

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

QUESTIONS PUT BY THE RAPPORTEUR IN CONNECTION WITH THE
CONSIDERATION OF THE 17th and 18th PERIODIC REPORTS OF
UKRAINE

(CERD/C/UKR/18)

General information

1. Please indicate whether the current Ombudsman was elected to Parliament at the March 2006 elections and, if so, clarify how such activity is compatible with the impartiality and independence of the Ombudsman Office. Please provide information on the funding of the Ombudsman Office.

Composition of the population

2. Please comment on the decline in the population share of almost all minority groups since 1989, with the exception of the Crimean Tartars, especially as regards the Jewish, Polish and Russian minorities, as well as on reports that fears of reprisals and pressure from proponents of a “uni-ethnic” State led to considerable under-reporting by minorities during the 2001 census.

Article 1

3. Please clarify whether the State party intends to bring the definition of “discrimination” in Article 1 of the draft Bill on protection against racial, national and ethnic discrimination in compliance with the definition of article 1 of the Convention, i.e. by deleting the requirement of intent from that definition.

Article 2

4. Please provide further information on the existing legislation prohibiting discrimination on grounds of race or ethnic or national origin and on the legal definition of the concept of “national minorities”. Please also provide information on the measures taken to extend the application of the rights guaranteed in the 1992 Law on National Minorities to formerly deported people, and on any initiatives to define the concept and protection of ‘indigenous peoples’ under domestic law.

5. Please provide information on measures taken, if any, to extend the application of the principle of equality and non-discrimination, embodied in Article 24 of the Constitution, to non-citizens (State report, paras. 81-82 and 181-184).
6. Please clarify whether the State party intends to adopt comprehensive civil and administrative law provisions defining the content of the principle of non-discrimination in specific fields such as housing, contractual relations and access to public and social services, and specifying the redress and remedies available to victims of discrimination.
7. Please elaborate on the implementation of special and concrete measures to ensure the equal enjoyment of the rights protected under the Convention to disadvantaged and marginalized minority groups, in particular Roma, refugees and asylum seekers, and formerly deported persons having returned to Ukraine such as the Crimean Tartars (State report, e.g. para.77).

Article 4

8. Please provide detailed information on the number of prosecutions and convictions, and on the sanctions imposed, under Articles 66, 67 and 161 (State report, at para.49) of the Criminal Code for incitement to racial or inter-ethnic hatred. Please provide similar data on the application of Articles 46 and 47 of the Law on Information and of Article 3 of the Print Media (Press) Act concerning the use of public information for incitement to racial hatred. With regard to Article 161 of the Criminal Code, does the State party consider removing the requirement of intent from that provision, which is reportedly very difficult to establish, and to extend the application of the provision to cases where the victim of the discrimination is not a citizen?

Article 5

9. Please provide more information on measures taken to combat ill-treatment and harassment by police and non-State actors of Roma, members of other minorities, and asylum seekers, refugees and aliens of different ethnic origin, such as human rights awareness raising and training of police and law enforcement officials, investigations of allegations of abuse, and punishment of perpetrators of such acts. What types of assistance are being provided to victims of such acts?
10. Please provide information on any measures taken to ensure adequate access by asylum seekers to asylum procedures, including procedures for challenging deportation orders, such as extension of the time limits for submitting asylum applications and provision of free legal assistance and interpreting. Please also indicate the maximum length of detention pending deportation of aliens.
11. Please state the reasons for the absence from the Refugee Law of standardized refugee determination criteria and of safeguards on non-sharing of personal

- data of asylum seekers with the country of origin authorities, and indicate whether the State party intends to remedy this situation. In the absence of such criteria and safeguards, how does the State party ensure that deported asylum seekers, including Chechens and Uzbeks, are not exposed to a risk of ill-treatment or persecution upon return to their country of origin? Please provide updated statistical data on the numbers of asylum applications and of expulsions of rejected asylum seekers, disaggregated by country of origin.
12. Please provide information on legislative or other measures aiming at ensuring a more adequate representation of Crimean Tartars in the Parliament and Ministries of Crimea and allowing Crimean Tartars and other minorities to form political parties at the regional level.
 13. Please explain the absence of any restitution mechanism which would allow formerly deported persons, including Crimean Tartars, to claim compensation for their illegally confiscated property. What possibilities exist for formerly deported persons who have been excluded from the land privatisation process, due to their lack of Ukrainian citizenship or status as former Soviet collective farm worker, to obtain suitable land plots, including in coastal areas?
 14. Please comment on reports that Roma settlements and neighbourhoods are disproportionately subject to police controls and searches. What legal safeguards exist against such interferences and how effective are they?
 15. What measures are being taken to remedy the reportedly difficult conditions in detention centres for persons deprived of their liberty under the aliens legislation, i.e. equipment of cells with adequate lighting, ventilation and heating, ensuring adequate sanitary conditions, living space and exercise for detainees, as well as provision of adequate food, water, bedding, clothing and cleaning products?
 16. Please provide information on special and targeted measures taken to combat discrimination of Roma in access to personal documents, employment, social security, housing and health care.
 17. What measures is the State party taking to increase the attendance of Roma children at all levels of schooling, and to end the practice of segregating Roma children in separate special schools?
 18. Please specify what concrete criteria are being applied to determine whether children belonging to minority groups, including Roma and Crimean Tartar children, are entitled to receive instruction in, or of, their minority language at school. Which law defines these criteria and how?

Article 6

19. What judicial remedies are available to victims of racial discrimination under the criminal, civil and administrative jurisdictions? Does the legislation of the

State party provide for a legal aid scheme for victims of racial discrimination who are unable to pay lawyer or court fees?

20. Please provide more information about complaints filed, investigations and prosecutions initiated, and criminal or civil sanctions imposed on perpetrators of acts of racial discrimination, including perpetrators of violent or other criminal acts against Roma.
21. Please provide information on the outcome of investigations filed with the Ombudsman Office. What mechanisms are in place to ensure compliance by courts and authorities with the recommendations of the Ombudsman?

Article 7

22. Please provide more information on the implementation and effectiveness of programmes aimed at eliminating negative societal attitudes and stereotypes against members of minority groups, in particular Roma, and against asylum seekers, refugees and aliens of different ethnic origin.