



**International covenant
on civil and
political rights**

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Sixth periodic report

UKRAINE*

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**Sixth periodic report of Ukraine on the implementation of the
International Covenant on Civil and Political Rights**

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I. GENERAL INFORMATION ABOUT THE STATE

1. Under the 1996 Ukrainian Constitution, Ukraine is a republic.
2. The people are sovereign and the only source of power in Ukraine. The people exercise power directly and through the organs of State authority and local self-government.
3. State power in Ukraine is exercised on the principle of its division into legislative, executive and judicial power. The legislative, executive and judicial authorities exercise their mandates within the framework of the Constitution and in accordance with the laws of Ukraine.
4. The President of Ukraine is the head of State and acts in its name.
5. The sole body of legislative power in Ukraine is the parliament - the Supreme Council of Ukraine, which, as determined by the Constitution, is composed of 450 national deputies, elected for terms of four years by secret ballot on the basis of universal, equal and direct suffrage.
6. The Cabinet of Ministers of Ukraine is the highest body in the system of executive authorities. The members of the Cabinet of Ministers of Ukraine are appointed by the President of Ukraine on the recommendation of the Prime Minister of Ukraine. Executive authority in the provinces and districts and in the cities of Kyiv and Sevastopol is exercised by local State administrations.
7. Local self-government is the right of a local community, comprising the residents of a village or a village community formed by the voluntary association of the residents of several villages or of a settlement or city, independently to resolve issues of local significance within the limits of the Constitution and laws of Ukraine.
8. Ukraine is a unitary State. The country's administrative and territorial structure is made up of the Autonomous Republic of Crimea, and the provinces, districts, cities, city districts, settlements and villages.
9. Ukraine is composed of the Autonomous Republic of Crimea, 24 provinces and the cities of Kyiv and Sevastopol, which have special status.
10. The Autonomous Republic of Crimea decides on the issues for which it is competent within the limits of authority determined by the Ukrainian Constitution.
11. The Autonomous Republic of Crimea has its own constitution, representative body - the Supreme Council of the Autonomous Republic of Crimea - and government - the Council of Ministers of the Autonomous Republic of Crimea.
12. There is single citizenship in Ukraine.

II. IMPLEMENTATION OF SPECIFIC ARTICLES OF THE COVENANT

Article 1

Paragraph 1

13. In its preamble, the 1996 Constitution of Ukraine states, among other things, that the Supreme Council of Ukraine adopted the Constitution on behalf of the people of Ukraine - the country's citizens of all nationalities - as an expression of the sovereign will of the people.

Paragraph 2

14. In article 13, the Constitution states that the land, the subsoil and its resources, the atmospheric air, the water and other natural resources situated within the territorial limits of Ukraine, the natural resources of its continental shelf and of its exclusive (maritime) economic zone are subject to the right of ownership of the Ukrainian people. Rights of ownership are exercised on behalf of the Ukrainian people by the State and local authorities within the limits set down by the Constitution.

15. Each citizen has the right to make use of natural facilities falling under the people's right of ownership in accordance with the law.

Paragraph 3

16. As stated in article 11 of the Constitution, the Ukrainian State is responsible for promoting the consolidation and development of the Ukrainian nation, awareness of its history, traditions and culture, and the development of the specific ethnic, cultural, linguistic and religious identity of all the national minorities and indigenous peoples of Ukraine.

Article 2

Paragraph 1

17. Under article 24 of the Constitution, citizens have equal constitutional rights and freedoms and are equal before the law.

18. There may be no privileges or restrictions on the grounds of race, colour, sex, political, religious or other conviction, ethnic or social origin, property, place of residence, or linguistic or other attributes.

19. Human and civil rights and freedoms are not exhaustive.

20. The content and scope of existing rights and freedoms may not be diminished when new laws are being adopted or amendments made to existing laws.

Paragraph 2

21. Pursuant to article 27 of the 1969 Vienna Convention on the Law of Treaties, the provisions of domestic law may not be invoked as justification for the State's failure to perform a treaty.
22. Article 9 of the Constitution of Ukraine provides that international treaties that are in force and the binding nature of which has been accepted by the Supreme Council of Ukraine form part of the country's law.
23. Such international treaties shall be implemented in accordance with the procedure stipulated for the norms of domestic law, as set out in article 19, paragraph 1, of the International Treaties of Ukraine Act of 29 June 2004.
24. In article 19, paragraph 2, the Act stipulates that, where an international treaty signed by Ukraine which has entered into force in the prescribed manner establishes rules other than those provided in the corresponding act of Ukrainian law, the provisions of the international treaty shall prevail.
25. In view of the provisions outlined above and the fact that Ukraine's accession to the 1969 Vienna Convention on the Law of Treaties and the 1966 International Covenant on Civil and Political Rights was ratified by acts of the Supreme Soviet (Parliament) of the Ukrainian Soviet Socialist Republic, the norms of the Covenant have precedence over the provisions of acts of Ukrainian law where these are mutually contradictory.
26. In addition, over the reporting period, Ukraine has accepted to be bound by a number of instruments of universal scope in the field of human rights: the Optional Protocol to the Convention on the Rights of the Child, on the sale of children, child prostitution and child pornography (ratified on 1 January 2001); the Optional Protocol to the International Covenant on the Elimination of All Forms of Discrimination against Women (ratified on 3 April 2003); the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees (act of accession of 10 January 2002).
27. The Constitutional Court of Ukraine adopts rulings and issues findings on matters relating to the consistency of the Ukrainian Constitution with international treaties in force for Ukraine or with international treaties submitted to the Supreme Council of Ukraine for it to pronounce whether or not it accepts to be bound by them (art. 13, para. 2, of the Constitutional Court of Ukraine Act of 16 October 1996).
28. Article 57 of the Constitution guarantees the right of each individual to know his or her own rights and obligations and laws which set out the rights and obligations of citizens but which have not been brought to the attention of the public in the manner prescribed by law are invalid.

Paragraph 3

29. Under article 55 of the Ukrainian Constitution, human and civil rights and freedoms are protected by the courts.

30. Everyone is guaranteed the right to challenge in court the decisions, actions or omissions of bodies of State power, bodies of local government, officials and officers.

31. Everyone has the right to appeal for the protection of his or her rights to the Human Rights Commissioner of the Supreme Council of Ukraine.

32. After exhausting all domestic legal remedies, everyone has the right to appeal for the protection of his or her rights and freedoms to the appropriate international judicial institutions or to the appropriate bodies of international organizations of which Ukraine is a member or participant.

33. In accordance with the provisions of article 1 of the Supreme Council of Ukraine (Human Rights Commissioner) Act of 23 December 1997, the Human Rights Commissioner of the Supreme Council shall be responsible, on a permanent basis, for parliamentary monitoring of the observance of human and civil constitutional rights and freedoms and protection of the rights of all persons on the territory of Ukraine and within its jurisdiction.

Article 3

34. Ukraine has taken into consideration the comments in paragraph 8 of the concluding observations of the Human Rights Committee relating to the fifth periodic report.

35. Ukraine is a party to the International Covenant on the Elimination of All Forms of Discrimination against Women and supports the ideas of the Beijing Declaration and Platform for Action, the Millennium Declaration and the resolutions of European conferences on equality between the sexes and is actively fulfilling the obligations which it has assumed.

36. Notwithstanding the fact that Ukraine is a State founded on the principles of non-discrimination, in practice Ukrainian women encounter discrimination in many spheres of life. This applies in particular to the representation of women in the country's parliament and in the upper echelons of the State and private sectors and to their participation in decision-making processes at all levels of State authority.

37. The overall proportion of women among the people's deputies is indicative of the attitude of Ukrainian society to the capacities of women in the political sphere and the level of gender-awareness among Ukrainians.

38. Thus, in 1998, 36 women were elected as people's deputies to the country's Supreme Council out of a total of 450 deputies, a proportion of 8 per cent, and in 2002, only 23 women were elected - 5.1 per cent. The fact that men constitute 94.9 per cent of all the people's deputies clearly demonstrates the lack of equality between the sexes in the political sphere.

39. In local government, the level of women's representation is much higher than in the Supreme Council: in some provinces, women constitute between 20 and 50 per cent of the members of local councils.

40. With regard to the current level of representation of women in State executive bodies, we may note that, taking the government service as a whole, women are in the majority, including among managers and specialists.

41. That said, the proportion of women decreases dramatically at higher levels in the service. Figures from the Ukrainian State Statistics Committee are presented in the following tables.

Table 1

Break-down of the numbers of civil servants by sex

As a per cent of the total number of civil servants in the corresponding category, as on 1 January								
	2002		2003		2004		2005	
	Men	Women	Men	Women	Men	Women	Men	Women
Civil servants at manager or specialist level, as a whole	25.8	74.2	25.0	75.0	25.6	74.4	24.9	75.1
Managers	42.1	57.9	39.5	60.5	39.4	60.6	38.2	61.8
Of whom, at official grade:								
First	94.4	5.6	91.7	8.3	93.4	6.6	92.2	7.8
Second	81.1	18.9	80.7	19.3	80.5	19.5	80.9	19.1
Third	72.0	28.0	68.7	31.3	68.2	31.8	66.2	33.8
Fourth	58.7	41.3	57.7	42.3	55.9	44.1	54.9	45.1
Fifth	40.6	59.4	37.6	62.4	37.5	62.5	35.6	64.4
Sixth	34.3	65.7	31.8	68.2	32.4	67.6	31.6	68.4
Specialists	20.2	79.8	19.9	80.1	20.5	79.5	20.0	80.0
Of whom, at official grade:								
Second	69.6	30.4	57.6	42.2	72.6	27.4	64.2	35.8
Third	42.9	57.1	42.3	57.7	40.9	59.1	40.1	59.9
Fourth	29.2	70.8	33.0	67.0	35.6	64.4	35.7	64.3
Fifth	31.9	68.1	30.3	69.7	28.8	71.2	28.6	71.4
Sixth	22.8	77.2	22.1	77.9	20.7	79.3	19.7	80.3
Seventh	15.8	84.2	15.4	84.6	17.2	82.8	16.6	83.4

Table 2

Number of women in higher education at institutes of accreditation levels 1-4

	1995/96	2000/01	2001/02	2002/03	2003/04	2004/05
Total	803 682	1 022 977	1 126 379	1 222 676	1 315 703	1 392 856
As per cent of total number of students	52.2	53.0	53.4	53.9	54.0	54.1

42. At the same time, over the course of 2004 there has been a significant increase in the number of women on the professional staff of the central State Government.

43. Although the educational level of women in Ukraine is extremely high - 48 per cent of working women have higher and secondary specialized education - the overwhelming majority of management-level staff in both the government and private sectors are still men.

44. An analysis of the situation shows that the higher the level of a representative or executive body, the less accessible it is to women.

45. Accordingly, while women make up 53 per cent of the country's population, there are only two women in the Cabinet of Ministers and only one provincial administration is headed by a woman.

46. As a result, we cannot say, as yet, that a gender-equality approach is being followed in making appointments to management positions.

47. Among the main impediments facing women in achieving their potential, particularly in the political sphere, we note the following: economic poverty, the low social status of women, lack of confidence in women as politicians, entrenched sexual stereotypes and the absence of any systematic gender-based policies in society.

48. Although a gender-based analysis of Ukrainian electoral law reveals no evidence of discriminatory restrictions on the basis of sex, the law also fails to ensure any real balance in the representation of men and women. The current law includes no procedures or arrangements actually stipulating that men and women must be equally represented in the electoral authorities.

49. A gender analysis of the 2002 parliamentary elections revealed a 1:4 ratio of women to men candidates, while the ratio of elected deputies was 1:19.

50. The most pronounced imbalance between the sexes is to be found in the city of Lviv, where the ratio of women to men candidates in single-seat constituencies was 1:14.

51. Of the 165 candidates heading the electoral lists of political parties and electoral blocs, 31 were women, giving a ratio of 1:5.

52. In all, 13 political parties and blocs of the 33 registered with the Central Electoral Commission had no woman among the first five candidates on their lists.

53. Taken as a whole, there is a lack of balance between the sexes in the Supreme Council elected in 2002, which, accordingly, is not very receptive to gender issues.

54. Six parliamentary committees - on freedom of speech and information; on European integration matters; on combating organized crime and corruption; on pensioners, veterans and the disabled; and on national security and defence - do not include a single woman among their members. This absence of women is highly symptomatic, since these are the very bodies which should be introducing international gender priorities and legal standards in the country's domestic law.

55. With such a low presence of women in the country's Supreme Council, it is too much to expect any radical changes in gender relations in the country as a whole.

56. At the same time, the idea of introducing gender quotas has not been widely supported either by the general public or by most political parties - and, by extension, the people's deputies. Accordingly, all draft laws making provision for quotas of women in party electoral lists were rejected by parliament.

57. A major step towards introducing gender-based approaches to State policy was taken in September 2005 with the adoption by the Supreme Council at its second reading of the draft act on equal rights for women and men and the means of ensuring such rights.

58. The draft act includes provisions on such issues as the need for legal safeguards of the equal rights and opportunities of women and men in all aspects of public life; the need to eradicate discrimination on the grounds of sex; the need to define the underlying principles and arrangements to give effect to a State policy on sexual equality; the need to make it an offence to breach the law on the equal rights and opportunities of women and men, and other measures. The State policy to give effect to the rights and opportunities of men and women rests on such fundamental principles as the need to uphold the equal rights and freedoms of men and women and to set in place equal opportunities for them; to ensure identical legal and social protection of women and men; to establish conditions to promote the health and safety at work of women and men; and to provide protection under law and material and moral support for motherhood, fatherhood and childhood.

59. The draft act also makes provision for the creation of an institutional arrangement to ensure that the equal rights and opportunities of women and men are duly upheld, in the form of a consultative and deliberative body: the Women's and Men's Equal Rights and Opportunities Council. Under the draft act, responsibility for ensuring the equal rights of men and women is to be assigned to one of the deputies in all ministries, departments and local government bodies.

60. The different sections of the draft act contain guarantees relating to electoral rights, work and its remuneration, education, social services and information, the need to ensure equal opportunities when collective agreements are being concluded, and so on and so forth. The responsibility for monitoring application of the act is assigned to the Human Rights Commissioner.

61. In recent years, a number of measures have been conducted at government level to tackle what is perceived as one of the country's most serious problems: high unemployment levels among women.

62. The Government has made provision for social protection for women, on the basis of their physiology, and for additional guarantees relating to job opportunities for particular population groups which are unable to compete on an equal footing on the job market. As a result, in recent years, there has been a perceptible downward trend in the number of unemployed women as a proportion of the total numbers of people out of work.

63. At the same time, where the country's employment situation is concerned, we remain preoccupied by the unfavourable bias in women's real earnings: on average, women earn 27 per cent less than men.

64. Moves towards the equality of the sexes in Ukraine are largely driven by the social activism of women and the influence of the women's movement, an important component in the campaign to involve women more fully in the decision-making process.

65. Currently, there are 44 national and international women's voluntary associations operating in Ukraine and some 1,500 regional women's associations. The activities of these bodies cover a wide range of problems, including efforts to combat trafficking in people and domestic violence, to support women's entrepreneurship and to promote gender awareness. Regrettably, voluntary organizations in Ukraine do not have the right to initiate legislation and are therefore very limited in the extent to which they can influence government policy.

66. With a view to involving women's voluntary organizations in the formulation and implementation of government policy relating to the family, children and young people; in demographic processes; in ensuring the equal rights and opportunities of women and men; in preventing domestic violence; and in other areas, a public advisory board is being set up under the Ministry for Youth and Sport, which includes, among its primary tasks, coordinating cooperation between the ministry and non-governmental organizations and ensuring their involvement in the process of preparing laws and regulations falling within the remit of the Ministry.

67. In 2005, implementation of the national plan of action for 2001-2005 to improve the position of women and to promote sexual equality in Ukrainian society is being completed and the Ministry for Youth and Sport is planning to develop a new plan of action for the period up to 2015, to ensure sexual equality in Ukrainian society.

68. As matters currently stand, the following priority needs may be identified:

- To set in operation the new consultative body in the Government - the Women's and Men's Equal Rights and Opportunities Council; and
- To establish the institution of advisers on gender issues in Ukraine, with a view to promoting gender-based principles and sexual equality in the work of all sectors, regions, etc.

Article 4

Paragraph 1

69. Under article 64 of the Constitution, constitutional human and civil rights and freedoms may not be restricted, except in cases provided for in the Constitution.

70. Under martial law or a state of emergency, specific restrictions on rights and freedoms may be established with an indication of the period of validity of these restrictions.

71. Under the Ukrainian State of Emergency (Legal Rules) Act of 16 March 2003, a state of emergency may be declared by presidential decree. The decree shall include, apart from the usual provisions, an exhaustive list of the constitutional human and civil rights and freedoms that are being temporarily restricted under the state of emergency. This list must be strictly adhered to.

Paragraph 2

72. In article 64, paragraph 2, the Constitution lists those rights and freedoms which may not be restricted under martial law or a state of emergency.

73. These rights and freedoms include, among others, the following:

- There may be no privileges or restrictions on the grounds of race, colour, sex, political, religious or other conviction, ethnic or social origin, property, place of residence, or linguistic or other attributes;
- Every person has the inalienable right to life. No one may be arbitrarily deprived of life. Everyone has the right to protect his or her life and health and the lives and health of other persons against unlawful encroachments;
- Everyone has the right to respect of his or her dignity. No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment. No person shall be subjected to medical, scientific or other experiments without his or her free consent;
- Every person has the right to freedom and personal inviolability. No one may be arrested or remanded in custody other than pursuant to a court decision with grounds stated and only on the grounds and in accordance with the procedure established by law.

74. With regard to paragraph 4 of the concluding observations of the Human Rights Committee, we should note that, in article 3, the Ukrainian Freedom of Conscience and Religious Organizations Act of 23 April 1991 stipulates that the freedom to profess a religion or belief may only be restricted by measures which are necessary to protect public safety and to maintain law and order, to safeguard human life, health and morality and to protect the rights and freedoms of other citizens and which are consistent with Ukraine's international obligations.

75. Accordingly, precautions involving the possible restriction of certain rights and freedoms under emergency situations, as provided for in article 64 of the Ukrainian Constitution, may not be extended to exercise in Ukraine of the freedom to profess a religion or beliefs, since such precautions apply only to the restrictions which are listed in the above-mentioned article of the Ukrainian Freedom of Conscience and Religious Organizations Act and which are consistent with Ukraine's international obligations.

76. No provision is made in the Ukrainian Freedom of Conscience and Religious Organizations Act for any other restrictions on the freedom to profess a religion or beliefs.

Paragraph 3

77. Under article 27 of the State of Emergency (Legal Rules) Act, once a state of emergency is declared Ukraine shall promptly notify States parties to the Covenant, through the United Nations Secretary-General, of restrictions on human and civil rights which represent derogations from obligations under the Covenant and of the parameters of these derogations and the reasons for declaring the state of emergency.

78. The notification shall also indicate the period for which the derogations from the obligations under the Covenant are to apply. Under the same provision, Ukraine is also required to give notification of any changes in the parameters of such derogations from obligations under the Covenant or in the period for which restrictions of rights and freedoms are to apply.

Article 6

Paragraph 1

79. Under article 27 of the Ukrainian Constitution, every person has the inalienable right to life.

80. No one shall be arbitrarily deprived of life. It is the duty of the State to protect human life.

81. Everyone has the right to protect his or her life and health and the lives and health of others from unlawful encroachments.

Paragraph 2

82. In 2000, Ukraine ratified Protocol 6 of 1985 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty (act of ratification of 22 February 2000). The Protocol was ratified with the retention of the death penalty in accordance with its article 2, namely, for acts committed in time of war or of imminent threat of war.

83. Subsequently, Ukraine also ratified Protocol 13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances (act of ratification of 28 November 2002).

Paragraph 3

84. Article 442 of the Ukrainian Criminal Code establishes criminal liability for genocide, namely, acts wilfully committed for the purpose of the total or partial destruction of any national, ethnic, racial, or religious group by extermination of members of such group or the infliction on them of grave bodily injuries, the creation of living conditions calculated to bring about the total or partial physical destruction of the group, measures to decrease or prevent childbearing in the group, or the forcible transfer of children from one group to another, and also for the public incitation to genocide, for the preparation of materials containing incitements to genocide with a view to their dissemination or for the dissemination of such materials.

Article 7

85. It cannot be denied that the problem of domestic violence persists in Ukraine. Currently, there are more than 75,000 known offenders in this area. In the course of 2005 alone, more than 20,000 people were placed on the register of domestic violence offenders.

86. To tackle this problem, on 15 November 2001 the Supreme Council of Ukraine adopted the Ukrainian Domestic Violence (Prevention) Act, which sets out the legal and organizational framework for measures to prevent domestic violence.
87. The act sets in place a system of institutions and authorities responsible for taking steps to prevent domestic violence. Overall executive responsibility for issues relating to the prevention of domestic violence is assigned to the Ukrainian Ministry for Youth and Sport.
88. The act also establishes special services comprising, as part of the internal affairs system, neighbourhood police inspectors and criminal police inspectors dealing with cases involving juveniles, which are assigned responsibility for the conduct of measures to prevent domestic violence.
89. The act provides for the establishment and operation of crisis centres and medical and social rehabilitation centres for the victims of domestic violence. Special measures of restraint are spelled out, including official warnings to family members guilty of perpetrating violence and injunctions. In the course of 2005, the internal affairs authorities issued some 24,500 official warnings to family members responsible for causing violence and more than 2,000 official injunctions.
90. Families experiencing violence which leads to the issuance of official warnings are placed on the register for preventive purposes by the internal affairs authorities or the criminal police for juvenile cases.
91. The act makes the perpetration of domestic violence an offence under the criminal, administrative and civil law codes. In the course of 2005, more than 28,000 administrative reports were filed on the perpetration of domestic violence.
92. The procuratorial offices are responsible for overseeing compliance with the act described above and for taking official action in response to breaches of the act.
93. There are some 30 crisis centres and centres serving that purpose operating in Ukraine at the current time.
94. In order to give effect to the provisions of the above act, the Ukrainian Ministry of Internal Affairs has taken certain organizational and practical measures. These include:
- In July 2003, a meeting of the ministry board was called to consider the status of implementation by the internal affairs authorities of the Domestic Violence (Prevention) Act;
 - By decision of the board, study of the act was included in the syllabus of training establishments under the Ministry of Internal Affairs;

- A special order has been prepared by the Ukrainian Ministry for Youth and Sport, ratifying the instructions relating to the procedure for interaction between departments and offices dealing with family and youth matters, the juvenile affairs services, the social services centres for young people and the internal affairs authorities responsible for implementing measures to prevent domestic violence;
- Instructions have been prepared on the procedure for placing persons responsible for domestic violence on the register and for their removal from that register;
- In collaboration with the Ministry of Health and the Scientific Research Institute for Social and Forensic Psychiatry and Toxicology, guidelines have been developed on the conduct of measures by the internal affairs authorities to prevent offences within the family;
- Together with the Ministry for Youth and Sport, a manual has been prepared and published for neighbourhood police inspectors, to assist them in preventing domestic violence; in 2005, the manual was distributed to all police stations;
- With a view to preventing the phenomenon of irresponsibility among fathers, which leads to the neglect and abandonment of children, a procedure has been developed for the monitoring of families in crisis situations;
- A procedure has been developed and ratified for the consideration of reports and complaints relating to cruelty or the threat of cruelty to children, as have instructions giving guidance to the various services dealing with families, children and young people, the social services centres for young people and the internal affairs authorities, on how to cooperate in preventing domestic violence and its consequences, namely, the abandonment and cruel treatment of children;
- Changes have been made to the way statistics are collected by the Ministry of Internal Affairs regarding reported offences involving domestic violence;
- A number of corresponding instructions and guidelines have been sent out to the regions;
- In order to assist women who have been the victims of violence, certain specialized establishments are being set up by the State authorities. Thus, the first refuge for the victims of violence commenced operation in Kyiv in the summer of 1998. Currently, a network of comparable establishments is being set in place, to provide such assistance in each region;
- Steps have been taken to launch cooperation between the Ministry of Internal Affairs of Ukraine and its various local bodies and non-governmental organizations, on whose initiative training courses have been held for neighbourhood police inspectors on ways of preventing domestic violence.

95. By a decision of 26 April 2003, the Cabinet of Ministers of Ukraine ratified the procedure for the consideration of reports and complaints regarding the commission or threat of domestic violence. A major step towards solving the problem of domestic violence was taken with the adoption on 15 May 2003 of the Ukrainian Code of Administrative Offences (Amendments relating to Liability for the Commission of Domestic Violence or the Failure to Comply with Injunctions) Act, which provides the legal and organizational underpinnings for measures to prevent domestic violence.

96. In addition, the task of preventing domestic violence requires special expertise, the grooming of qualified specialists for the services run by the neighbourhood police inspectors and the criminal police dealing with cases involving juveniles and the conduct of essential training measures for them. Accordingly, specialists are currently being prepared in the various training institutions in the internal affairs system, to work in the neighbourhood police services.

97. Efforts to give effect to the provisions of the Ukrainian Domestic Violence (Prevention) Act are starting to bear fruit. The range of organizational and practical measures carried out over recent years, designed to strengthen preventive work with persons committing acts of domestic violence and other domestic offences, has considerably helped curb the growth of crime in Ukraine and reduce the number of offences committed in private homes, in particular against women and children.

98. Thus, over the first nine months of 2004, the number of homicides and deliberate acts of grievous bodily harm committed as a result of family disputes, jealousy or on other domestic grounds, by comparison with the same period in 2003, dropped by 13.5 per cent, in which homicides accounted for 13.7 per cent (dropping from 665 to 574) and acts of grievous bodily harm for 13.5 per cent (from 771 to 667). As a proportion of crime in general, the percentage constituted by these offences declined from 21 per cent to 18 per cent.

99. At the same time, we note that almost every fifth murder in Ukraine is committed on domestic grounds and the victims are predominantly women.

100. Some 80,000 persons have been placed on the registers of the internal affairs authorities for the commission of domestic violence. In 2004, more than 40,000 persons were placed on register for such reasons, including some 30,000 for physical violence, 10,000 for psychological cruelty and 2,400 for economic abuse.

101. In all, 49,000 official warnings have been handed down and more than 6,000 injunctions issued. More than 17,000 reports have been filed with the authorities regarding cases where there was a need to prevent family violence.

102. Charges have been laid against more than 63,000 persons for committing domestic violence or failing to comply with injunctions.

103. At the same time, the experience of implementing administrative law demonstrates that, in most cases, the offenders get away with a fine. Bearing in mind that the victims of domestic violence, primarily women, are often financially dependent on their aggressors, the levying of fines has the effect of punishing the victims more than the offenders. The courts are therefore encouraged to take a more considered approach to cases of domestic violence.

104. The situation could be remedied by adopting alternative penalties for offenders, designed to avoid criminalizing people who behave violently in the home, by ordering them instead to take part in compulsory rehabilitation programmes and to perform community service.

105. With regard to the reported bullying of young soldiers in the Ukrainian armed forces by older conscripts, to which attention was drawn in the concluding observations of the Human Rights Committee, we are able to provide the following information. There is now a steady downward trend in the number of offences involving breaches of the rules of conduct regulating relations between military servicemen. Expressed as the number of offences per 1,000 persons, over recent years this figure has been more than halved, dropping from 0.9 in 2000 to 0.4 in 2004.

106. In 2004 and the first four months of 2005, 60 per cent of the confirmed cases of bullying of young soldiers had no consequences on the health of the victims; in 12 per cent of such cases, the soldiers concerned suffered mild physical injuries in the form of bruises; in 26 per cent of cases, there were health consequences of moderate seriousness; and in 2 per cent of cases, the victims suffered grievous bodily harm. Over the last five years there have been no fatalities, nor have any servicemen been driven to suicide as a result of violations of the rules of conduct regulating relations between them or of any other acts of physical violence.

107. Over recent years, the State and military authorities in Ukraine have acted to ensure that much tougher penalties are handed down for violations of the rules of conduct regulating relations between servicemen and for the concealment of such offences by officials. Since 2003, by an instruction of the Ukrainian Minister of Defence, the commanders of military units no longer have the authority to categorize violations of the rules of conduct governing relations between military servicemen as routine breaches of military discipline which may be dealt with under the disciplinary rules. All persons found guilty of the commission of such offences are now punished in accordance with the provisions of the Ukrainian Criminal Code.

108. In order to tighten military discipline still further, in 2002 the military law and order service of the Ukrainian armed forces - in other words, the military police - was created, which, together with the commanders of the military units and the military judicial authorities, is responsible for conducting legal outreach work among military servicemen to head off such problems and for ensuring observance of the rules of conduct among the military.

Article 8

Paragraph 1

109. The problem of trafficking in people is a relatively new one for Ukraine. The main factors propelling the growth of this crime to its present dimensions are the general economic decline in the country and the emergence of unemployment - now rising rapidly.

110. The citizens of Ukraine are driven by economic need to seek work abroad. Both young people and even those aged over 50 are leaving the country - without any knowledge of foreign languages, without even a rudimentary understanding of the law and often without the necessary qualifications.

111. Since, by and large, there are no legal arrangements by which they are able to find jobs abroad, these people inevitably find themselves at risk of exploitation.

112. Any endeavour to solve the problem of trafficking in people, in particular women, is directly contingent, first, upon efforts to solve the economic problems affecting both the country and society and, second, better coordination among the relevant departments and non-governmental organizations both within specific countries and at the international level.

113. Over the last few years, Ukraine has steadily and systematically stepped up its efforts to set in place conditions conducive to resisting and combating this crime.

114. By now, the process of setting in place a legal system capable of effectively impeding the spread of this evil phenomenon has virtually been completed and practical measures are now being devised and put in place. In particular, the mechanics are being worked out for the judicial prosecution and punishment of offenders and for the full scale application of the provisions of article 8 of the Covenant.

115. On 4 February 2004, the Ukrainian Supreme Council ratified, with comments, the United Nations Convention against Transnational Organized Crime, and also the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air.

116. On 25 September 1999, the Cabinet of Ministers of Ukraine adopted a decision on the programme to prevent trafficking in women and children, which, among other things, makes provision for the creation of rehabilitation and crisis centres and refuges for women who have been the victims of violence or trafficking, and the organization of annual conferences and seminars with the aim of coordinating efforts by the Government, local authorities, voluntary associations and charities and identifying measures to prevent trafficking in women.

117. The primary tasks in implementing the 2002-2005 comprehensive programme to suppress trafficking in people, ratified by a Cabinet decision of 5 June 2002, include the provision of career guidance and training for unemployed people in trades for which there is a demand on the job market; helping young people find jobs through the State employment service; continuing efforts to involve and support unemployed women in entrepreneurial activities; and participating in annual regional and intersectoral symposiums and seminars on the coordination of efforts to prevent trafficking in people.

118. The Ministry of Labour and Social Policy systematically publishes information in the mass media on issues relating to the prevention of trafficking in people. Thus, in 2004, some 21 broadcasts were devoted to this theme, including a radio programme in the listeners' advice series, broadcast on radio Melodiya, providing advice and warnings relating to the risks of working abroad; and a programme in the series of broadcasts by the State employment service, describing measures taken by the State employment service to prevent trafficking in people.

119. In addition, a booklet entitled: "People trafficking - the worst type of crime" has been prepared and 500,000 copies printed; these are being disseminated through local employment centres.

120. The Ministry of Labour and Social Policy also conducts a quarterly monitoring exercise on issues relating to trafficking in people and is involved, within its jurisdiction, in measures to tackle the problem of trafficking in people.

121. The Ministry for Youth and Sport has been designated as the government body responsible for coordinating measures by ministries and other central government bodies designed to prevent trafficking in people.

122. In 2002, the Interdepartmental Coordination Council for the Prevention of Trafficking in People was set up under the Cabinet of Ministers with an expert working group responsible for its day-to-day operation, whose membership includes representatives of non-governmental organizations.

123. Working in cooperation with voluntary associations, the Government has developed and adopted two programmes in this area, the first for the period 1999-2001, to prevent trafficking in women and children, and the second for the period 2002-2005, to combat trafficking in people in general.

124. These nationwide programmes provide a valuable mechanism for preventing trafficking in people, in particular women and children. They have made possible the formulation of specific plans of action at both State and regional levels; they have helped bring the problem to the attention of the central authorities, non-governmental organizations and the public at large; and they have necessitated the formation of new working methods for the country's law enforcement agencies, the development of new forms of coordination and the adoption of entirely new measures.

125. One of the primary tasks facing the comprehensive programme is to implement an entire range of awareness-raising measures, targeted at the public in general and, in particular, at women in the so-called high-risk groups, for whose benefit a continuous programme of educational measures is being conducted.

126. As an illustration of efforts made in this area, attention may be drawn to the handbooks for teachers in educational establishments and for social workers and to a number of documentary films and docudramas broadcast on television. The problem of preventing trafficking in people is one of the main focuses of the work by the government-run social service centres for young people and of the confidential telephone support lines set up in these centres. There are currently more than 200 such helplines operating in 950 young people's social service centres.

127. In November 2002, with support from the Organization for Security and Cooperation in Europe (OSCE) and the assistance of the Ukrainian Ministry for Youth and Sport, a nationwide telephone hotline, operated from the "La Strada-Ukraine" international women's rights centre, was set up for the purpose of preventing trafficking in people. This is also free of charge and accessible by all women in any part of the country.

128. In its efforts to locate Ukrainian citizens who have temporarily or permanently taken up residence abroad and have gone missing, and acting in compliance with the Ukrainian consular rules, Ukraine extensively appeals to the competent authorities of other countries, initiates discussions and consultations, concludes appropriate legal agreements, draws on the financial resources available from international organizations, enlists the assistance of influential law firms, makes use of the services of honorary consuls and employs a range of other information and publicity measures.

129. Educational work is constantly being conducted with Ukrainian people, both in Ukraine and abroad, designed to make them aware of the undesirable consequences of illegally travelling abroad in search of work. Most Ukrainian diplomatic and consular missions and offices of the Ministry of Foreign Affairs within Ukraine have pages on their websites providing legal information for Ukrainian citizens, which include, among other things, information about the countries to which they have travelled, with particular reference to the legal status of Ukrainian citizens; recommendations as to how to find work; and the text of relevant rules and regulations of Ukraine and of the country in which work is being sought.

130. An active awareness-raising and educational campaign is being conducted with Ukrainians who personally contact the Ministry of Foreign Affairs, including by telephone and email, to enable Ukrainian citizens to receive legal consultations, free of charge, with lawyers specializing in international law on matters relating to travel abroad for the purposes of finding work, education, etc.

131. Ukraine always reacts promptly to violations of the rights of Ukrainian citizens abroad and, for that purpose, draws on all the resources available under international law. Measures have been developed to combat trafficking in people and have been brought to the attention of the country's diplomatic and consular missions for them to use in their practical work. These measures are primarily designed to prevent trafficking in people, to monitor the causes underlying the voluntary and involuntary travel of women abroad and the means of such travel and to ensure that Ukrainian embassies provide comprehensive assistance to such people for the purpose of their return to Ukraine.

132. Information and awareness-raising measures have also been undertaken as part of the project by the International Organization for Migration (IOM) to prevent trafficking in women in Ukraine. Assistance has been provided by disseminating information abroad about the operation of the country's permanent nationwide hotline to prevent trafficking in people.

133. On 4 March 2005 the Ministry of Foreign Affairs set up its centre for the assistance of Ukrainian citizens abroad. The principal functions of this centre are to change the approach followed in providing protection for Ukrainian citizens, in particular, by organizing efforts to shelter them from harm; to fill the legal vacuum relating to the issue of finding employment abroad; to conduct preliminary work to inform and educate them about the law; and to provide legal protection for Ukrainian citizens working abroad, applying every possible means of defending their rights and interests with their employers in the country of employment, both as provided for by the domestic law of the country in question and by international legal instruments.

134. To tackle the problem of the return to Ukraine of the country's citizens who have fallen into difficulties abroad, Ukraine is maintaining constant working contacts with such international and voluntary organizations and charitable foundations as the National Council of Ukrainian Women, the La Strada Ukraine international women's rights centre, Caritas Ukraine, IOM, the Rebirth Fund, etc.

135. Ukraine consistently supports efforts by the United Nations to combat trafficking in people and has co-sponsored corresponding resolutions of the General Assembly and the Commission on Human Rights. Ukraine also played an active role in the elaboration of the Council of Europe Convention on Action against Trafficking in Human Beings. Currently, the country is working to finalize domestic procedures for the signature of the Convention by Ukraine.

136. The second major area of work relates to the identification of people traffickers and measures to put a stop to their activities.

137. Ukraine was in fact one of the first countries in Europe to amend its own criminal code by introducing a special article designating trafficking in people as a criminal offence.

138. Since the entry into force of the article, between March 1998 and January 2005, more than 872 criminal proceedings have been instituted by the law-enforcement agencies, including 2 in 1998, 11 in 1999, 42 in 2000 and 90 in 2001.

139. The country's law-enforcement agencies have set up special units to combat offences relating to trafficking in people. In general terms, according to assessments by international experts, Ukraine is in the vanguard of efforts to combat this phenomenon.

140. In addition to suppressing such offences and punishing the perpetrators, the task of assisting the victims is one deemed particularly important by Ukraine. To that end, for instance, it is planned to set up a number of rehabilitation centres, the first of which commenced operation, with the support of IOM, in Kiev in 2002. There is a steady upward trend in the number of women receiving comprehensive assistance in this area.

141. The most effective means of tackling this heinous phenomenon is to remove the actual causes which give rise to trafficking in women.

142. Accordingly, we ascribe particular importance to ensuring the revitalization, at the earliest possible stage, of the country's economy and lowering the unemployment rates, in particular for women. Efforts to tackle these problems are moving in two directions: first, through the creation of more jobs in the country and, second, through responding to the needs of the younger and more active sectors of the population by arranging temporary, legal employment abroad with the conclusion of bilateral inter-State agreements, setting quotas and guaranteeing appropriate protection for migrant workers.

143. According to figures from the State Institute for Family and Youth Affairs, persons leaving Ukraine in search of work predominantly fall into the 15-35 age group; most of them are married and 50-60 per cent have children.

144. Where the search for employment abroad is concerned, it is a well-known fact that most women who end up in sexual slavery have no intention when leaving the country of working in the sex business. This is attested to by women who have broken free of such slavery and are currently undergoing rehabilitation in the Kyiv centre, who speak openly and with considerable emotional anguish of their experiences.

145. We believe that efforts to legalize the status and to extend the scope of employment abroad for young Ukrainians could be an important step in the process of preventing trafficking in people. A proposal to this effect by the Ukrainian delegation was widely supported at the European conference on preventing and combating trafficking in human beings, held in Brussels under the slogan "Global challenge for the twenty-first century", and it was incorporated into the ensuing Brussels Declaration on Preventing and Combating Trafficking in Human Beings.

146. The Ukrainian Government has made provision for additional safeguards relating to employment for various groups of people who need social protection and are unable to compete on an equal footing on the job market. Such groups include women with children aged under 6 and single mothers, in particular, with children under 14 or disabled children. The safeguards are provided by a system of reserving up to 5 per cent of jobs for persons in those sectors. Currently, tens of thousands of jobs are reserved every year for women in those sectors. The 5 per cent preferential employment quota for people in these categories in most provinces of the country is ratified annually by the authorities.

147. Measures are being taken to ensure full implementation of the Cabinet order issued on 2 August 2000, relating to the ratification of measures to implement a policy for the effective support of the self-employed, of family businesses and of small and medium-sized enterprises, to improve the system of providing assistance for the unemployed and of their vocational and psychological rehabilitation, and to widen the scope of social work.

148. In addition to measures adopted by the Government, a great deal is being done by women's non-governmental organizations. Following a women's initiative, with the support of local authorities and funding assistance from international organizations, a number of women's centres have been set up to provide information, consultations and other services.

149. Attention should also be drawn to the numerous business centres and other special centres for women who lack the necessary facilities at home, which form an extensive network providing a wide range of assistance for women who do not have jobs or who are trying to find a niche for themselves, helping them to secure government or private funding to start their own businesses.

150. Voluntary associations also operate as credit unions, helping to provide credit for the start-up of small businesses and to support entrepreneurial activities by women.

151. When reviewing the general problems faced by the Ukrainian economy, particular attention should be given to those affecting the export of Ukrainian goods. For example, as a consequence of protectionist measures targeted against textile exports from Ukraine, Ukrainian businesses in this light industrial sector, which predominantly employs women, are in particularly dire straits.

152. There is also a particular need to support entrepreneurial activities by women in the countryside.

153. The following are the main areas where efforts are needed: the entire international community should be mobilized in an effort to combat trafficking in people; radical steps must be taken to improve coordination of efforts both within the country and those of international institutions and non-governmental organizations to combat this phenomenon; an information clearing house should be set up on the issue; appropriate national and international programmes should be launched to foster employment; an integrated approach should be followed in tackling the problem, including the adoption of measures to combat trafficking in people, such as by establishing the right social and economic conditions, elaborating relevant legislation, conducting broad awareness-raising campaigns for the public and strengthening the capacity of the relevant units of the law-enforcement and frontier authorities; the prosecution of people traffickers; and the protection and rehabilitation of their victims.

154. The conduct in Ukraine of programmes to suppress trafficking in people could serve as an example of productive cooperation between the authorities, at both central and local levels, and women's non-governmental organizations, which have rendered significant assistance not only in practical terms but also in ensuring the adoption in Ukraine of major government decisions.

Paragraph 3

155. Under article 43 of the Constitution, forced labour is prohibited. Military or alternative (civilian) service, and work or service performed by an individual as a sentence or other court decision, or in accordance with martial law or the laws on states of emergency, are not considered to be forced labour.

Article 9

156. The Ukrainian Constitution stipulates that, in the event of an urgent necessity to prevent or stop a crime, bodies authorized by law may remand a person in custody as a temporary preventive measure, the reasonable grounds for which must be verified by a court within 72 hours. Thus, persons may not be held for more than 72 hours awaiting the court decision (art. 29).

157. Pursuant to this provision, the Ukrainian Code of Criminal Procedure strictly determines the procedure for the detention of a person suspected of an offence (art. 106). Such detention may be ordered by the body conducting the initial inquiry only if the person is suspected of committing an offence punishable by deprivation of freedom.

158. If there are other grounds for suspecting persons of having committed an offence, those persons may be detained only if they have attempted to avoid arrest or have no permanent residence, or if their identity has not been established.

159. Suspects must be freed if, upon the expiry of 72 hours from their being taken into detention, the grounds for suspicion that they have committed an offence have not been substantiated, the period set by law for such detention has expired or it is established that the detention was carried out in breach of the requirements of article 106, paragraphs 1 and 2, of the Ukrainian Code of Criminal Procedure.

160. If the decision by the judge on the need to remand a suspect in custody as a preventive measure or, conversely, a decision to free the suspect is not received at the pretrial detention facility during the period set by law for detention, the detainee is set free. A corresponding report is drawn up and the official or body which carried out the detention is duly notified.

161. It should be noted that the inviolability of the person in Ukraine is safeguarded by the system of judicial review, which consists in the right of suspects to challenge their detention in courts (art. 106, para. 7, of the Code of Criminal Procedure).

162. Any further restriction of the freedoms of citizens may only be made by decision of the courts.

163. Ukrainian law on criminal procedure (art. 165.2, para. 8, of the Code of Criminal Procedure) makes provision for a situation where a suspect may remain in detention for longer than 72 hours without being remanded in custody as a preventive measure. Such cases arise when there is need for the further consideration of information relating to the identity of the detainee or the need to elucidate other circumstances of significance for the adoption of a decision on measures of restraint. In such cases, the judge is entitled to extend the period of detention up to 10 and, upon the petition of the suspect or the accused, 15 days, whereupon a formal decision is to be issued on such extension.

164. With regard to the provision of information on the composition, appointment, mandate and powers of the parties conducting the initial investigation, these issues are covered in articles 101 and 103-110 of the Ukrainian Code of Criminal Procedure and also, to some extent, in the Police Inquiries Act of 18 February 1992.

165. The rights of citizens held in pretrial detention facilities and serving custodial sentences have been considerably expanded by the rules of current domestic legislation and, in particular, by the new Code of Criminal Procedure of 11 July 2003. Article 1 of the Pretrial Detention Act of 30 June 1993 and article 1 of the Code of Criminal Procedure stipulate that the procedure and conditions for the detention of arrested and sentenced persons shall be based on the principle of strict adherence to the Ukrainian Constitution, the requirements of the Universal Declaration of Human Rights and other rules and standards of international law relating to the treatment of detainees.

166. The administration of the pretrial detention facility is obliged to explain to persons taken into custody the grounds and motives for the application of that particular preventive measure, the detainees' right to challenge that measure in court and also the provisions of the country's Constitution relating to civil rights and other rights of detainees provided under law.

167. The rights and interests of persons held in custody are safeguarded by ensuring that they are able to have private meetings with defence lawyers, with no limitation on the number or

length of such meetings, from the moment their defence counsel is admitted as a participant in the proceedings. Persons serving custodial sentences may receive legal assistance from lawyers or other legal specialists, may have visits from relatives and other persons and make telephone calls and may also follow courses of education. Detainees aged between 14 and 35 have the right to psychological and educational assistance from specialists from the social services centres for families, children and young people.

168. Under article 113 of the Ukrainian Criminal Code, convicted persons are permitted to receive and send letters and telegrams, to submit proposals, applications and complaints to the Human Rights Commissioner of the Supreme Council and to the procurator; there shall be no restriction on the number of such letters, telegrams or other submissions, nor shall they be subject to any scrutiny and they shall be dispatched to their addressee within 24 hours. Comparable rules (art. 13) are also provided in the Ukrainian Pretrial Detention Act of 30 June 1993.

169. Medical services and various therapeutic, preventive and epidemic control measures are provided in pretrial detention and custodial facilities in accordance with the health legislation. Regulatory instruments issued jointly by the Ministry of Health and the Ukrainian Criminal Corrections Service stipulate that persons being admitted to remand centres and correctional colonies shall undergo medical inspections both upon admission to the facility and upon their discharge.

170. The health of detainees and convicted persons is also monitored by a system of yearly preventive and specialized medical examinations. For the purpose of conducting such examinations, the facilities are equipped with medical units with in patient facilities and specialized hospitals with the necessary medical staff.

171. The Ukrainian Tuberculosis (Infection Control) Act of 5 July 2001 stipulates that persons serving sentences in facilities of the criminal corrections system must undergo compulsory tuberculosis checks upon their admission to the facility and thereafter not less frequently than once a year and one month before their discharge (art. 8, para. 3 (c)).

172. In accordance with the comprehensive plan of organizational and practical measures to remedy deficiencies in the organization and functioning of remand centres and for the further improvement of their work, ratified on 8 February 2002 by the board of the Ukrainian Criminal Corrections Service, systematic training measures are conducted with the staff of facilities who have direct contact with detainees. The content of such training is determined by the requirements of current domestic legislation and international legal instruments governing the procedure for the treatment of detainees and is designed to impart to the staff undergoing training the fundamentals of human psychology and methods for the avoidance of conflicts in their contacts with detainees.

173. According to information from the Ukrainian Criminal Corrections Service, during the first four months of 2005 no charges were laid against any employees of remand centres or correctional colonies for offences against the law covering acts of torture or other cruel, inhuman or degrading treatment of persons detained in their facilities, nor were any reports of such acts filed with the procuratorial authorities.

174. In order to track down violations of civil rights and to ensure a prompt response to such violations, the procuratorial authorities conduct comprehensive, specialized and unannounced checks that the regulations are being observed in pretrial detention facilities, custodial centres and other facilities where persons are serving sentences or other punitive measures handed down by the courts. Where necessary, the services of specialists from ministries and government departments and representatives of the public are enlisted in such checks.

175. In accordance with the departmental regulations, such checks are conducted on a monthly basis in remand centres within correctional colonies, every three months in bodies where persons are performing non-custodial sentences, and once every six months in correctional colonies.

176. During the conduct of such checks, particular attention is given to ensuring that there are lawful grounds for the detention of citizens in pretrial detention facilities and that the choice of custody as a preventive measure is fully justified. Over the course of 2004, 21 detainees were discharged from remand centres by order of the procurator and, in 2003, 50 detainees.

177. In addition, to ensure constant oversight of remand centres and correctional colonies, every month detainees may have interviews with the authorities on personal matters and procedures are conducted to verify the lawfulness of decisions taken by the administration in respect of applications and complaints, of reports of the commission of offences, of the confinement of detainees in special cells, in solitary confinement, in disciplinary units or in punishment cells. Following the revelation of unlawful decisions by those in charge of such facilities on the application of extreme measures, in 2004, 120 detainees were released from special punishment facilities by order of the procurators and, in 2003, 131 detainees.

178. The accumulated experience gained from the process of procuratorial oversight of compliance with the law in facilities where persons serve punitive measures ordered by the courts is compiled and analysed with a view to its application in the day-to-day work of the relevant bodies and to ensure that the reasons and conditions conducive to violations of the rights and lawful interests of citizens are duly overcome.

Article 10

179. According to the findings by the delegation of the European Committee for the Prevention of Torture following its last visit to Ukraine in 2003, the Committee representatives did not receive a single complaint from detainees or convicted persons alleging ill-treatment by staff.

180. As things stand, virtually all the Committee's recommendations have already been put into effect, while those which necessitate considerable financial outlay or whose implementation requires more time are currently in the process of being implemented.

181. An active role in the process of reforming Ukraine's prisons system is also being played by the Human Rights Commissioner of the Ukrainian Supreme Council. In his reports, the Commissioner repeatedly notes that there has been significant progress in recent months in the reform process, in particular, in efforts to uphold the rights and fundamental freedoms of convicted persons.

182. Over the period from 2003 to the first quarter of 2005, inclusive, no complaints or reports of the use of torture or inhuman or degrading treatment or punishment against detainees by employees of the criminal corrections system have been received by the Ukrainian Criminal Corrections Service.

183. The new Criminal Code of Ukraine, which entered into force in 2004, includes a number of fundamental provisions designed to uphold the rights of convicted persons.

184. The country's criminal law is underpinned by such fundamental principles as lawfulness, fairness, the need for a humane approach, democratic standards, equality of convicted persons before the law and the reciprocal responsibility of the State and the convicted person. The law also includes provisions defining the legal status of convicted persons and enshrines their right to personal safety.

185. Among the innovations of the Code, attention is drawn to the introduction of a progressive system for the serving of sentences, inculcate a law-abiding culture among convicted persons, and to vary the conditions of the detention in accordance with their behaviour and the degree to which they demonstrate reform, to the point of early conditional discharge. Applying the European experience, penitentiary facilities now include departments for quarantine, diagnosis and troubleshooting, resocialization, intensified monitoring, social rehabilitation and social reintegration.

186. The law reaffirms the right of convicted persons to notify close relatives and lawyers or other legal specialists of the disciplinary actions taken against them. In order to foster law-abiding attitudes in convicted persons and to build a system of incentives into the legal rules and standards, the probationary period which a convicted person has to serve after completing a disciplinary punishment has been reduced from one year to six months.

187. The task of setting in place conditions for the correction and resocialization of convicted persons is shared by the entire staff of the correctional bodies and facilities, while specific social rehabilitation and psychological work with convicted persons is the responsibility of some 2,600 staff members from the social and psychological services. These staff members remain in permanent contact with the convicted persons, helping them to deal with their more urgent problems and to defend their rights and lawful interests and providing psychological assistance.

188. The work conducted in criminal correctional facilities includes programmes of specially tailored rehabilitative guidance, designed to help convicted persons develop positive skills, to complete their secondary education, to master trades, to learn the basics of law, to prepare themselves for their release, to overcome alcoholism and drug dependency, to take up physical exercise and sport and to make constructive use of their free time.

189. Correctional colonies include among their facilities educational establishments providing general education and training in vocational trades. Each such establishment has its own library. The hostels for convicted persons are equipped with a radio transmission network and with television sets. A newspaper, *Zakon i obyazannost* (*Law and Obligation*), is published for the staff of such facilities and for the convicted persons.

190. An important function in the process of helping people get used to living in prison and making it less of a mental shock is performed by the work of psychologists. Psychologists conduct detailed studies of the personality of convicted persons, making prognoses of their behaviour, rendering them psychological help and coaching them in anger management. Each facility is equipped with a room for psychological and emotional decompression.

191. Correctional facilities are equipped with the necessary conditions to uphold the constitutional right of convicted persons to freedom of belief. The representatives of most of the religious organizations registered in Ukraine conduct pastoral work with convicted persons and perform religious services. Special areas are set aside for those purposes in most such facilities and some even have designated religious premises, such as churches.

192. The general public and non-governmental and charitable organizations are invited to play an active role in the process of correcting and resocializing convicted persons. An outline plan for a social partnership between voluntary associations and correctional bodies and facilities has been ratified.

193. As part of the joint projects conducted by the State criminal corrections system and voluntary associations, pamphlets have been published setting out the rights and obligations of convicted persons, and these are issued to all such persons upon commencement of their custodial sentences. This is in line with the requirements of the European Prison Rules. Easily accessible information kits about the law have also been published and are distributed in the facilities housing convicted persons.

194. In order to ensure that proper medical assistance is available to prisoners suffering from tuberculosis or with HIV-positive status, departmental programmes have been developed and are being implemented for the conduct of comprehensive measures to control the spread of tuberculosis in the country's custodial facilities over the period 2002-2005, to promote prevention of HIV infection and to provide assistance and treatment for persons infected with HIV/AIDS over the period 2004-2008, by Cabinet decision of 4 March 2004.

195. The conduct of a range of measures over the period 2003-2004 has made it possible to stabilize the tuberculosis infection level and, in custodial facilities, to lower it by 60 per cent from the 2000 level.

196. Ukraine's Criminal Code contains legal provisions requiring the conduct of public monitoring to ensure that the rights of convicted persons are upheld during their custodial sentences. This monitoring is conducted by supervisory commissions made up of representatives of local authorities, local government bodies and the general public. In addition, the State Criminal Corrections Service and its local administrative bodies include voluntary boards as part of their structure.

197. Ukraine has made tangible progress towards establishing a single State system for the post-penitentiary care of citizens released from prison. In 2004, an act entered into force which provides for the social reintegration of persons completing custodial or semi-custodial sentences.

198. The Government has ratified a State programme for the period 2004-2006 for the social reintegration of persons discharged from custodial facilities, by Cabinet decision of 30 August 2004.

199. Responsibility for organizing and coordinating efforts relating to the social protection of persons released from prison, the development of a social reintegration system for such persons and the establishment of appropriate specialized institutions rests with the country's Ministry of Labour and Social Policy.

200. At the current time, the Ukrainian Criminal Corrections Service has prepared a draft State programme for the period 2005-2010 to bring the custody conditions obtaining in the establishments of the country's criminal corrections system into line with the requirements of the law, which has been submitted to the Cabinet of Ministers for approval. In addition, the Ministry of Justice, working together with the Criminal Corrections Service, has prepared a draft outline of the State criminal corrections policy, which provides for measures to improve and make more humane the conditions under which sentences are served and to reduce the numbers of persons held in custodial facilities.

Article 12

201. By a decision of the Ukrainian Constitutional Court of 14 November 2001, paragraph 4.1 of the passport service regulations, relating to registration and removal from registration, has been deemed unconstitutional.

202. In 2003, the country adopted an act on the freedom of movement and free choice of place of residence.

203. The previous system of residence permits (the "propiska") as a means of determining a person's place of residence or change in address, has been replaced by a new registration system. While the "propiska" was a system of administrative permits, the new arrangements for registering a person's place of residence or change in address serve purely information purposes.

204. The aim of the new registration process is to ensure, when a person freely chooses his or her place of residence, that a firm legal connection is established between that person and the State, with a view to upholding their reciprocal rights and obligations. The "propiska" performed the function of confining people to a specific administrative or territorial unit by means of a system of territorial quotas; accordingly, its operation required the issuance of permits by various housing and residential commissions, local authorities and other bodies.

205. We should also mention that, while the "propiska" applied exclusively to permanent residence, the new registration system will cover both permanent and temporary residence.

206. Under current conditions, citizens of Ukraine, foreigners and stateless persons who have legally entered the country are not required to obtain any permits from the administrative authorities if they wish to change their place of residence within the territory of Ukraine.

207. The list of documents that have to be produced for the purposes of registration has been significantly reduced. All that is now required is a passport or identity document, an application, a receipt of payment of the relevant State fee and two confirmation slips confirming removal from the previous residential register.

208. According to the final provisions of the act referred to above, all persons who had the previous registration stamp in their identity documents shall automatically be considered registered under the new system and are not required to obtain any additional stamps. This is very important for the phased introduction of this act.

209. The act also stipulates that the registration of a person's permanent or temporary place of residence or the absence of such registration may not serve as grounds for the exercise of the rights and freedoms stipulated by the Ukrainian Constitution or by the country's laws or international treaties or for the limitation of such rights and freedoms.

210. The act also sets out a list of conditions under which freedom of movement and free choice of place of residence may be restricted.

211. Until such time as the Registration of Individuals and Place of Residence (Procedure) Act of 16 January 2003 is adopted, the interim statute on the procedure for the registration of individuals at their place of residence shall apply.

212. The interim procedure for the registration of individuals at their place of residence has been ratified.

213. Accordingly, the institution of "propiska" has been abolished in Ukraine.

Article 13

214. The status of foreigners and stateless persons in Ukraine is governed by the Foreigners and Stateless Persons (Legal Status) Act of 4 February 1994.

215. Article 32 of the act stipulates that foreigners and stateless persons who have committed criminal or administrative offences in the territory of Ukraine may be expelled from the country upon completion of their sentences. In addition to being expelled, such persons may also, by decision of the internal affairs authorities, be prohibited from visiting Ukraine for a period of five years.

216. In addition, foreigners and stateless persons may be expelled from the country by decision of the internal affairs authorities, the frontier protection authorities or the Ukrainian Security Service, if their conduct manifestly breaches the law on the status of foreigners and stateless persons or where this is deemed necessary to safeguard the health or to protect the rights and lawful interests of Ukrainian citizens.

217. When a foreigner is to be expelled, the procuratorial authorities must be informed within 24 hours.

218. Foreigners and stateless persons may be granted 30 days following the decision on their expulsion to leave the country.

219. Appeals may be lodged with the courts against decisions by the internal affairs authorities, the State frontier protection authorities or the Ukrainian Security Service on the expulsion of foreigners and stateless persons from Ukraine. The lodging of an appeal will cause the implementation of the decision on expulsion to be suspended, except where immediate expulsion is deemed justifiable in the interests of national security for the safeguarding of public order.

Article 14

Paragraph 1

220. In article 124, the Ukrainian Constitution stipulates that justice in Ukraine is administered exclusively by the courts.

221. The Ukrainian Code of Criminal Procedure provides that justice in criminal cases is administered on the basis of equality before the law and the court of all citizens irrespective of origin, social status, property, racial or ethnic affiliation, sex, education, language, attitude to religion, type and nature of employment, place of residence or other circumstances (art. 16).

222. Under article 20 of the Ukrainian Code of Criminal Procedure, the hearing of cases is open in all courts except when this runs counter to the interest of protecting State secrets.

223. Closed court hearings may also be permitted by a reasoned decision of the court in cases relating to crimes committed by persons under the age of 16, cases involving sexual offences and in other cases, with a view to preventing the disclosure of information about intimate aspects of the lives of persons taking part in the hearing.

224. On the subject of the state of criminal procedural legislation in Ukraine, we may note that a new draft code of criminal procedure has been elaborated and is currently being prepared for its second reading.

225. This draft is more detailed, less harsh and designed to uphold the constitutional rights of suspects, accused persons and victims.

Paragraph 2

226. In Ukraine, the principle of the presumption of innocence obtains when persons are charged with a criminal offence.

227. Thus, under article 62 of the Ukrainian Constitution, a person is presumed innocent of committing an offence and shall not be subjected to criminal punishment until his or her guilt has been proved through legal procedure and established in a guilty verdict handed down by a court.

Paragraph 3

228. Suspects, accused persons and defendants shall be afforded the right to defence (Code of Criminal Procedure, art. 21, part 1).

229. Ukraine's criminal procedural law guarantees the rights of suspects and accused persons in the conduct of investigative activities. In particular, they have the right to know of what they are suspected or being accused; to make statements regarding charges against them or to refuse to make such statements and to answer questions; to have a defence lawyer and the right to an interview with that lawyer before the first questioning; to submit evidence; to file petitions; to be informed of all the evidence in the case, following the conclusion of the pretrial investigation; to take part in the judicial proceedings in the court of first instance; to challenge the jurisdiction of the court; to lodge complaints about the actions and decisions of the persons conducting the initial inquiry, the investigators, the procurators, the judges and the courts (arts. 43 and 43-1 of the Code of Criminal Procedure).

Paragraph 4

230. On the issue of the criminal responsibility and punishment of minors, it is important to distinguish those minors who have reached the age of criminal responsibility. Thus, liability may be incurred by persons who have reached the age of 16 before the commission of an offence. Offenders aged between 14 and 16 may only be held criminally responsible for certain offences, listed in article 22 of the Ukrainian Criminal Code.

231. Taking into consideration the specific biological, psychological and social features of minors, the law both provides extra safeguards for them in the criminal justice system and also makes provision for the specific ways in which they may be prosecuted, relieved of liability, punished or exempted from punishment and the serving of sentences.

232. The grounds for the criminal responsibility of minors and the principles of such responsibility are the same as those applicable to persons of majority age. Chapter 15 of the general section of the Ukrainian Criminal Code establishes the rules which apply to the specific nature of the prosecution and punishment of minors: first, the conditions under which they may be spared criminal prosecution are more extensive than for persons of majority age, involving, instead, the imposition of compulsory re-education measures; second, restrictions are placed on the severity of the types and extent of punishment and other measures to be applied under the criminal law; third, milder requirements (or conditions) are established for exemption from criminal punishment; and, fourth, requirements are laid down relating to the expiry and expunging of criminal records.

233. Should any particular issue not be covered by articles in this chapter of the Code, the consideration of cases involving minors must be guided by the provisions set out in other chapters of the general and specific parts of the Criminal Code.

234. The Ukrainian Code of Criminal Procedure defines the procedure for considering cases involving socially dangerous acts perpetrated by persons who have not reached the age of criminal responsibility.

235. Pursuant to article 7-3 of the Code, once the investigator in a criminal case has established that a socially dangerous act has been perpetrated by a person aged between 18 and the age of criminal responsibility - namely, 16 or, in certain circumstances, 14 - he or she issues a reasoned decision to close the criminal case and instead to impose compulsory re-education measures on the juvenile offender. The case file, together with the decision, are handed over to the procurator. Before the case is handed over to the procurator, the minor in respect of whom the decision has been taken, together with his or her parents or other persons acting in their stead, is granted the opportunity to familiarize himself or herself with all the case materials and, in that process, is also afforded the right to the services of a lawyer.

236. If it is established that a person aged between 11 and 14 has perpetrated a socially dangerous act in respect of which the Ukrainian Criminal Code provides a custodial sentence of more than five years, the offender concerned must immediately be isolated: by decision of the investigator or the body conducting the initial inquiry and with the consent of the procurator, based on a duly reasoned decision by the courts, the juvenile offender may be placed in a reception and placement centre for juveniles for a period of up to 30 days. In such cases, a lawyer shall be available from the moment that the offender has been placed in the reception and placement centre.

237. If a socially dangerous act is perpetrated by a child under the age of 11, the investigator, once this fact has been established, shall take a decision to close the case, duly notifying the procurator and the commission for juvenile affairs in the area where the child resides.

Paragraph 5

238. Pursuant to article 12 of the Ukrainian Judicature Act of 7 February 2002, participants in judicial proceedings and other persons in circumstances and in the manner prescribed by procedural law shall be entitled to challenge judicial decisions in higher courts by way of appeal or cassation.

239. Part four of the Ukrainian Code of Criminal Procedure sets out the procedure for appeal and cassation, and also the procedure for the review of judicial decisions in exceptional circumstances.

Paragraph 7

240. In article 61, the Constitution stipulates that no one may be prosecuted twice for one and the same offence.

241. Implementation of this provision of the Constitution is provided for in criminal law by article 2, paragraph 3, of the Criminal Code.

242. This provision applies both to cases where persons have already been punished for the offence in question and to those where the person has been acquitted or, for one reason or another, unconditionally released from any criminal responsibility or exempted from punishment.

243. The provision also extends to cases of criminal prosecution, punishment, acquittal or exemption from liability in other countries.

Article 15

Paragraph 1

244. The application at a given time of legislation establishing criminal liability is governed by the Ukrainian Criminal Code.

245. Thus, in article 4, the Code stipulates that the criminality and punishability of an act shall be determined by the criminal liability legislation in force at the time of commission of the act.

246. The Criminal Code also makes provision for the retroactive effect of criminal law. Thus, article 5 states that, if under criminal liability legislation an act is decriminalized or its criminality lessened, the effect of such legislation shall be retroactive, in other words, shall extend to persons who perpetrated the act in question prior to the entry into force of the legislation, including persons serving sentences or having served sentences but whose records still have not been unexpunged.

247. Criminal liability legislation which criminalizes an act or imposes heavier penalties for an offence shall not be retroactive in effect.

248. Where criminal liability legislation partially imposes heavier penalties for certain offences and partially lightens the penalties for others, only those parts that lighten penalties shall be retroactive in effect.

Paragraph 2

249. Pursuant to article 3, paragraph 3, of the Criminal Code, the criminality of an act and also its punishability and other consequences under criminal law may only be determined by the Code.

250. Criminal liability legislation may not be applied by analogy.

251. Pursuant to paragraph 5 of the said article of the Criminal Code, Ukrainian laws establishing criminal liability must comply with provisions contained in existing international treaties the binding nature of which has been accepted by the Supreme Council of Ukraine.

Article 17

252. Under article 32 of the Ukrainian Constitution, no persons may be subjected to interference in their personal and family life, except in cases provided for by the Ukrainian Constitution.

253. Confidential information about persons may not be collected, stored, used or disseminated of without their consent, except in cases established by law, and only in the interests of national security, economic welfare and human rights.

254. Article 31 of the Constitution stipulates that everyone is guaranteed privacy of correspondence, telephone conversations and telegraphic and other communications. Exceptions may be determined only by a court in cases established by law, with the purpose of preventing crime or ascertaining the truth in the course of the investigation of a criminal case, if it is not possible to obtain information by other means.

255. Under article 14-1 of the Ukrainian Code of Criminal Procedure, citizens are guaranteed inviolability of their home. No one has the right to enter a home against the will of the persons living there without legal justification.

256. Searches, confiscation, inspection of citizens' premises, seizure of correspondence and its confiscation at post and telegraph offices may only be effected on the grounds and in accordance with the procedure established by the Code.

Article 18

257. The number of military personnel categorizing themselves as believers has increased by 14.8 per cent over the number recorded in the previous call-up: in the autumn 2003 call-up, the overall proportion of believers was 53 per cent. Among those called up in autumn 2004, 62 per cent were Orthodox (as against 45.1 per cent in 2003); 2.9 per cent Catholics (5 per cent in 2003); 1.5 per cent Muslims (0.3 per cent in 2003); and 1.4 per cent representatives of other faiths (2.6 per cent in 2003).

258. Under article 35 of the Constitution, every citizen is guaranteed the freedom of personal philosophy and religion. Alongside equal rights, the State also stipulates the equal obligations of citizens before the law. No persons may be relieved of their obligations to the State or refuse to apply the laws for reasons of religious belief. In the event that the performance of military duty is contrary to the religious beliefs of a citizen, the performance of this duty shall be replaced by alternative service.

259. The right of citizens to perform such alternative service is also guaranteed under article 2 of the Alternative (Civilian) Service Act of 12 December 1991. All Ukrainian citizens have the right to perform alternative service if the performance of their military duties runs counter to their religious beliefs and if they belong to religious organizations whose doctrine proscribes the use of weapons.

260. Since military service is compulsory in Ukraine, the question of replacing such service by alternative (civilian) service is regulated by the State. To that end, a list has been drawn up and ratified by the Cabinet of Ministers of religious organizations whose doctrines do not permit the use of weapons and, by extension, the performance of military service. In addition to the religious organizations included in the list, the members of religious organizations with comparable religious beliefs are also assigned to perform alternative service. The decision to assign citizens from religious organizations with equivalent beliefs to the performance of such service is taken jointly by the alternative (civilian) service commissions and the Ukrainian State Committee on Religious Affairs or by their local bodies.

261. Thus, Ukrainian law guarantees the right of all citizens of Ukraine to perform alternative service on the grounds of religious belief.

262. In Ukraine, all the conditions necessary for the performance by citizens of alternative (civilian) service have been set in place. As of 1 January 2005, 2,084 persons had performed such alternative service, 409 of them from the autumn 2004 call-up. With effect from that call-up, the period of alternative service has been reduced from 27 to 18 months and, for persons with higher education, from 18 to 13.5 months.

263. No disputes or conflicts have arisen on religious, ethnic or linguistic grounds, nor are there any instances of persons refusing for religious reasons to take the military oath of loyalty to the Ukrainian people. The multi-ethnic nature of military conscripts and the presence among them of religious believers do not constitute negative factors with an adverse effect on the morale and psychological stability of the military community, nor do they impede the conscientious performance by military personnel of their duties.

264. Ukraine is currently undergoing a phased transition to a contract-based system for the recruitment of military personnel. The programme of measures adopted by the Ukrainian Cabinet of Ministers, entitled "Meeting people half-way", ratified by Cabinet decision 115 of 4 February 2005, makes provision for the establishment of a professional army in Ukraine from 2010. Once military recruitment in Ukraine is conducted exclusively on a contract basis there will be no further need for alternative service, which, under the legislation currently in force, replaces compulsory military service.

265. According to information from the Ukrainian State Committee for Religious Affairs, there have been no complaints from religious organizations, individuals or the public at large regarding the procedure for the conduct of alternative (civilian) service in Ukraine.

Article 19

266. With a view to complying with specific recommendations by the Council of Europe and other international organizations regarding preparations for the next elections, the Ukrainian State Television and Radio Broadcasting Committee (Goskomteleradio) is taking particular care to set in place the conditions necessary to ensure that the State authorities follow an impartial and non-interfering approach to the information policy followed by the media and conducive to equal competition. In particular, from 10 to 12 March 2005, Goskomteleradio and the Council of Europe held the seventh European Ministerial Conference on Mass Media Policy. The conference resulted in the adoption by ministers from Council countries of a political declaration, four draft resolutions, one of which concerned the media in Ukraine, and a plan of action regarding Ukraine.

267. On 24 March 2005, by initiative of Goskomteleradio, a round table was held to consider the Ukrainian approach to the media and the form that it should take, with the participation of leading scientific specialists, media personalities, representatives of voluntary associations, people's deputies, and senior officials from the central executive authorities.

268. The committee held a theoretical and practical conference on the freedom of information in Ukraine, to consider the European dimension of the issue, at which participants reviewed the new version of the Ukrainian draft information act, with the aim of conducting a public discussion of legal arrangements to uphold the constitutional rights of Ukrainian citizens to information in the light of European experience in this area.

269. Work is continuing on the process of bringing Ukraine's media legislation into line with the relevant standards of the Council of Europe. In drafting any law relating to freedom of expression and information, strict compliance must be ensured with the provisions set out in article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

270. The act amending the Ukrainian State budget for 2005 retains the preferential system of value added tax on operations involving the sale (prepayment) and provision of printed media materials, and is designed to promote the further development of the market in the printed media.

271. Work is continuing on draft amendments to the new version of the Ukrainian Information Act, the Protection of Journalists (Professional Activities) Act and the Media Act. These drafts are scheduled for broad public debate.

272. Work is also under way on the organization of public service television broadcasting.

273. A draft act has been elaborated on the development and use of the different languages in Ukraine. If this draft is approved, it will help establish underlying principles for the country's language policy and provide the legal and organizational bases for the development and use of different languages in Ukraine. It will also make it an offence to breach the law on languages.

274. Ukraine is interested in speeding up the procedure for ratifying the European Convention on Transfrontier Television, by signing which it will be able to join the Europe-wide system in this area as soon as possible and to ensure the free exchange of television programmes with the rest of Europe.

275. In early April 2005, a meeting was held of a working group comprising representatives of the central authorities to consider the preparation of materials relating to Ukraine's ratification of the European Convention on Transfrontier Television and its accession to the protocol amending that convention.

276. Ukraine's State Tax Inspectorate is keen on establishing partnership arrangements with the media. In addition, the inspectorate follows an even-handed approach to the conduct of checks of the financial and business activities of media firms. During the presidential election campaign in Ukraine, the tax authorities placed a moratorium on all checks of the media. Once the presidential campaign was over, the inspectorate published a full list of media businesses, which it included in its schedule of checks for 2005. At the request and with the consent of those media bodies being checked, representatives of the Ukrainian National Union of Journalists, the Mass Media Institute and other national organizations of journalists are able to take part in the checks relating to compliance with the tax legislation. The State Tax Inspectorate provides comments and explanations on tax legislation and fields enquiries from the media.

277. Currently, there is effective cooperation between the tax inspection authorities and representatives of the print and broadcasting media. Several memorandums and agreements have been signed on cooperation between the State Tax Inspectorate and mass media bodies and journalists' organizations, such as the Ukrainian National Union of Journalists, the media association Reporters Without Borders, the Ukrainian market reform educational programme, the publicity and public relations agency CTC and the Ukrainian Association of Press and Periodical Publishers.

278. The country's language strategy is being implemented through a comprehensive and systematic range of measures to raise awareness, to develop rules and regulations and specialized guidelines and to promote public education.

279. At the same time, steps are being taken to uphold the rights of ethnic minorities to receive information in their mother tongue through an extensive programme to broadcast social and cultural material relating to those ethnic groups on State television and radio channels.

280. In their operations, the State television and radio companies adhere to the rules of the law currently in force regarding broadcasting in the State language, as stipulated in their broadcasting licences. The Ukrainian national radio company broadcasts in Ukrainian, in addition to its broadcasts abroad, which are in English, German and Romanian. The regional State television and radio companies also use Russian and other ethnic minority languages, as set out in the licensing documents issued by the Ukrainian National Television and Radio Broadcasting Council. In order to meet the information needs of ethnic Russians, Romanians, Moldovans, Hungarians, Armenians, Greeks, Bulgarians, Germans, Crimean Tatars, Gagauz and Jews, steps are being taken to broadcast programmes in their languages as well.

281. In accordance with its remit, Goskomtelradio is required to comply with article 11, paragraph (d), of the Ukrainian Act of 15 May 2003 ratifying the European Charter for Regional or Minority Languages. This paragraph sets out the obligations pursuant to article 11 of the Charter relating to the mass media.

282. Currently, the country's regional and local State television and radio companies are broadcasting programmes in areas with concentrations of ethnic minorities in the native languages concerned and in that way, with programmes commissioned by the Government, are meeting the information requirements of citizens of 11 different ethnic groups.

283. Despite the fact that, pursuant to article 12 of the Ukrainian Television and Radio Broadcasting Act, State television and radio channels have priority in obtaining broadcasting licences, the Ukrainian National Television and Radio Broadcasting Council, by its decision No. 888 of 21 July 2004, barred the regional State television and radio channels from broadcasting on television channel UT-2 and regional State broadcasters now put their programmes out on channel UT-1 during the hours 4-6 a.m. and 1-2 p.m. As a result, since they have only one hour a day during daytime hours on channel UT-1, except at weekends and holidays, the regional television and radio channels use this slot for broadcasting news from their regions and certain other programmes, as commissioned by the Government. The resulting situation means that, for the time being, it has not been possible to maintain broadcasting in ethnic minority languages to the extent required.

284. With a view to implementing an effective State policy designed to harmonize ethnic relations in accordance with the Ukrainian Ethnic Minorities Act of 25 June 1992, Goskomteleradio is doing everything in its power to facilitate the registration and production of printed periodical materials, and also the subsidized publication of literature for ethnic minorities.

285. Goskomteleradio routinely recommends to the central and local media bodies which have been set up under the State's umbrella that they should give objective coverage to ethnic minority issues and explore ways of showing the public the cultural diversity of the various ethnic groups living in Ukraine.

286. A State programme has been developed and is currently being implemented, under the sponsorship of Goskomteleradio, for a socially relevant publications policy, to ensure the publication of literature for the ethnic minorities of Ukraine and to respond to their cultural and educational needs.

287. In 2004, in the literature in ethnic minority languages series, publications have appeared in the Kyrgyz, Armenian, Urum, Polish, Crimean Tatar, Russian, Belarusian, Bulgarian and Gagauzi languages.

288. The State budget for 2005 makes provision for the funding of publications in the Ukrainskaya Kniga imprint, designed to ensure the availability of reading material in ethnic minority languages.

289. There are currently 4,214 Ukrainian-language media publications registered in the Ukraine, 2,701 Russian-language publications, 10 in Hungarian, 2 in Bulgarian, 5 in Polish, 6 in Romanian, 4 in Crimean Tatar, 28 in English, 3 in German and 2 in Chinese.

290. Turning to mixed language publications, there are 3,325 in Ukrainian and other languages, 3,456 in Russian and other languages, 4 in Bulgarian and other languages, 3 in Polish and other languages, 4 in Romanian and other languages, 1 in Yiddish and other languages, 1 in Hebrew and other languages, 12 in Crimean Tatar and other languages, 52 in English and other languages, 11 in German and other languages, 3 in French and other languages, 2 in Chinese and other languages, 1 in Belarusian and other languages, 2 in Uzbek and other languages, 1 in Vietnamese and other languages, 1 in Esperanto and other languages, 1 in Serbian and other languages, 1 in Roma and other languages, and 1 in Karaim and other languages.

291. The work of Goskomteleradio is designed to ensure compliance by Ukraine with article 6, paragraph 1, article 7 and article 9, paragraphs 1, 3 and 4, of the Framework Convention for the Protection of National Minorities, which proclaim the right of members of national minorities to the freedom of expression and the freedom of thought, the freedom to create and use their own media and also to preserve their ethnic, cultural, linguistic and religious identity, in particular in the fields of education, culture and the media.

292. The Ukrainian Information Act has been amended. Its article 45-1 has been supplemented, to prohibit any censorship which takes the form of requirements on the media, journalists, chief editors, organizations responsible for issuing public information, the founders or proprietors of such organizations, publishers and distributors, to obtain prior clearance for

information which is being disseminated, except where such a requirement is made by the author of the information or by another holder of copyright or related rights, as well as the placing of any prohibition, except where such a prohibition is ordered by a court, or impediment of any form on the reproduction or distribution of information by the central or local authorities, or their officials.

293. The act prohibits any interference on the professional work of journalists in a form not provided for under Ukrainian law or any agreements concluded between the founders or proprietors and the staff of media outlets. It also prohibits any attempt to control the content of the information being disseminated by the founders or proprietors of the media outlets, or by the central or local authorities and their officials, in particular, with a view to disseminating or preventing the dissemination of certain information, concealing socially significant information, prohibiting the depiction of individuals or the dissemination of information about them and prohibiting criticism of the central or local authorities and their officials.

294. No State authorities, institutions or offices may be created with powers to exercise control over the content of information disseminated by the mass media.

295. Any deliberate attempts by officials or groups of officials, acting by prior conspiracy, to impede the lawful professional activity of journalists or to harass journalists in the performance of their professional functions for criticisms which they have made shall be offences punishable under the Criminal Code of Ukraine.

296. The powers of the central authorities relating to media activities shall be determined exclusively by the Constitution and the laws of Ukraine.

297. In addition, the Ukrainian Information Act of 2 October 1992 has been supplemented by a new article 47-1, stipulating that no one may be prosecuted for expressing value judgements.

298. Value judgements, with the exception of those which are insulting or defamatory, are taken to include the expression of any opinions which are not based on facts, in particular, criticism and the assessment of actions and views which cannot be interpreted as being based on facts, taking due account of the use of linguistic devices, in particular, exaggeration, allegory and satire. Such value judgements are not susceptible to challenge or to scrutiny of their truthfulness.

299. Individuals shall not be held liable for disclosing information of a restricted nature if a court finds that this information was socially significant.

300. In order to promote efforts by the central authorities to uphold the constitutional right of citizens to information, the Ukrainian President issued a decree on 17 February 2001 on improving the manner in which the central authorities handle public information, pursuant to which senior officials in the central authorities are required to conduct public information days on a systematic basis, weekly phone-in programmes have been introduced on national and regional television and radio broadcasting stations, dealing with current issues in the country's social and economic development, and more and more measures are being conducted by the Ukrainian national information agency Ukrinform with a view to promoting better cooperation with the central and local authorities in familiarizing the general public with their work.

301. With regard to the lack of criteria governing the issuing or refusal to issue licences for electronic media outlets, such as television and radio stations, we may note that this issue is currently regulated by the Ukrainian Television and Radio Broadcasting Act of 21 December 1993, the Ukrainian National Television and Radio Broadcasting Council Act of 23 September 1997, the Business Activities (Licensing) Act of 1 June 2000, the Ukrainian Radio Frequencies Act of 1 June 2000, the decision of 5 June 1995 by the Ukrainian Cabinet of Ministers setting the fees for the issuance of licences to television and radio companies to use broadcasting channels and the statute on competitive conditions for the issuance of licences, ratified by decision of the Ukrainian National Television and Radio Broadcasting Council of 23 November 2000.

Article 20

Paragraph 1

302. Pursuant to article 436 of the Ukrainian Criminal Code, public incitements to a war of aggression or the unleashing of military conflicts, and also the preparation of materials inciting people to perpetrate such acts for the purposes of their dissemination or the actual dissemination of such materials are all punishable offences.

Paragraph 2

303. Pursuant to article 161 of the Ukrainian Criminal Code, deliberate actions designed to incite ethnic, racial or religious enmity and hatred, or to injure ethnic pride and dignity or to offend the feelings of citizens relating to their religious convictions, and also any direct or indirect restriction on the rights of citizens or granting to them of direct or indirect privileges on the basis of their race, skin colour, political, religious and other convictions, sex, ethnic and social background, property, place of residence or linguistic and other features, shall be criminal offences punishable by law.

304. Pursuant to the legislation in force in Ukraine, the central authority responsible for devising and implementing State policy in the area of ethnic relations and protection of the rights of national minorities, and for upholding the rights of such minorities in Ukraine, is the Ukrainian State Committee for Ethnic Minorities and Migration.

305. In order to promote social stability and harmony, the State Committee for Ethnic Minorities and Migration is putting in place measures to prevent any manifestations of intolerance, the incitement of ethnic and racial hatred and prejudices against people on the basis of their national and ethnic origins.

306. The committee has drafted a bill to amend certain legislative instruments of Ukraine, with a view to stiffening the penalties for fomenting ethnic hostility and racial intolerance.

307. Acting within its mandate, the Committee reacts promptly to the appearance of any publications or expressions of opinion in the media which are liable to inflame ethnic hostility or which contain xenophobic or anti-Semitic sentiments and incitements.

308. In order to stiffen the penalties for acts of this kind, the Committee has published reports condemning incitements and utterances against ethnic groups, has filed petitions with the courts seeking to suppress the publication of such materials and has written letters to the central procurator's office, requesting that these materials be given an appropriate legal appraisal.

309. The activities in question are of particular importance in the context of Ukraine's aspirations to join the European Union, which cannot be realized until universal European standards relating to the protection by the State of the rights and ethnic dignity of the representatives of all ethnic groups are duly applied and manifestations of xenophobia suppressed.

310. The determined application of the law, through the use of institutional mechanisms, has a vital role to play in combating anti-Semitism, racism and other forms of discrimination. Particular importance in this context attaches to the work being conducted by Ukraine in the framework of international organizations, designed to develop all-embracing and effective methods of tackling all forms of intolerance.

311. The problem of anti-Semitism no longer exists in today's Ukraine and the representatives of all ethnic groups and religions have every opportunity to fulfil their ethnic needs and to develop ethnic communities and associations.

312. Ukraine's law-enforcement agencies investigate without exception the few isolated attempts by individuals to undertake activities of an anti-Semitic nature and persons found culpable in this regard are subject to criminal prosecution.

313. Whenever such articles have appeared in the press, the Ukrainian procuratorial authorities have acted to verify compliance with the requirements of current legislation. These verifications are conducted with the involvement of relevant specialists and experts from the Institute of Political and Ethnic Research of the Ukrainian Academy of Sciences.

314. In 2004, the Ukrainian procuratorial authorities conducted more than 10 such verifications of published materials in the publications of the Inter Regional Academy for Personnel Management. In 2005, three further such verifications were carried out. Those verifications and the appraisals by experts found no evidence in the articles concerned of a desire to inflame ethnic hostility or of racist or anti-Semitic bias; accordingly, no criminal prosecutions have been instituted.

Article 21

315. Under article 39 of the Constitution, citizens have the right to assemble peacefully without arms and to hold meetings, rallies, marches and demonstrations, with advance notification of the central and local authorities.

316. Restrictions on the exercise of this right may be established by a court in accordance with the law and only in the interests of national security and public order, for the purpose of preventing disturbances or crimes, protecting public health and upholding the rights and freedoms of other persons.

Article 22

Paragraph 1

317. The right of citizens to freedom of association in civil-society organizations is enshrined in article 36 of the country's Constitution and in the Trade Unions (Rights and Guarantees) Act of 15 September 1999.

318. Under article 36, paragraph 1, of the Ukrainian Constitution, citizens of Ukraine have the right to freedom of association in political parties and voluntary organizations for the exercise and protection of their rights and freedoms and for the satisfaction of their political, economic, social, cultural and other interests, with the exception of restrictions prescribed by law in the interests of national security and public order, the protection of public health or the protection of the rights and freedoms of others.

319. In article 36, paragraph 3, the Constitution states that citizens have the right to take part in trade unions for the purpose of protecting their labour and social and economic rights and interests. Trade unions are voluntary associations that bring together citizens who share common interests in accordance with the nature of their professional activity. Trade unions are formed without prior permission on the basis of the free choice of their members. All trade unions have equal rights. Restrictions on membership in trade unions are established exclusively by the Constitution and the laws of Ukraine.

320. Article 13 of the Trade Unions (Rights and Guarantees) Act of 15 September 1999 stipulates that the State shall ensure that citizens are able to exercise their right to form trade unions and shall uphold the rights and interests of trade unions.

321. No one may be coerced into joining or prevented from joining a trade union.

322. Under article 16 of the said act, trade unions and their organizations shall operate independently of the central and local authorities, of employers and of other voluntary associations and political parties, and shall not be accountable to them or under their control.

323. The law prohibits any interference by the central or local authorities or their officials, or by employers or employers' organizations in the statutory activities of trade unions or their associations and confederations.

324. Pursuant to paragraphs 4 and 5 of article 19 of the act in question, trade unions and their confederations shall have the right to represent the interests of their members in giving effect to their constitutional right to appeal for the protection of their rights to the judicial authorities, to the Human Rights Commissioner of the Supreme Council of Ukraine, and also to international judicial institutions.

Article 23

325. Pursuant to the Ukrainian Family Code, men and women have equal rights and responsibilities in family relations, marriage and the family (art. 7, para. 6).

326. Marriage is based on the free consent of the woman and the man (art. 24 of the Code).

327. No woman or man may be coerced into entering into marriage.

Article 24

328. Under article 3, paragraph 1, of the Protection of Children Act of 26 April 2001, all children in the territory of Ukraine, irrespective of their race, skin colour, sex, language, religion, political or other convictions, national, ethnic or social origins, property or state of health or of their place of birth or that of their parents (or persons acting in their stead) or of any other circumstances, have equal rights and freedoms, as set out by this act and other laws and statutes.

329. Pursuant to article 7 of the act, from the moment of birth each child has the right to a name and citizenship. The place and procedure for registration of the birth of the child are determined by the family legislation and the civil registry authorities and the grounds and procedure for the acquisition and change of citizenship are set out in the Ukrainian Citizenship Act of 18 January 2001 and by other laws and statutes.

330. Pursuant to article 6 of the Ukrainian Citizenship Act, Ukrainian citizenship is acquired by birthright, by place of origin, by adoption, by placement under guardianship or tutelage, by virtue of the Ukrainian citizenship of one or both of the child's parents and by establishment of paternity.

331. Article 11 of the Protection of Children Act of 26 April 2001 stipulates that the family is the natural environment for the physical, spiritual, intellectual, cultural and social development of the child and for the child's material welfare and that the family shall be responsible for ensuring the appropriate conditions for the child's upbringing.

332. Each child has the right to live in the family together with his or her parents or in the family of either one of the parents and to be properly cared for by the parents.

333. The father and the mother have equal rights and obligations in respect of their children. The primary concern and principal responsibility of parents is safeguarding the interests of their child.

Article 25

334. Pursuant to article 38 of the Constitution, Ukrainian citizens have the right to take part in the conduct of public affairs and in all-Ukrainian and local referendums, and freely to vote and be elected to central and local government bodies.

335. Citizens enjoy equal right of access to public service in both central and local government bodies.

336. Under article 4 of the Ukrainian Civil Service Act of 16 December 1993, Ukrainian citizens have the right to join the public service irrespective of their origins, social status, property, racial and national affiliation, sex, political views and religious convictions and place of residence, provided they have received the appropriate education and professional training and have passed through the prescribed competitive selection process or other procedure stipulated by the Ukrainian Cabinet of Ministers.

337. The effect of this act extends also to local government bodies and officials inasmuch as it does not run counter to the Ukrainian Local Government Act of 21 May 1997, the Local Government Bodies (Service) Act of 7 June 2001 and other Ukrainian laws governing the activities of local government bodies.

338. Under article 5 of the Ukrainian Local Self-Government Bodies (Service) Act, Ukrainian citizens have the right to serve in local government bodies irrespective of their race, skin colour, physical, religious and other convictions, sex, ethnic and social origins, property and the length of time that they have been resident in the respective area.

339. Persons appointed to office in such bodies must have the appropriate education and professional training and be sufficiently proficient in the State language for the purpose of performing their official functions.

Article 27

340. As evidenced by the national population census in 2001, Ukraine is a multi-ethnic State, in which there are 10.9 million representatives of 134 different nationalities alongside 37.5 million Ukrainians.

341. The task of upholding the rights and freedoms of ethnic minorities is one of the priorities of the nationalities policy of the independent Ukrainian State.

342. Ukrainian policy relating to upholding the rights of the representatives of different ethnic groups is implemented in compliance with the provisions of the Constitution, the Ukrainian Declaration of National Minorities Rights of 1 November 1991, the Ukrainian Ethnic Minorities Act of 25 June 1990, the Civil Associations Act of 16 June 1992 and of other instruments of international law.

343. Pursuant to the Ukrainian Ethnic Minorities Act, the term “ethnic minority” is understood to apply to groups of Ukrainian citizens from a non-Ukrainian ethnic background who display a sense of ethnic self-awareness and community.

344. In order to improve current legislation in the area of ethnic relations, an outline has been elaborated for a State ethnic policy, taking into account the full range of rights of ethnic communities residing in the territory of Ukraine.

345. Work has started on amending the Ukrainian act to ratify the European Charter for Regional or Minority Languages of 15 May 2003. It is planned to apply the provisions of the Charter to a further four national minority languages: Karaim and Krymchak, both of which are threatened with extinction, and Armenian and Roma, which require State support.

346. Ukraine's instruments of ratification have been deposited with the Secretary-General of the Council of Europe and the Charter will enter into force for Ukraine on 1 January 2006.

347. In order to ensure more effective interaction between the associations of ethnic minorities and the central and local authorities and acting in accordance with article 5 of the Ukrainian Ethnic Minorities Act, a consultative body has been set in operation under the Ukrainian State Committee for Ethnic Minorities and Migration: the Council of Representatives of All-Ukrainian Associations of the Ethnic Minorities of Ukraine.

348. At its meetings, the Council discusses issues relating to the rights of ethnic minorities, with the participation of leading scientific specialists, cultural activists, practitioners and representatives of the central authorities.

349. The Council helps promotes the work of Roma voluntary associations, involving them in the conduct of nationwide cultural events, and assists with the preparation of a range of different regional programmes and the publication of informational and training materials.

350. According to the 2001 national census figures, at that time there were 47,600 Roma (Gypsies) living in Ukraine, constituting 0.1 per cent of the country's population.

351. The organizations operating in Ukraine include the Ukrainian Roma Congress, which brings together the country's Roma associations set up for the purpose of reviving the language, culture, traditions and customs of this ethnic group.

352. Under its budget lines 5321030 "Measures to revitalize the culture of ethnic minorities and provision of financial support for newspapers in ethnic minority languages" and 1801260 "Measures to revitalize the culture of ethnic minorities", provision is made every year in the country's central budget for the expenses incurred by the State Committee for Ethnic Minorities and Migration and the Ukrainian Ministry of Culture and Art in conducting measures to revive the culture of ethnic minorities, including the Roma. Thus, in 2005, 2,020,000 hryvnias was earmarked for budget line 5321030 and 1.5 million hryvnias for budget line 1801260.

353. With support from the Committee, in June 2004 the State Gypsy music and drama theatre "Romance" took part in the second international "Haliczyna" festival, held in the city of Przemysl, Poland. In addition, financial support has been provided for the opening of a Sunday school for Roma, in the village of Hrebenki, in Kyiv province; for the conduct of a Roma festival, in the city of Uzhhorod; for a festival of Roma performing groups, in the city of Kirovohrad; and for the Pop-Jazz-Fest 2004 festival, held in Uzhhorod.

354. In November 2004, under the auspices of the Ukrainian Roma Congress, the first ever all-Ukrainian festival of Roma performing groups was held, in the town of Bila Tserkva.

355. On 12 April 2005, hearings were held in the Committee on Human Rights, National Minorities and Ethnic Relations of the Ukrainian Supreme Council, on the current situation of the Roma in Ukraine, with the participation of the heads of the provincial offices dealing with ethnic minorities and migration, the heads of Roma national and cultural associations and media representatives, and recommendations were prepared on the basis of the hearings.

356. No reports or complaints regarding discrimination or persecution of members of ethnic minorities have been received by either the Ukrainian procurator general's office or the State Committee for Ethnic Minorities and Migration.

357. With regard to paragraph 13 in the concluding observations by the Human Rights Committee, we would like to point out that, in Ukraine, responsibility for overseeing compliance with the law by those conducting police investigations, initial inquiries and pretrial examinations and for ensuring compliance with the law in implementing decisions handed down by the courts in criminal cases, and also for the application of other coercive measures involving restrictions on the personal freedom of citizens, rests with the procuratorial authorities.

358. Complaints about the actions of members of the police force are reviewed by the Ukrainian procuratorial authorities and, when found to be substantiated, disciplinary or criminal proceedings are instituted against police employees and they are accordingly prosecuted for breaches of human rights. In addition, appeals may be lodged with the courts against the actions of internal affairs and procuratorial officials or against their failure to take action.

359. Aliens and members of ethnic minorities may only be prosecuted for the commission of offences within the territory of Ukraine.
