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Report of the Working Group on the Universal Periodic Review*

Ukraine

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

Ukraine welcomes the recommendations made in the course of its UPR on 24 October 2012 and after careful consideration, is pleased to provide the following decisions, as well as some comments, to be included in the outcome report:

97.1. Not accepted. Ukraine considers that an analysis of the legal framework in the respective fields, as well as assessment of financial, economic and socio-political consequences of the implementation of a document should precede the recommendations implementation relating any international document ratification. According to this Ukraine at the moment cannot make a definitive statement on the recommendation regarding Optional Protocol to the ICESCR, however possible ratification of the abovementioned Protocol will be examined in due course. Regarding the ratification of the Rome Statute of the International Criminal Court see paragraphs 7–8 of the National report;

97.2. Not accepted (see position on rec. 97.1). However, the Government still remains fully committed to the protection of rights of vulnerable groups, including migrants;

97.3. Not accepted (see position on rec. 97.1);

97.4. Not accepted (see position on rec. 97.1);

97.5. Not accepted (see position on rec. 97.1);

97.6. Not accepted (see position on rec. 97.1);

97.7. Not accepted (see position on rec. 97.1);

97.8. Not accepted (see position on rec. 97.1);

97.9. Not accepted (see position on rec. 97.1);

97.10. Not accepted (see position on rec. 97.1);

97.11. Not accepted (see position on rec. 97.1);

97.12. Accepted, in the course of implementation;

97.13. Not accepted (see position on rec. 97.1);

97.14. Not accepted (see position on rec. 97.1);

97.15. Not accepted (see position on rec. 97.1);

97.16. Accepted. It should be noted that State program "National Action Plan on the Implementation of the Convention on the Rights of Persons with Disabilities for the period up to 2020" was approved in August 2012;

97.17. Accepted;

97.18. Not accepted. National legislation establishes the principle of non-discrimination, which provides equal rights and liberties for all persons, groups of persons, and equality before the law, respect for the dignity of every human being, equal opportunities for all individuals and / or groups of individuals. In this regard, the selection of a form of discrimination considers inappropriate. In addition, Article 34 of the Constitution guarantees everyone the right to freedom of opinion and speech, freedom of expression of their views and beliefs. Article 64 of the Constitution says that the constitutional rights and freedoms of man and citizen may not be restricted, except as provided by the Constitution;

97.19. Not accepted, taking into account the opinion given in 97.18. Furthermore it should be noted that the adoption of new laws or amending existing laws shall not

diminish the content and scope of existing rights and freedoms. In addition, the government has no authority to withdraw the bills initiated by MPs of Ukraine;

97.20. Accepted;

97.21. Accepted, already implemented due to the adoption of the new Criminal Procedure Code, (paragraphs 102–104 of the National report);

97.22. Accepted;

97.23. Accepted;

97.24. Accepted;

97.25. Not accepted. (see position on rec. 97.18);

97.26. Accepted, already implemented, see paragraphs 14–17 of the National report;

97.27. Accepted (see position on rec. 97.26);

97.28. Accepted (see position on rec. 97.26);

97.29. Accepted;

97.30. Accepted (see position on rec. 97.26);

97.31. Accepted;

97.32. Accepted. To the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights" amendments were made, by which the Ombudsman was designated as national preventive mechanism under OPCAT, see paragraphs 86–87 of the National report;

97.33. Accepted (see position on rec. 97.32);

97.34. Accepted (see position on rec. 97.32);

97.35. Accepted (see position on rec. 97.32);

97.36. Accepted. The Article 38 of the new Criminal Procedure Code provides the mentioned mechanism establishment as the State Bureau of Investigation;

97.37. Accepted (see position on rec. 97.32);

97.38. Accepted (see position on rec. 97.26);

97.39. Accepted;

97.40. Accepted;

97.41. Accepted;

97.42. Accepted;

97.43. Accepted, already implemented (see position on rec. 97.16 and paragraphs 97–98 of the National report);

97.44. Not accepted (see position on rec. 97.18);

97.45. Accepted;

97.46. Accepted;

97.47. Accepted;

97.48. Accepted;

- 97.49. Accepted;
- 97.50. Accepted;
- 97.51. Accepted;
- 97.52. Accepted, see paragraph 22 of the National report;
- 97.53. Not accepted. The Government considers that the temporary quotas' imposition for certain groups, in particular Roma women, will not solve the problem of discrimination against them, and in addition, the introduction of these quotas could be considered as discrimination towards other social groups. However, the Government believes that the recommendations 97.53 and 97.54 fulfillment will fully contribute to the cause of non-discrimination. (see paragraphs 21–23 of the National report);
- 97.54. Accepted;
- 97.55. Already implemented. The Law of Ukraine "On Principles of Prevention and Combating Discrimination in Ukraine" identifies "direct" and "indirect" discrimination. The definition of discrimination, as enshrined in the Act, includes an endless list of features (color, political, religious or other beliefs, sex, age, disability, ethnic or social origin, marital status, property, place of residence, linguistic or other characteristics) that enables to interpret it as broadly as possible. For more details see position on rec. 97.18;
- 97.56. Accepted (see position on rec. 97.26);
- 97.57. Not accepted (see position on rec. 97.18);
- 97.58. Accepted;
- 97.59. Accepted;
- 97.60. Accepted;
- 97.61. Accepted;
- 97.62. Accepted;
- 97.63. Accepted;
- 97.64. Accepted;
- 97.65. Accepted;
- 97.66. Accepted (see position on rec. 97.26);
- 97.67. Accepted;
- 97.68. Not Accepted. The Constitution of Ukraine states that social life is based on the principles of political, economic and ideological diversity. National legislation also stipulates that persons authorized to perform the functions of the state or local government should tolerate and respect the political views, ideological and religious beliefs of others. Moreover, Article 37 of the Constitution states that the establishment and functioning of political parties and public organizations, program goals or actions of which are aimed, in particular, to promote war, violence, inciting ethnic, racial or religious hatred, attacks on human rights and freedoms, health of the population are forbidden;
- 97.69. Accepted;
- 97.70. Not accepted according to the opinion given in the recommendation 97.18. However, we consider it necessary to note that non-discrimination principle

enshrined in Article 24 of the Constitution of Ukraine, Article 6 of the Law of Ukraine "On Prevention and Combating Discrimination in Ukraine." Also Article 67 of the Criminal Code of Ukraine provides that the offense committed with racial, national or religious enmity or discord is an aggravating factor in sentencing;

- 97.71. Not accepted (see position on rec. 97.18 and 97.55);
- 97.72. Not accepted (see position on rec. 97.18 and 97.55);
- 97.73. Not accepted (see position on rec. 97.18; 97.19 and 97.55);
- 97.74. Accepted;
- 97.75. Accepted;
- 97.76. Accepted;
- 97.77. Accepted;
- 97.78. Accepted;
- 97.79. Accepted;
- 97.80. Accepted;
- 97.81. Accepted;
- 97.82. Accepted;
- 97.83. Accepted;
- 97.84. Accepted;
- 97.85. Accepted;
- 97.86. Accepted, already implemented. Law of Ukraine "On Public Morals" gives a definition of child pornography;
- 97.87. Accepted;
- 97.88. Accepted;
- 97.89. Partially accepted, except for the changes to the Criminal Code, because the issue is not regulated by it;
- 97.90. Accepted, see paragraphs 53–58 of the National report;
- 97.91. Accepted (see position on rec. 97.90);
- 97.92. Accepted;
- 97.93. Partially accepted, except for the provisions related to "selective justice." Also note that the implementation of ECHR judgments is regulated by a special law "On the Fulfillment of Decisions and Application of Practice of the European Court of Human Rights", and the execution of decisions is supervised by the CM CoE;
- 97.94. Accepted;
- 97.95. Accepted;
- 97.96. Accepted;
- 97.97. Accepted;
- 97.98. Accepted;
- 97.99. Accepted;

- 97.100. Accepted;
- 97.101. Accepted;
- 97.102. Accepted;
- 97.103. Accepted;
- 97.104. Accepted;
- 97.105. Accepted;
- 97.106. Accepted;
- 97.107. Accepted;
- 97.108. Accepted;
- 97.109. Accepted, Ukraine is committed to the proper implementation of the principles of a fair trial set out in Article 14 of the ICCPR, as proved by the procedural rules of national law, see paragraph 104 of the National report;
- 97.110. Accepted. By the new Criminal Procedure Code the criteria of admissibility of evidence are identified, and evidence obtained as a result of a substantial violation of rights and freedoms are inadmissible;
- 97.111. Already implemented, criminal procedural law enables calling in an interpreter at public expense if needed;
- 97.112. Accepted, already implemented, see paragraph 105 of the National report, the corresponding law entered into the force;
- 97.113. Accepted. According to the Constitution of Ukraine, as well as procedural law of Ukraine the right to appeal in court against the decisions, acts or omissions of public authorities, local governments, officials and officers is guaranteed to everyone;
- 97.114. Not accepted;
- 97.115. Accepted;
- 97.116. Accepted;
- 97.117. Accepted, the new Criminal Procedure Code provides the respect for human rights on persons in custody, regarding migrants it should be mentioned, that this issue is not a matter for regulation of the CPC. However, national legislation stipulates that the deportation decision is announced to a foreigner in a presence of interpreter, legal representative (at the detainee's request);
- 97.118. Accepted;
- 97.119. Accepted. Ukraine supports the principle of freedom of the media and under national law intentional obstruction of the lawful professional activities of journalists, and the persecution of journalists for carrying out their professional duties are criminal offenses;
- 97.120. Accepted;
- 97.121. Accepted (see position on rec. 97.119);
- 97.122. Accepted;
- 97.123. Accepted;

97.124. Not accepted. Ukraine will consider the recommendations of the independent observer missions in order to implement them in due time, however it should be noted that a number of the recommendations are of a technical nature and are not related to the issue of human rights;

97.125. Accepted;

97.126. Accepted;

97.127. Accepted;

97.128. Accepted;

97.129. Accepted;

97.130. Accepted;

97.131. Accepted;

97.132. Accepted;

97.133. Accepted;

97.134. Accepted (see position on rec. 97.16);

97.135. Accepted;

97.136. Accepted;

97.137. Partially accepted; concerning the (school) education. The new law "On State Language Policy" defines such things as the national language, language group, language minorities, the regional language group, a regional or minority language, mother tongue, the languages of national minorities. By the Article 20 an education in official language and regional languages or minority languages is guaranteed to Ukrainian citizens. Free choice of the educational language is an inalienable right of citizens of Ukraine and is limited to a compulsory study of the state language, sufficient for integration into Ukrainian society;

97.138. Accepted, (see position on rec. 97.137);

97.139. Accepted;

97.140. Accepted;

97.141. Accepted;

97.142. Accepted;

97.143. Accepted;

97.144. Accepted;

97.145. Not accepted partially concerning the cases in which asylum-seekers are to be forcibly returned reconsidering. However, Ukrainian law prohibits the expulsion or forcible return of a refugee to the country he came from, and where his life is in danger. Prohibition of expulsion or forcible return is a prevention of forcible return (voluntary or involuntary), extradition, transmission, and other forced displacement (non-refoulement principle). Forcible expulsion of foreigners in Ukraine is performed according to the administrative court decision. Appeals against deportation do not stop their action, except in cases where the court in order to support the administrative claim can stop a relevant decision of the authority.