



**International Convention
On the Elimination
Of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-ninth session
31 July – 18 August 2006

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

UKRAINE

1. The Committee considered the seventeenth and eighteenth periodic reports of Ukraine (CERD/C/UKR/18) at its 1776th and 1777th meetings (CERD/C/SR.1776 and 1777), held on 11 and 14 August 2006. At its 1785th meeting (CERD/C/SR.1785), held on 17 August 2006, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the comprehensive report submitted by Ukraine, albeit not in full conformity with the Committee's reporting guidelines. It also welcomes the regularity with which the State party submits its reports to the Committee and the frank answers the delegation gave in response to the Committee's questions and the opportunity thus provided to engage in a constructive dialogue.

B. Positive aspects

3. The Committee welcomes the State party's ongoing legislative efforts, as well as its programmes and institutional arrangements, aimed at the integration of ethnic minorities, including:

* Re-issued for technical reasons

(a) The bill on amendments to the National Minorities Act currently pending before Parliament which recognizes the right of members of national minorities to use their traditional names and native languages;

(b) The programme, adopted in May 2006, for the integration of formerly deported persons, in particular Crimean Tatars, a significant number of whom have returned to Crimea since 1990;

(c) The establishment in 2006 of a Council for State Policies for the advancement of the rights and freedoms of all persons, including those belonging to national minorities, which includes among its members the President of the National Roma Congress.

4. The Committee notes with appreciation that the State party has withdrawn any deadlines for the submission of asylum applications under its Refugee Law.

5. The Committee welcomes information from the State party that a considerable number of minority children receive instruction in, or on, their language and culture, including some 5,000 Roma children in Transcarpathia and some 3,500 Crimean Tatar children in the Autonomous Republic of Crimea.

C. Concerns and recommendations

6. The Committee is concerned that the Office of the Ukrainian Parliamentary Commissioner for Human Rights is reportedly relatively unknown and underfunded and lacks expertise in some areas, and that only 0.5 per cent of the complaints received by the Commissioner concern alleged violations of minority rights.

The Committee recommends to the State party that it ensure adequate funding for the effective and independent functioning of the Parliamentary Commissioner for Human Rights with a view to strengthening its expertise in all areas of human rights, as well as its capacity to process complaints. It should also widen public access, including by minority groups, to the Commissioner's Office at the regional, district and municipal levels.

7. The Committee notes with concern that the draft Anti-Discrimination Bill covers direct but not indirect discrimination. It recalls that the definition of discrimination in article 1 of the Convention covers any unjustified distinction which has either the purpose or the effect of impairing particular rights and freedoms¹ (art. 1 (1)).

The Committee recommends that the State party proceed with the adoption of a comprehensive Anti-Discrimination Bill which also covers indirect discrimination, in accordance with article 1 of the Convention.

8. Although it is not widespread, the Committee is nevertheless concerned about reports of vandalism of religious sites of minorities, such as defacing of synagogues in different areas of Ukraine, as well as of anti-Muslim and anti-Tatar statements by Orthodox priests in Crimea (arts. 4 (a) and 5 (d) (vii)).

The Committee recommends to the State party that it take preventive measures against acts directed against persons or religious sites belonging to minorities and that it investigate such acts and bring perpetrators to justice.

9. While noting that incitement to racial discrimination is punishable under articles 66, 67 and 161 of the Criminal Code, as well as under articles 46 and 47 of the Law on Information and article 3 of the Print Media (Press) Act, the Committee is concerned about the absence of any prosecutions under article 161 of the Criminal Code which only applies to cases where intent can be proven and only if the victim of such discrimination is a citizen (arts. 4 (a) and 6).

The Committee urges the State party to consider a relaxation of the strict requirement of wilful conduct set out in article 161 of the Criminal Code in order to facilitate successful prosecutions under that article. The Committee also requests the State party to consider extending the application of article 161 of the Criminal Code to cases where the victim of discrimination is not a citizen. It urges the State party to ensure the effective implementation of all legal provisions aimed at eliminating racial discrimination, and to provide in its next report updated information concerning the application by the Ukrainian courts of criminal law provisions punishing acts of racial discrimination, in particular articles 66 and 161 of the Criminal Code. Such information should include the number and nature of cases brought, convictions obtained and sentences imposed, and any compensation or other remedies provided to victims of such acts.

10. The Committee notes with concern that article 4 of the Citizens' Associations Act does not explicitly preclude the legal registration of associations advocating racial discrimination (art. 4 (b)).

The Committee recommends that the State party consider explicitly including organizations which promote and incite racial discrimination on the list of prohibited associations that are barred from legal registration under article 4 of the Citizens' Association Act.

11. The Committee is concerned about reports that the lack of personal and other relevant identification documents effectively deprives many Roma of their right to equal access to the courts, legal aid, employment, housing, health care, social security and education (art. 5 (a) and (e)).

The Committee urges the State party to take immediate steps, e.g. by removing administrative obstacles, to issue all Roma with personal and other relevant identification documents in order to enhance their access to the courts, employment, housing, health care, social security and education.

12. The Committee is concerned about allegations of police abuse of Roma, including arbitrary arrests and searches and pretrial abuse based on racially motivated presumptions of guilt, and of persons belonging to other minorities, asylum-seekers and non-citizens of different ethnic origin (arts. 5 (b), 6 and 7).

The Committee urges the State party to further intensify its human rights training for the police and to facilitate the reporting of cases of police abuse of Roma and other persons of different ethnic origin, effectively investigate complaints and bring those found guilty of such acts to justice, provide adequate protection and compensation to victims, and include in its next report detailed information on the number and nature of cases brought, convictions obtained and sentences imposed, and the protection and remedies provided to victims of such acts. In this regard, it refers the State party to paragraphs 12-14 of general recommendation 27 on discrimination against Roma and paragraphs 18-24 of 30 (2004) on discrimination against non-citizens.

13. The Committee notes with concern that the Refugee Law does not contain standardized refugee determination criteria, a definition of temporary humanitarian protection, or safeguards concerning the withholding of personal data from the authorities of the country of origin to which a rejected asylum-seeker might be deported (art. 5 (b)).

The Committee recommends that the State party consider amending its Refugee Law in order to clearly define standardized refugee determination criteria and to include the concept of temporary protection on humanitarian grounds, as well as safeguards on the withholding of personal data from country of origin authorities.

14. The Committee notes that Crimean Tatars reportedly remain underrepresented in the public service of the Autonomous Republic of Crimea (arts. 5 (c) and 2 (2)).

The Committee recommends that the State party adopt measures, including special measures, to ensure the adequate representation of Crimean Tatars in the public service of the Autonomous Republic of Crimea, including at senior levels.

15. While noting that an important number of formerly deported persons have been repatriated to Crimea since 1990, the Committee is concerned about reports that only 20 per cent of Crimean Tatars have obtained plots of land, mainly in areas considered undesirable by them. It notes with concern that most Crimean Tatars have been excluded from the agrarian land privatization process, as the Ukrainian Land Code requires that applicants for agrarian land plots be former Soviet collective farm workers, and that many Crimean Tatars live in settlements which lack basic infrastructure (art. 5 (d) (v) and (e) (iii)).

The Committee urges the State party to provide effective remedies to enable formerly deported persons, in particular Crimean Tatars, to claim the restitution of their formerly confiscated property, or adequate compensation, and to ensure that formerly deported persons can obtain suitable plots of land, to the extent possible in areas which were traditionally inhabited by them. The State party should ensure that all formerly deported persons have access to adequate housing and that those living in settlements enjoy legal security of tenure and access to adequate infrastructure, including safe water, sewage systems, electricity, gas, heating, roads and transportation.

16. The Committee is concerned about the shortage of publications, in particular textbooks for schoolchildren, in minority languages other than Russian, and about reports that

some textbooks contain historically inaccurate information about minorities (art. 5 (d) (viii) and (e) (v)).

The Committee encourages the State party to further promote the publication of textbooks for schoolchildren in minority languages, including the languages of Roma and Crimean Tatars, and to ensure that all ethnically discriminatory content is eliminated from existing textbooks.

17. While noting recent measures taken by the State party to improve the situation of refugees and asylum-seekers, the Committee expresses concern about their limited access to employment and housing, as well as about the reportedly poor conditions in detention centres (art. 5 (e) (i) and (e) (iii)).

The Committee recommends that the State party support and increase the number of social centres assisting refugees and asylum-seekers to find employment and housing, and that it ensure that centres for refugees and persons detained under the aliens legislation provide the necessary facilities, in conformity with the standards set out in general recommendation 30 (2004) on discrimination against non-citizens.

18. The Committee notes with concern that cultural and religious sites, including cemeteries, of minorities such as the Crimean Tatars, the Karaites and the Roma, are reportedly often not registered or protected and that only very limited funds are allocated to the preservation of the cultural heritage of minorities by the State party (art. 5 (e) (vi)).

The Committee recommends that the State party take special measures for the protection and preservation of the cultural heritage of minorities such as the Crimean Tatars, the Karaites and the Roma.

19. The Committee is concerned about the persistence of negative societal attitudes and stereotypes against the Roma, as exemplified by the derogatory language used in particular in paragraph 87 of the report of the State party (art. 7).

The Committee recommends that the State party increase its efforts in the fields of teaching, education, culture and information to combat prejudices, including among civil servants, against ethnic minorities such as the Roma, to promote tolerance and respect for their cultures and history, and to foster intercultural dialogue among the different ethnic groups of Ukraine.

20. The Committee is concerned about the absence of official recognition of the Ruthenian minority despite its distinct ethnic characteristics.

The Committee recommends that the State party consider recognizing Ruthenians as a national minority.

21. The Committee recommends that the State party take into account the relevant provisions of the Durban Declaration and Programme of Action when implementing the Convention in its domestic legal order, particularly as regards articles 2-7 of the Convention. The Committee also urges that the State party include in its next periodic report information

on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

22. The Committee recommends that the State party's reports be made readily available to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized and/or translated into Ukrainian, Russian and, to the extent possible, the languages of national minorities of Ukraine.

23. The State party should within one year provide information on the way it has followed up on the Committee's recommendations contained in paragraphs 11, 12 and 15 above, pursuant to paragraph 1 of rule 65 of the Committee's rules of procedure.

24. The Committee recommends that the State party submit its nineteenth periodic report jointly with its twentieth and twenty-first periodic reports in a single report by 6 April 2010, and that it address all points raised in the present concluding observations.

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ⁱ See general recommendation 14 (1993): Definition of discrimination, article 1, paragraph 1 of the Convention.