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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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SUMMARY RECORD OF THE 36th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 7 November 2007, at 3 p.m.

Chairperson: Mr. TEXIER

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Fifth periodic report of Ukraine (E/C.12/UKR/5; E/C.12/UKR/Q/5 and Add.1; HRI/CORE/1/Add.63/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of Ukraine took places at the Committee table.

2. Ms. DROZDOVA (Ukraine), introducing the fifth periodic report of Ukraine (E/C.12/UKR/5), said that since the fourth periodic report (E/C.12/4/Add.2) had been submitted to the Committee, important legislative developments had occurred, such as the adoption of the Act on Equal Rights and Opportunities for Women and Men, and the subsequent decree on evaluating the gender aspect of law, as well as the declaration of 2007 as the national year of gender equality.

3. The Government was currently drafting a new Labour Code, which would prohibit any form of discrimination or violation of the principle of equal rights and opportunities in the world of work, preventing any discrimination in respect of employment and earnings. The strategic aim of the Government's employment policy was to increase the economic activity of the population, establishing full, productive and free employment through State measures to regulate the labour market. Since 2006 there had been positive developments in macroeconomic indicators, and measures had been taken to increase the effectiveness of State regulation of employment. The State Statistics Committee had issued figures showing that there had been an increase in the level of employment of people aged 15 to 70 years since 2005, and a reduction in unemployment figures. The number of people of economically active age who were in employment had continued to rise during the first half of 2007. If current trends were sustained, Ukraine would achieve the average level of economic activity for a European Union country by 2011.

4. Monitoring of poverty since the poverty reduction strategy had been introduced in 2001 showed that the situation had stabilized, and that the poverty rate had declined from 11 per cent in 2001 to 1 per cent in 2006. The Government was working to ensure growth in salaries and to provide greater incentives to work. The State regulated salaries by setting a minimum wage, and was striving to gradually increase the minimum wage to meet minimum subsistence requirements. It was expected that by 2008 the minimum wage would amount to 90 per cent of the subsistence minimum per month, and that it would reach 100 per cent by 2009. The Social Dialogue Act, which had been drafted with the assistance of the social partners and with support from the technical cooperation project of the International Labour Organization (ILO), had been adopted in July 2007, and provided for the establishment of a national tripartite social and economic council.

5. The Social Housing Fund Act had entered into force in January 2007, as part of the Government's efforts to guarantee housing to vulnerable sectors of society. The Government

was completing its work for the adoption of a number of legal instruments to ensure the implementation of that Act, and intended to submit a State programme for the development of social housing for consideration by the Parliament.

6. On 21 December 2006, Ukraine had ratified the European Social Charter, which had subsequently entered into force on 1 February 2007. Ratification of the Charter would facilitate an increase in social protection for the population and the adaptation of national legislation to European standards, to promote the effective enjoyment of economic and social rights. The Government was currently drafting legislation to regulate the social insurance system, which would provide for the introduction of a single social contribution, and the establishment of a single database for all social security funds. Legislation was being prepared on the introduction of compulsory State social health insurance, which would increase the quality of medical service and guarantee health care for all persons included in the insurance scheme. The draft legislation provided for the merging of two types of social insurance, regarding loss of capacity to work and medical coverage. Measures were also being taken to improve pensions for Ukrainian citizens, which had increased by 30 per cent in 2007 as a result of recalculations. The pension structure had been changed significantly, with the gradual introduction of a system of differentiation, depending on duration of insurance and salary. A pension fund had been established with responsibility for the calculation and payment of all pensions for all categories of persons. The number of people participating in voluntary pension schemes was increasing, and legislation was being put in place to facilitate the establishment of accumulative pension funds for young people.

7. Practical measures were being taken to reform the social security system, through the development of a network of social institutions, which was increasing the quality of social services. Measures were being taken to harmonize legislation in order to facilitate the transition to a system of social security that was family-oriented. Efforts had been made to combat domestic violence, including relevant amendments to the Code of Administrative Offences and the Criminal Code. A programme to combat trafficking in persons had been adopted on 7 March 2007, and would run until 2010. Ukraine was seeking to expand the international legal basis for the protection of economic, social and cultural rights, and supported the drafting of an optional protocol to the Covenant, which in its view would constitute an effective mechanism for monitoring States parties' implementation of the Covenant.

8. Mr. RIEDEL, Country Rapporteur, said that his questions related to the follow-up to the State party's fourth periodic report (E/C.12/4/Add.2). In paragraph 21 of its relevant concluding observations (E/C.12/1/Add.65), the Committee had requested the State party to annex a copy of its national human rights plan of action to its fifth periodic report. The Committee had not received a copy of that plan. He asked how independent the Ombudsperson was, whether the Paris Principles relating to the status and functioning of national institutions for protection and promotion of human rights were applied to the Ombudsperson's work, and whether the Office of the Ombudsperson functioned as an independent national human rights institution. The Committee had not received the information it had requested concerning comparative data on employment, in particular the representation of women at the various administrative levels and in the legal profession. Turning to the question of labour law and trade union activities, he asked whether legitimate exceptions under the state of emergency still existed in relation to labour law, and what was being done to ensure that the state of emergency was lifted, since free trade union rights were particularly important. He enquired whether the National Coordination Council

against Trafficking had adequate human and financial resources and whether its action against trafficking had been effective; what progress had been made in ensuring that the most vulnerable groups of society had access to adequate health care; and whether the training programmes that the Committee had recommended for parliamentarians, judges, lawyers and local government officials had been established.

9. Mr. ZHAN Daode welcomed the significant economic development that had taken place in Ukraine during the reporting period, in particular the increase in employment and salaries. He wished to know why statistics showed an increase in cases of trafficking in persons, despite the adoption of legislation to combat that phenomenon.

10. Mr. PILLAY said that the information before the Committee showed that an individual could not apply to the Constitutional Court in the event of a violation of his or her rights under the Covenant, but rather must file a complaint with the Office of the Ombudsperson. He requested examples of specific cases taken up by the Ombudsperson in relation to Covenant rights. The Committee had been informed that State budget allocations for the exercise of economic, social and cultural rights had not been used for that purpose. Despite the Constitutional Court ruling declaring misuse of those budget appropriations to be unconstitutional, the situation had not been rectified. He therefore wished to know why the State party was acting in defiance of its own Constitutional Court.

11. Mr. RZEPLINSKI asked what was the connection, and the division of responsibilities, between the Office of the Ombudsperson and the Procurator-General. He wished to know to what extent the Procurator-General could protect human rights, and what provisions governed the initiation of criminal investigations. The Committee had been informed that the labour inspectorate in the State party did not function properly and that there had been cases of fatal accidents at work. It could therefore be suspected that criminal law was also being violated, since it provided for the prohibition of working conditions that could result in such accidents. Although the Procurator-General was supposed to defend human rights, he or she could refrain from initiating a criminal investigation into such cases. There was also a problem with separation of powers in respect of the Ombudsperson, who could hold a seat in Parliament. He wondered whether the Ombudsperson was entitled to perform any other public duties. He asked whether there were any legislative provisions to prohibit persons in official positions from being employed by the Office of the Ombudsperson, in order to guarantee true independence and impartiality.

12. He enquired how many members the Supreme Council's Committee on Questions of Human Rights, Ethnic Minorities and Interethnic Relations had, and how many members each of its nine subcommittees had. He asked why the Committee's previous concluding observations had not been translated into Ukrainian, and to what extent the Government had implemented the Committee's recommendations.

13. Mr. RZEPLINSKI said that, although the State party had ratified a number of international treaties relating to economic, social and cultural rights, it had not ratified the European Convention on Social Security. He also asked what was being done to address the issue of statelessness, in view of the large number of stateless people who only had former Soviet citizenship and were therefore deprived of access to health care. Why had the relevant treaties on statelessness not been ratified?

14. The Committee had been informed that national minorities and the Roma were discriminated against in many fields such as employment and access to health services. He wished to know what policy the Government was pursuing to combat anti-Semitism. The Committee had also been made aware that Crimean Tatars were experiencing difficulties with the restitution of religious property. He expressed concern at the police's apparent failure to act in cases of violence against people of African and Asian origin. The Committee against Torture in its recent concluding observations had remarked that many Roma had no identity documents and hence were deprived of access to health care and their children denied access to education. He would be interested to hear what progress, if any, had been made since the Committee on the Elimination of Racial Discrimination had issued its concluding observations the year before.

15. Reports had been received of police abuse of Roma people, and claims that public prosecutors did not offer Roma any protection when police refused to investigate such cases. When criminal investigations were initiated into cases of violence against Roma people or asylum-seekers of African or Asian origin, public prosecutors allegedly tended to treat them as hooliganism rather than racist crimes. He also expressed concern at reports that in Crimea, Tatars were discriminated against in standing in local government elections.

16. Discrimination against women was apparently also widespread. Although women occupied more than 40 per cent of public-sector posts, they represented only 7 per cent of members of Parliament. He would be interested to hear if the Government had developed any policy to improve that situation, particularly the representation of women in the ministries. The Committee had been informed that most judges were not even aware of the gender equality act adopted in 2006, and he therefore wondered to what extent the Government considered that the legislation was effective in practice.

17. Ms. WILSON asked how individuals were guaranteed effective legal redress for violations of their human rights since they did not have access to the Constitutional Court. She understood that the Office of the Ombudsperson acted in such situations, but that was not a judicial institution.

18. Noting that, under article 24 of the Constitution, citizens had equal constitutional rights and freedoms and were equal before the law, she asked whether the use of the term "citizens" was, in fact, correct or whether those guarantees should not apply to every person present in the State party. The Committee had been informed that the State party did not have an anti-discrimination policy and, in that connection, she asked why there was no general legislation on that issue and whether there were separate clauses on discrimination in different laws.

19. She noted that, according to the report, the Government had recognized the need to take steps to combat racism and xenophobia, and wondered what specific measures had been adopted.

20. She welcomed the enactment of the new gender equality act and the provisions of the new Labour Code on equal wages; those were encouraging developments in view of the fact that there was still considerable discrimination against women, as highlighted in the frank analysis of the situation in the State party report. She requested clarification of what was meant by the statement contained in paragraph 71 of the report that humanitarian considerations were of secondary importance on the agenda of the Ukrainian Parliament.

21. Noting that the introduction of a gender quota system had been rejected by Parliament, she requested clarification as to whether it was a rigid system that had been rejected, and, if so, whether any consideration had been given to introducing a flexible system, which was in keeping with other constitutional rights and might succeed in introducing more women in Parliament.

22. Mr. DASGUPTA asked the delegation to comment on the measures taken or contemplated in response to the most recent concluding observations concerning Ukraine of the Human Rights Committee and the Committee on the Elimination of Racial Discrimination to ensure that religious minorities were able to exercise their cultural rights without discrimination. In that connection, he would be interested to hear why the State party had not yet acceded to the Convention of the Commonwealth of Independent States (CIS) concerning the rights of persons belonging to national minorities.

23. Ms. BONOAN-DANDAN asked the delegation to describe the current non-discrimination policy of the State party. She requested details of the programme for the period up to 2006 for the social and cultural revival of the Gypsies of Ukraine, and its preliminary results. She would be interested to hear, for example, how many Roma children were attending school, as she had read reports that a large proportion of Roma were illiterate and had no primary education. In that regard, she recalled that it was the obligation of States parties to provide free and compulsory primary education to all within their territory.

24. She commended the recent entry into force of the gender equality act, and asked what enforcement mechanism was in place to ensure its effective implementation. She asked the delegation to comment on reports that discrimination based on sexual orientation was widespread and that homosexuality was labelled a mental disorder.

25. She requested information on the results of the national plan of action for 2001-2005 to improve the status of women. She noted with regret that the State party report described discrimination against other groups, but did not provide information on what was being done to combat it. She reminded the delegation that non-discrimination and the equality of men and women in the enjoyment of economic, social and cultural rights were obligations of immediate effect and that their non-fulfilment could not be justified by any economic limitations.

26. Mr. ATANGANA, recalling that in 2006 the Committee on the Elimination of Racial Discrimination had raised concerns that the absence of identity documents was an obstacle to access by Roma and other minorities to the courts and legal aid and had observed that the State party planned to introduce anti-discrimination legislation, asked whether such a law had been enacted and, if so, what its impact had been.

27. Mr. SADI commended the composition of the delegation, which demonstrated how seriously the State party took its obligations under the Convention. However, he noted with concern that, although there were several female deputy ministers, there were no women in the Cabinet of Ministers. He asked the delegation to indicate the State party's views with regard to the optional protocol currently being debated by the Committee, which would serve to render the provisions of the Covenant justiciable.

28. He noted that the Office of the Ombudsperson had the potential to be elevated to a status that would meet the criteria of the Paris Principles and wondered whether the Government had considered seeking such accreditation.

29. He asked what the consequences of the series of laws and programmes on discrimination had been, whether there were effective enforcement mechanisms and whether the situation had improved in practice. He would be interested to hear under what circumstances discrimination could be criminalized and asked the delegation to refer to specific cases in which people had been taken to court for discrimination.
30. Ms. BARAHONA RIERA asked why the Committee's most recent concluding observations had not been translated into Ukrainian or publicly disseminated and what would be done in that respect. She would be interested to hear what consultations had been held with civil society in preparing the current State party report.
31. She enquired what stage the study on discriminatory legislation had reached - was legislation currently being harmonized? She wished to know whether the new gender equality act contained any provision stipulating that contradictory laws would cease to have effect or what status the new act had in relation to them.
32. She requested information on the cultural background or conditioning responsible for the shortage of women in decision-making posts.
33. Ms. DROZDOVA (Ukraine) said that the Government was concentrating on macroeconomic issues, which had resulted in significant growth in real income in recent years. Major steps had been taken to ensure minimum social standards; for example, the minimum wage had continued to be increased in the last two years, as had pensions. In general, wages were one of the indicators of the development of social standards. There had been a very substantial increase of 30 per cent in wages over the past two years. Poverty levels continued to be monitored: in 2001, the poverty line had been 170 hryvnias while in 2007 it was 400 hryvnias, with the poverty level remaining at approximately 28 per cent.
34. Mr. LATIK (Ukraine), in response to question 2 of the list of issues raised by the Committee (E/C.12/UKR/Q/5), said that under article 9 of the Ukrainian Constitution, the courts must be guided in their decisions not only by domestic legislation but by international legal standards. The Constitutional Court had systematically invoked the provisions of the Covenant, for example on cases concerning the death penalty, trade union freedoms and the right to free education.
35. In response to an earlier question by a Committee member, he said it was difficult to envisage a situation where judges would be unfamiliar with legislation on gender equality or any other area in relation to a case on which they were required to give a decision. In Ukraine, any legal standard on the rights and duties of citizens could enter into force only once it had been published in official sources and in the mass media, and each judge must have access to an electronic reference system containing legislative texts. Legislation on equality could be invoked by citizens, and any claim of violations of rights must be justified with reference to the law.
36. In response to question 3 of the list of issues, he said that US\$ 1.3 million had been allocated in the budget for the current year and subsequent years for the restoration and maintenance of the Ombudsman's premises. The current budget allocations were paid in their entirety to the Ombudsman's functional budget.

37. Mr. KARBACHYNSKYI (Ukraine), in response to question 4 of the list of issues, said that Ukrainian law guaranteed equal economic, social and cultural rights to all citizens. As of mid-2007, there were 1,720 national minorities' organizations, of which 37 had Ukrainian status. A council of minorities' organizations had been created in 2007 consisting of representatives of all the national minorities in Ukraine, including the Roma people, which would serve as an advisory body. The Government had also adopted complex measures to implement State policy on relations with national minorities up to 2010, involving the active participation of territorial administrations to monitor the realization of their rights.

38. Regarding discrimination against national minorities, the Ministry of the Interior had provided information regarding cases of forced resettlement which had not been recorded. In the second half of 2006, there had been no reports of serious crimes committed against Roma people. The Ukrainian Government enjoyed an active dialogue with the national minorities, in particular the Roma people: some 500 meetings had been held with the Roma, generally on the subject of registration. Some 52,000 citizens of Roma nationality had been registered, and it was estimated that approximately 1,000 remained unregistered. The rights of national minorities fell within the responsibility of the Ministry of the Interior, and it and the police were attentive to measures taken and worked to prevent violations of the law based on ethnic origin. Government inspections were carried out on a timely basis to prevent discrimination on ethnic grounds, including against persons of African origin. Information from non-governmental organizations (NGOs) and individuals belonging to national minorities concerning alleged discrimination did come to the attention of the Government: in 2007 there had so far been 23 claims of violations of rights from persons of African descent. Each ministry and department had its own monitoring unit to prevent discrimination against minority groups.

39. Ms. DROZDOVA (Ukraine), in response to question 5 of the list of issues, said that 2.5 million people received a disabilities pension allowance. Protection of persons with disabilities was provided by social bodies with national, regional or territorial status as well as the Government. Over the period 2002-2006, over US\$ 60 million had been allocated to social and professional rehabilitation. During the previous three years, a rehabilitation centre or territorial unit had been established in almost every district to provide services to persons with disabilities who were unable to work. Substantial resources had been allocated and fiscal advantages granted to organizations providing assistance to persons with disabilities. Particular importance was placed on integration through unhampered access to all social and cultural facilities, involving efforts by local authorities as well as State institutions, and legislation provided for the right of local authorities to allocate sums to such issues. In recent years, the buildings inspectorate had been more active in checking new housing and social and cultural facilities as well as existing facilities that needed to be adapted to the needs of persons with disabilities.

40. Mr. LATIK (Ukraine), in response to question 6 of the list of issues, said that, at the end of 2006, some 25 per cent of all civil servants in central and local authorities were men, whereas 75 per cent were women. In terms of senior positions at the national level, about 36 per cent were held by men and 63 per cent by women, whereas at the local level women were only 7 per cent ahead of men.

41. Regarding changes to legislation on quotas of women represented on elected bodies, at the previous elections each party had had to provide details of its equality policy, and Parliament

intended to examine a draft law on minimum quotas for women standing for election. Changes to legislation on political parties were also in the pipeline, providing for quotas of women in the nomination of parliamentary election candidates.

42. In response to question 7 of the list of issues, he said that sexual harassment was classified as an offence in Ukraine, carrying a maximum penalty of three years in prison. Complaints could be addressed to the Ombudsperson, the Ministry for Family, local ombudsmen in each ministry and local authority body which dealt with equal rights, the police and the courts. Employers were required to create the necessary working conditions to ensure that gender-based oppression did not occur. No complaints had been brought recently; one case had been examined in 2004.

43. Mr. DOROSHEVYCH (Ukraine), in response to question 8 of the list of issues, said that steps had been taken to implement the presidential decree on priority measures to prevent corruption and the provisions adopted to reform the national economy in 2006 and 2007. Several measures had been taken to ensure decent working conditions: the central and local authorities as well as scientific institutions and social partners (including employer organizations and trade unions) had drafted measures to regularize the economy, including a specific section on the development of entrepreneurship and social and labour relations. The measures consisted of three main parts: strengthening State supervision of implementation of legislation on decent wages, including inspections to detect cases where the minimum wage was not being respected and where workers were being employed without proper contracts; mechanisms to prevent tax evasion by the workforce and to prevent workers being employed without proper contracts; and the creation of an integrated system for information exchange between bodies responsible for State surveillance and non-State pensions. New legislation on social insurance, due to enter into force on 1 January 2009, would provide a second level of pension coverage and would further regulate the informal economy.

44. Ms. YEFIMENKO (Ukraine), in response to question 9 of the list of issues, said that the unemployment rate among women had fallen in 2006 by 0.2 per cent, to 6 per cent of the economically active population, compared with an overall level of unemployment of 7 per cent, and the level of employment among women had risen from 32.8 per cent in 2005 to 35.7 per cent in 2006. Employment legislation provided that 5 per cent of all jobs available must be allocated to women with children under the age of 6 and single mothers with children under 14 or women with disabled children. Failure to respect that quota resulted in a fine equal to four times the minimum wage, which was paid into the unemployment fund. Employment centres provided women with professional advice taking account of regional labour markets, organized seminars to develop self-confidence, provided vocational training and found temporary jobs.

45. The law prohibited all forms of gender-based discrimination and provided for the equal rights of men and women in the labour market; for example, in terms of workers' career development and opportunities for retraining and further vocational training.

46. Mr. DOROSHEVYCH (Ukraine), in response to question 10 of the list of issues, said that the State Department for Industrial Safety, Labour Protection and Mining Oversight inspected documents attesting to medical checks provided to underground workers. Inspections were carried out jointly with the State labour monitoring body and its territorial subdivisions, the coal-mining authorities, the Ministry of Health, the Social Insurance Fund for Accidents at Work

and Occupational Illnesses, and the social partners. A four-tier system was in place to inspect land where mines were located; checks were carried out, with the support of the Ministry of the Environment, of landowners at the regional and district levels with a view to eliminating unauthorized mining. In March 2007 a system had been adopted whereby a special permit was required to mine underground deposits, subject to an assessment by a State committee on mineral resources, and changes to article 40 of the Criminal Code on underground mining operations provided for sanctions in that area, including a prison sentence of two to five years. The result had been a downward trend in the number of fatalities in difficult working environments such as coal mines.

47. Ms. IVANENKO (Ukraine), in response to question 11 of the list of issues, said that labour legislation ensured equal rights in employment and specifically in wages. Wages did not depend, for example, on a worker's origin, social position, ethnic group or language, but on the work done, the grade and the functions of the position. The State inspectorate had found no cases of gender discrimination regarding equal pay for equal work.

48. In response to question 12 of the list of issues, she said that an international programme had been in place since 2001 to combat child labour. A law had been adopted under a national plan of action to implement the Convention on the Rights of the Child which included a section on the protection of children from labour exploitation. A social survey undertaken by the State standards body in 2005-2006 had found that, of 3,500 employed minors, 986 were working in illegal conditions. The employers involved had been brought before a court for administrative violations and a number of employers had been prosecuted, some fines imposed and some cases referred to the Procurator-General's Office.

49. Ms. YEFIMENKO (Ukraine), in response to question 13 of the list of issues, said that an adequate standard of living was ensured through a social protection system, focusing particularly on increasing income. Each year over the previous five years, nominal national income had risen by 20 per cent and real income by at least 10 per cent, or 15 per cent in 2006. That increase had led in turn to an increase in basic social safeguards (pensions, wages, insurance contributions and State benefits). All social safeguards had been improved in 2007: the minimum pension had risen by 20 per cent compared with 2005 and the minimum employment benefit by 50 per cent. The minimum pension had reached the level required for subsistence by 2005, but unemployment benefit had been only at 50 per cent: the relevant ILO convention was to be applied in that respect. The child allowance had also been increased, and the disability allowance had risen by 20 to 40 per cent.

50. Ms. DROZDOVA (Ukraine), in response to question 14 of the list of issues, said that budget resources were sufficient to cover all social assistance and any arrears in payments had been eliminated. The social assistance system benefited over 3 million families and had an annual budget of US\$ 5 billion. Benefits were applied in terms of a guaranteed minimum, not just a subsistence minimum, resulting in a continuous upward trend.

51. After a procedural discussion in which the CHAIRPERSON, Ms. BONOAN-DANDAN, Mr. RIEDEL, Mr. RZEPLINSKI and Ms. DROZDOVA (Ukraine) took part, the CHAIRPERSON invited members of the Committee to raise questions regarding articles 6 to 9 of the Covenant.

52. Mr. RZEPLINSKI said that both official statistics and information from other sources indicated that women were seriously underrepresented in positions of responsibility. Women reportedly accounted for most of the unemployed, and those who did have jobs were disproportionately employed in part-time or low-paying positions, despite the fact that education levels were about the same for both sexes. Did the Government carry out any programmes targeting predominantly female professions with a view to enhancing career opportunities? Was there any discussion of the possibility of ratifying ILO's Prevention of Major Industrial Accidents Convention, 1993 (No. 174) or Maternity Protection Convention, 2000 (No. 183)? While Ukrainian labour legislation was apparently quite good, questions arose in respect of enforcement and compliance. In Donetsk and Luhansk, the public authorities and the police had reportedly turned a blind eye to illegal mines that were using child labour. About 7 per cent of the workforce earned less than the minimum wage. Were there no mechanisms to protect such workers? While there had been some progress in occupational health and safety, there were still numerous industrial accidents, particularly in mines. Were such cases ignored by trade union leaders, prosecutors and labour inspection officials? It was difficult to reconcile the fact that there were some 7,000 mine accidents per year with the failure to prosecute a single criminal case.

53. The major trade unions had massive holdings and acted as employers, which compromised their ability to defend the interests of workers, and the leaders of the newer, smaller trade unions were reportedly persecuted and encountered serious obstacles when they attempted to organize at both Ukrainian and foreign companies. What protection was afforded to them by labour inspection officials? Such problems were by no means new, as they had been cited in the Committee's earlier concluding observations (E/C.12/1/Add.65). According to ILO, the Ukrainian labour inspection services needed training to improve their effectiveness. Notwithstanding the existence of constitutional provisions ensuring access to public information, there was a dearth of data on complaints filed with such services. The Ombudsperson was apparently unwilling to accept complaints of labour law violations from workers and NGOs. What did the Government intend to do to make the labour protection system more effective? Lastly, had the authorities taken any measures to defend the interests of the millions of Ukrainians who worked in other countries, for example by entering into bilateral agreements?

54. Ms. WILSON said that, according to the State party's report, in 2005 some 5,000 companies - 17 per cent of the total - had failed to comply with minimum wage provisions, and the Government had imposed a number of fines. Had the situation improved since then?

55. Mr. ABDEL-MONEIM, noting that public social security and social insurance systems throughout the world faced difficulties, requested information on the specific problems faced by the Ukrainian social insurance system.

56. Mr. RIEDEL said that, while the report presented information on the Government's priorities in respect of occupational safety, there was little information on the actual effectiveness of the preventive measures that had been taken and on the difficulties encountered in attempting to improve safety at work. The Government maintained that pension levels had increased substantially, and that the level of minimum retirement pensions had been pegged to a subsistence minimum. Was that minimum sufficient? The Government stated in the report that

the country's pension arrears had been settled in 2000. Noting that even the most developed countries had problems in that field, he asked for clarification. Lastly, what measures had been taken to ensure pensions for persons not covered under contributory pension insurance systems?

57. Mr. MARTYNOV said that, according to the State party's report, under the Employment Act, a number of jobs were reserved in certain enterprises for women with children under a certain age and for women with disabled children. Which enterprises were mandated to reserve such posts? Noting that of some 2.5 million disabled people in Ukraine, only about 13 per cent were reportedly employed, he asked whether the Act included any provisions encouraging the employment of disabled people. While welcoming the ratification by Ukraine of the European Social Charter, he asked whether the Government was considering ratification of ILO conventions relating to social protection and the CIS Agreement on Cooperation in Resolving the Problems of Disability and the Disabled.

58. Ms. DROZDOVA (Ukraine) said that the concluding observations referred to by Mr. Rzeplinski had been published in Ukrainian, Russian and English in 2004, as part of a compendium of concluding observations of the treaty bodies.

59. Mr. LATIK (Ukraine) said that, under the Constitution, it was only in time of war or during a state of emergency that certain laws could be passed to restrict rights and freedoms, including trade union rights. Trade union rights could also be restricted in certain situations in the interests of national security or to ensure public order. There had been a yearly increase in criminal proceedings against perpetrators of human trafficking and enticement into prostitution thanks to the efforts of the law-enforcement agencies, which had concentrated on eradicating that phenomenon. The official title of the Ombudsperson was the Commissioner for Human Rights. According to the alternative report, complaints were not registered by the Commissioner, but were simply referred to services of the executive branch for treatment. A general register had since been established, which provided the Commissioner with a more complete and reliable source of information for the treatment of cases. The Commissioner was obliged to submit an annual report to the Supreme Council with information on the complaints lodged. The Supreme Council could call the appropriate government ministry to account, and in the event that the Government refused to take appropriate measures, it could take action itself.

60. The Ombudsperson was not able to be a member of Parliament because the Constitution prohibited parliamentarians from simultaneously holding any other positions apart from certain scientific or teaching posts. The Public Procurator bore responsibility on the one hand to bring charges in court and to represent the interests of the citizen, and on the other hand to ensure general oversight over the application of legislation. In practice, oversight in the field of human rights consisted, when criminal acts were involved, in bringing criminal charges or referring the cases to the appropriate law-enforcement bodies. With the election of the new Parliament, a number of bills had been put forward that would change the status of the procurator's office. While the new Supreme Council had yet to determine the number of members that would sit on its Committee on Questions of Human Rights, Ethnic Minorities and Interethnic Relations, it was expected to consist of about 20 to 25 parliamentarians, who would themselves in turn decide upon the composition and number of its subcommittees. The new Supreme Council was considering the establishment of quotas to ensure a minimum of female candidacies in both national and local elections. For the time being, the proportion of female parliamentarians had remained steady at about 7 per cent.

61. The Constitutional Court verified the constitutionality of laws, decisions and ministerial decrees and enactments of the central Ukrainian Government and of the Crimean authorities. In such cases, the Ombudsperson had the right to make submissions. But the Court also had another function, which consisted in providing an interpretation of a given law, in which case any citizen was entitled to make a submission. The procedure for submission of cases to the European Court of Human Rights simply required the exhaustion of domestic remedies. The wording of the anti-discrimination clauses in the Constitution did not use the word “citizen”; all individuals in the national territory were covered by those provisions. One of the Committee members had referred to a statement in the report that “humanitarian considerations are of secondary importance”. That statement should be read in context. Clearly, human rights were one of the most important matters considered by the Supreme Council, which had enacted more legislation relating to rights than it had passed laws on economics and finance. Another question had been raised about action taken by the Government against vandalism and graffiti against religious minorities, in particular on synagogues. A new bill revising the act on freedom of conscience and religious organizations was currently being drawn up with the participation of representatives of religious groups. For the time being, such groups had been unable to reach a consensus on certain points, which had held up its adoption. In Ukraine, legislative bills were subject to a gender-impact assessment by the Ministry of Justice before they were put up for adoption; a negative assessment would block consideration by the ministries concerned and by the Parliament. The Criminal Code contained provisions according to which the violation of rights on the basis of race, nationality or religion carried penalties of up to five years’ imprisonment.

The meeting rose at 6.05 p.m.