since membership would necessarily be discriminatory. Quotas for different nationalities in the Ukrainian Parliament had existed in the past, but now all deputies were elected freely and a wide range of nationalities were represented in the Parliament.

61. With respect to article 6 of the Convention, the representative confirmed that there had been no convictions under article 66 of the Criminal Code since 1991.

62. As far as article 7 of the Convention was concerned, the representative declared that the Convention had been promulgated in the Gazette of the Supreme Council, along with other human rights instruments. It had also been translated into Ukrainian and could be found in libraries and other places freely accessible to the public.

Concluding observations

63. The Committee commended the regularity with which the Government of Ukraine had reported on the implementation of the Convention, the high quality of its delegation's replies to questions and its candour in acknowledging deficiencies.

64. The Committee noted the broad range of information provided in the twelfth periodic report on historic changes taking place in Ukraine, its support on the international scene for the protection of human rights and especially national minorities, and its adoption of legal instruments for developing democracy and strengthening the rule of law. It was nevertheless felt that demographic data could have been presented in a more illustrative way. The hope was expressed that the existing situation of unrest there would be resolved with respect to human rights and for the rights of ethnic minorities.

65. Regarding article 3 of the Convention, the Committee considered that Ukraine's stand on sanctions in regard to South Africa should have been clarified. More information was requested on article 4, in accordance with general recommendation IV. It was also considered that information offered concerning article 7 on measures taken in the fields of teaching and education should have been in accordance with general recommendation V.

CERD A/53/18 (1998)

139. The Committee considered the thirteenth and fourteenth periodic reports of Ukraine (CERD/C/299/Add.14) at its 1256th and 1257th meetings, on 9 and 10 March, and, at its 1269th meeting, on 18 March 1998, adopted the following concluding observations.

A. Introduction

140. The Committee welcomes the thirteenth periodic report submitted by the Government of Ukraine and the revised core document (HRI/CORE/1/Add.63), as well as the additional information provided by the delegation in response to the questions and comments of the members of the Committee. However, it is noted that the report was not prepared in conformity with the Committee's general guidelines for the submission of reports. Equally, it was noted that the report lacked essential information on the ethnic composition of the population. As a result it is more difficult for the Committee to assess how the Convention is implemented in Ukraine in general.

B. Factors and difficulties impeding the implementation of the Convention

141. The Committee notes that the State party is passing through an important historical period in its existence owing to the deep political, economic and social reforms it is undertaking. The Committee further notes that a large number of formerly deported people are returning to their places of origin in the State party and are seeking employment and shelter. Solving these problems puts a further strain on the resources at the disposal of the Government.

C. Positive aspects

142. The Committee notes with satisfaction the State party's efforts and policies relating to the protection of national minorities, especially the adoption of the Declaration of the Rights of National Minorities and the enactment of the Act on Ukrainian Citizenship, the Act on National Minorities in Ukraine, the Education Act and the Act on Freedom of Conscience and Religious Organizations.

143. The Committee welcomes the State party's accession to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee notes with appreciation the State party's intention to ratify the European Framework Convention for the Protection of National Minorities as well as the European Charter on Regional and Minority Languages.

144. The Committee welcomes the creation of the post of Ombudsman as the independent human rights representative of the Supreme Council, and the establishment of an interdepartmental commission responsible for monitoring and taking preventive action in matters of racism and racial discrimination.

145. The Committee commends the State party's efforts aimed at the return, resettlement and rehabilitation of over 250,000 Crimean Tartars, as well as persons of other nationalities, who were forcibly deported to different parts of the former Soviet Union approximately 50 years ago.

D. Principal subjects of concern

146. Concern is expressed at the fact that many of the Committee's previous concluding observations (A/48/18, paras. 42-65) were not taken into consideration for the elaboration of Ukraine's thirteenth report, especially in regard to the extent to which the Convention is being implemented in the State party (para. 47); lack of information on legislation enacted to implement the punitive provisions of article 4 of the Convention (para. 50); lack of information on complaints and convictions for acts of racial discrimination established under article 66 of Ukraine's Criminal Code (para. 52); and the inadequacy of demographic data on the different ethnic groups living in the State party.

147. While the Committee takes note of the proposed amendments to the Act on National Minorities in Ukraine, concern is expressed that the State party is not fully implementing the provisions of article 4 of the Convention and it has not provided sufficient information on the practical implementation of the provisions of article 4.

148. In regard to article 5, paragraphs (a) and (b), of the Convention, concern is expressed about reports of mistreatment by the police of members of the Roma population, especially those living in the Transcarpathian region.

149. The difficulties experienced by members of minority groups, including the Crimean Tartars, who were deported decades earlier and are now returning to resettle in Ukraine, in acquiring citizenship in the State party is a matter of concern. The Committee is also concerned about the situation of certain other minority groups who do not enjoy all their economic, social and cultural rights, notably the right to education.

150. It is also regretted that insufficient information was provided on the implementation of article 6 of the Convention, notably on the number of complaints of racial discrimination and available remedies, as well as the practice of the tribunals.

E. Suggestions and recommendations

151. In the light of article 3 of the Convention and general recommendation XIX (47) of 17 August 1995, the Committee encourages the State party to monitor all tensions which may give rise to racial segregation and to work for the eradication of any negative consequences that ensue.

152. The Committee emphasizes that the State party should fully comply with its obligations under article 4 of the Convention and that necessary legislative measures of a more comprehensive nature should be taken in order to give effect to the provisions of that article.

153. In the light of article 5 of the Convention and the Committee's general recommendation XXII (49) of 16 August 1996, paragraphs 2 (c) and (d), the Committee recommends that the State party continue to take all necessary steps to fully restore the rights of repatriated members of minorities, including the Crimean Tartars, and to afford them just and adequate reparation where appropriate. The Committee further recommends that issues relating to the citizenship of the repatriated members of minorities, including the Crimean Tartars, be solved as soon as possible in a just manner. In this

regard, and in the light of article 5 (d) (iii) of the Convention, the Committee suggests that the State party consider the possibility of acceding to the international instruments on statelessness.

154. In the light of article 5 of the Convention and the Committee's general recommendation XIII (42) of 16 March 1993, the Committee recommends that the State party review and improve the training of law enforcement officials to ensure that in the performance of their duties they respect as well as protect human dignity and maintain and uphold the human rights of all without distinction as to race, color, or national or ethnic origin. The Committee also emphasizes that the text of the Convention should be widely publicized so that the judiciary, the legal profession, the relevant governmental agencies and the general public are made fully aware of the provisions and the potential of the Convention.

155. The State party is requested to provide detailed information on cases of complaints of racial discrimination brought before the courts and on remedies made available to victims of racism and xenophobia, in accordance with article 6 of the Convention. Information is also requested on cases filed by the Human Rights Ombudsman insofar as they relate to the scope of the Convention. The Committee recommends that the State party undertake awareness-raising campaigns on the use of judicial remedies against racism, including the procedure provided for in article 14 of the Convention.

156. The Committee recommends that the State party take all appropriate measures to ensure education and teaching in the mother tongue of minorities wherever possible.

157. The Committee suggests to the State party that the report and the present concluding observations be widely distributed to the public in the various languages of Ukraine. The Committee recommends that the State party's next periodic report, due on 6 April 1998, which may be an updating report, address all the points raised in the concluding observations.

CERD A/56/18 (2001)

360. The Committee considered the fifteenth and sixteenth periodic reports of Ukraine (CERD/C/384/Add.2), due on 6 April 1998 and 2000 respectively, at its 1482nd and 1483rd meetings (CERD/C/SR.1482 and 1483), on 9 and 10 August 2001. At its 1491st and 1492nd meetings (CERD/C/SR.1491 and 1492), on 16 August 2001, it adopted the following concluding observations.

A. Introduction

361. The Committee welcomes the fifteenth and sixteenth periodic reports of Ukraine as well as the additional information that the State party's delegation provided during its oral presentation.

B. Factors and difficulties impeding the implementation of the Convention

362. The Committee acknowledges the statement of the State party that it is in a process of significant political, economic and social reform.

C. Positive aspects

363. The Committee notes with satisfaction the continuing efforts of the State party to reform its legislation, including its Criminal Code, the abolition of the death penalty and the creation of an appeals court system, and in particular the State party's recent adoption of the Law on Refugees of January 2000, the Citizenship Law of January 2001 and the Law on Immigration of June 2001.

364. The Committee notes the number of provisions in domestic legislation, in particular article 37 of the Constitution, article 66 of the Criminal Code and the provisions of the National Minorities Act, prohibiting the dissemination of racial and ethnic hate propaganda and the creation of organizations and political parties that are based upon racial hatred or discrimination. The Committee also notes that legal action has been taken against publications and organizations for fomenting anti-Semitism and inter-ethnic hatred.

365. Since issues relating to minority languages have remained one of the most salient problems of inter-ethnic relations in Ukraine, the Committee welcomes the State party's efforts to provide educational opportunities in a number of minority languages as detailed in paragraphs 56-58 of the State party report.

366. The Committee commends the continuing efforts by the State party to resettle and rehabilitate the Crimean Tatars, who were deported decades earlier.

367. The Committee also welcomes the announcement that a new census will take place in December this year.

D. Concerns and recommendations

368. The Committee regrets the lack of information in the report, despite the Committee's previous request to this effect, on demographic data that compare the socio-economic status of various ethnic groups in the population. The Committee recommends that the State party in its next report provide data on the composition of the population, as requested in the reporting guidelines of the Committee. If possible, such data should also be disaggregated by gender.

369. The Committee is concerned that national legislation does not contain sufficient provisions prohibiting discrimination on the grounds of race or ethnic or national origin in conformity with the requirements of the Convention. The Committee recommends that the State party take all appropriate legislative measures to ensure that the provisions of the Convention are fully reflected in domestic law. The Committee emphasizes the importance of adequately prohibiting and penalizing acts of racial segregation and discrimination whether they are committed by individuals or associations.

370. In particular, the Committee recommends again that the State party review its legislation in order to ensure that it meets fully the requirements of article 4.

371. The Committee also recommends that the State party adopt effective measures, pursuant to article 5 of the Convention, guaranteeing equal enjoyment of the rights enumerated in those provisions to all ethnic groups within Ukraine, without distinction based on race, colour, descent or national or ethnic origin.

372. The Committee is concerned that institutions to enforce laws against racial discrimination and provide remedies and recourse measures are not sufficiently utilized. The Committee requests the State party to include in its next periodic report information about complaints filed, investigations and prosecutions initiated, and criminal or civil sanctions imposed in cases of offences which have a bearing on racial discrimination, including the outcome of investigations of complaints filed with the Human Rights Ombudsman. The Committee also requests that the next report contain information on steps taken by the State party to educate the public about the existence of the recourse measures and how they may be utilized by victims.

373. The Committee is concerned about reports of the continuing discriminatory treatment of Roma and violence against them and their property. The Committee is particularly concerned about reports of police brutality against the Roma population, including arbitrary arrests and illegal detention. The Committee recommends that the State party take immediate and effective steps to stop these abuses and that the next report contain information on human rights training for the police, investigations of complaints of abuse and disciplinary and criminal measures taken against those found guilty of committing abuses.

374. While noting efforts made by the State party to facilitate the resettlement and rehabilitation of Crimean Tartars, the Committee reiterates its concern regarding the difficulties experienced by the Crimean Tartars in acquiring Ukrainian citizenship. At the same time it was felt that this resettlement should not generate new ethnic tensions that might lead to conflict between Crimean Tatars and other minorities. The Committee recommends that the State party review its legislation and practices in this regard and make any revisions required by the Convention.

375. The Committee was disturbed by the oral statement of the delegation that many nationals of a certain African country are involved in drug trafficking in Ukraine. The Committee strongly recommends that the State party take actions to counter any tendency to target, stigmatize or stereotype, which could lead to racial profiling of particular population groups by police and immigration officers as well as in the media and society at large.

376. The Committee encourages the State party in its efforts to ensure education and teaching in the mother tongue of minorities, wherever possible.

377. Noting that it has not yet received any individual communications from persons under the jurisdiction of the State party, although the State party has accepted the jurisdiction of the Committee under article 14, the Committee recommends that the State party ensure that the public is well informed of the possibility of submitting such communications to the Committee.

378. The Committee recommends that the State party's reports continue to be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

379. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report, due on 6 April 2004, and that it address all points raised in the present observations.