

UNCT submission for the 2017 Universal Periodic Review of Ukraine

I. Introduction

The conflict in eastern Ukraine has affected the whole country, leading to dramatic human, social and economic losses, drastic violations of legal norms and human rights as well as deepening gender inequalities, all aggravated by deep-seated governance challenges and pervasive corruption. Regular monitoring and assessment of emerging risks, political and security development scenarios was a UNCT priority. This report is a joint undertaking of the United Nations Country Team (UNCT) in Ukraine¹ covering the period between November 2012 and 20 March 2017. It is not exhaustive but rather highlights the main human rights issues addressed through Agencies' mandates.

II. Background

Following the decision of the Government of Ukraine not to sign an Association Agreement with the European Union in November 2013, protests began on Kyiv's Independence Square ('Maidan') and spread to other regions. Tensions grew into violence as demonstrators and security forces clashed, causing over a hundred deaths and hundreds of injuries. On 22 February 2014, a new Government was established after Ukrainian Parliament voted to remove President Yanukovich, who fled the country. Within days, armed groups opposed to the new Government seized power in Crimea and organized a referendum on 16 March 2014 leading to Crimea's *de facto* integration into the Russian Federation. The referendum was not recognized by Ukraine and the United Nations. In eastern Ukraine, armed groups seized control of parts of Donetsk and Luhansk regions and declared the creation of a self-proclaimed 'Donetsk people's republic' and self-proclaimed 'Luhansk people's republic'. On 14 April 2014, the Government launched an 'anti-terrorist operation' to regain control of those territories, sparking an armed conflict between Government forces and the armed groups in Donetsk and Luhansk regions. On 2 May 2014, violence in Odesa pitting supporters of Ukraine's unity against proponents of its 'federalization' left 48 people dead. Despite the Minsk Protocol of September 2014 and the renewal of its cease-fire provisions in February 2015, the armed conflict continues. From mid-April 2014 to 15 February 2017, OHCHR recorded 33,146 casualties, among Ukrainian armed forces, civilians and members of the armed groups. This includes 9,900 people killed and 23,246 injured.

Against the background of the conflict, the Government developed in 2015 a human rights strategy and a related action plan. In 2016, constitutional amendments on the judiciary were passed while amendments to the constitution in the area of human rights and decentralization are pending.

III. Promotion and protection of human rights on the ground

Right to life, liberty and personal integrity

Status of implementation of previous recommendations

¹ IOM, OHCHR, UNDP, UNHCR, UNICEF, UN Women and the PDA have directly contributed towards preparation of this report.

The Government established an independent national preventive mechanism against torture whose functions are exercised by the Ombudsperson's institution with the support of civil society organizations². According to the Criminal Procedure Code, confessions or evidence obtained as a result of ill-treatment³ are inadmissible in court and victims of crimes have the right to compensation. However, these provisions are not effectively applied and are absent in areas in the east not under Government control. Victims of torture and ill-treatment do not have effective reparations mechanisms, including rehabilitation services⁴. While Ukraine acceded to the International Convention for the Protection of All Persons from Enforced Disappearance⁵, provisions regarding criminalization of enforced disappearance have not been integrated in national legislation.

Human rights developments during the period under review

Since mid-April 2014, over 2,000 civilians have been killed in armed hostilities, mostly as a result of indiscriminate shelling of populated areas in eastern Ukraine. Hospitals, schools and other objects enjoying protected status under international humanitarian law have been targeted. Government forces and armed groups have used civilian infrastructure for military purposes, depriving local populations of access to education and health and endangering civilians. Military positions continue to be located in or near residential areas. The parties to the conflict have laid landmines, including anti-personnel mines.

Dozens of civilians and persons *hors de combat* were subjected to summary executions and killings, or died of torture and ill-treatment in custody. About 3,000 conflict-related detainees have been deprived of their liberty in the territories controlled by the armed groups. They were subjected to torture, ill-treatment and/or inhuman conditions of detention, often aggravated by the absence of access of external observers. In Government-controlled territory, conflict-related detainees were often kept *incommunicado*, including in unofficial places of detention, and subjected to torture and ill-treatment. Hundreds of persons remain missing on both sides of the contact line.

Recommendations to the Government of Ukraine and other actors performing State-like functions⁶

- *Put an end to fighting and violence, including through full implementation of the Minsk Agreements and removing heavy weapons;*
- *Provide unhindered access to external monitors to all places where people may be detained, and act to ensure that no persons in custody are held incommunicado, forcibly disappeared, or subject to torture or ill-treatment;*
- *Ensure full respect of international human rights law and international humanitarian law, including the prohibition of killing or injuring civilians and other protected persons; arbitrary deprivation of liberty; enforced disappearance; torture and cruel*

² See recommendations of the Report of the Working Group on the Universal Periodic Review of 20 December 2012, A/HRC/22/7, paragraphs 97.32 - 97.35.

³ *Ibid.* paragraph 97.110.

⁴ *Ibid.* paragraphs 97.99; 97.101.

⁵ *Ibid.* paragraphs 97.1; 97.2.

⁶ Detailed OHCHR recommendations can be found in the paragraphs 223-225 of the OHCHR report on the human rights situation in Ukraine covering the period from 16 August to 15 November 2016 (http://www.ohchr.org/Documents/Countries/UA/UAReport16th_EN.pdf); paragraphs 208-210 of the OHCHR report on the human rights situation in Ukraine covering the period from 16 May to 15 August 2016 (<http://www.ohchr.org/Documents/Countries/UA/Ukraine15thReport.pdf>); and paragraphs 68-70 of the OHCHR report 'Accountability for killings in Ukraine from January 2014 to May 2016' (http://www.ohchr.org/Documents/Countries/UA/OHCHRThematicReportUkraineJan2014-May2016_EN.pdf).

or inhuman treatment; indiscriminate or disproportional attacks; denial of humanitarian relief; destruction or appropriation of civilian objects or other protected objects; and denial of fair trial rights.

- *Investigate promptly and effectively all allegations of torture and ill treatment, including sexual violence, having due regard to the needs of victims and specific methodologies (e.g. Istanbul Protocol).*

Access to justice, fair trial, effective remedies, accountability and impunity⁷

Status of implementation of previous recommendations

Legislation creating a State Bureau of Investigation (SBI) was adopted in November 2015⁸. However, this body entrusted with the task of investigating crimes committed by high-ranking officials, judges and officers of law enforcement agencies as an independent mechanism has not yet been established. The Government of Ukraine amended the country's Constitution in June 2016, creating legal conditions for an independent judiciary, including transparent procedures and criteria for the appointment and dismissal of judges and the use of disciplinary measures⁹. In addition, the broad supervisory powers of the Prosecutor's Office were abolished and criminal prosecution functions were separated from investigative ones¹⁰. However, the Prosecutor's Office is to continue performing investigative functions until the SBI is established. The constitutional amendments also foresee the creation of a dedicated Anti-Corruption Court and allow Ukraine to ratify the Rome Statute of the ICC but no earlier than in September 2019¹¹.

Human rights developments during the period under review

Impunity for perpetrators of human rights violations is widespread, often justified by the challenges posed by the ongoing conflict. The armed groups have undermined the human rights of the people residing under their control by imposing an arbitrary system of rules, establishing places of deprivation of liberty where detainees are tortured and ill-treated, and cracking down on dissent. Subjected to unaccountable rule and excluded from the legal system applying to the rest of Ukraine, the population living in the territories controlled by the armed groups has been effectively denied protection and deprived of basic human rights and freedoms.

Ukrainian authorities have arrested hundreds of people suspected of affiliation with the armed groups and charged them with terrorism offenses. In August 2014, the Government applied special measures to the conflict zone, lowering human rights protection guarantees and derogating from a number of international obligations under the ICCPR and ECHR. An individual arrested on suspicion of terrorism can be held for up to 30 days without court review. Other derogation measures grant prosecutors in the conflict area additional powers normally attributed to investigating judges, such as the authority to decide upon issues related to custodial measures, access to property, searches, and wiretapping. The derogation also allows the military and civil-military administrations established as temporary state bodies in Government-controlled areas of Donetsk and Luhansk regions to impose restrictions on freedom of movement (e.g. curfews), conduct security searches, and other measures allegedly

⁷ For more details, please see Accountability and Administration of Justice section of the OHCHR reports on the human rights situation in Ukraine, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/UARports.aspx>

⁸ Recommendations 97.36; 97.93; 97.100.

⁹ Recommendations 97.88 - 97.92; 97.6.

¹⁰ Recommendations 97.89; 97.92; 97.95; 97.96; 97.98.

¹¹ Recommendations 97.6 - 97.10; 97.13 - 97.15.

to protect public safety. There are questions about the validity of the derogation which requires the official proclamation of the existence of a public emergency threatening the life of the nation¹² and applies to some rights which have been interpreted by the UN Human Rights Committee as being non-derogable, including the right to an effective remedy, and procedural rights such as the supervision by a judicial body of the lawfulness of detention. Prosecutors and judges involved in criminal proceedings against individuals detained in the context of the conflict often ignore evidence of abuse and violations of fair trial rights. Claims of torture and ill-treatment are rarely or improperly investigated.

Investigations of violations during the Maidan protests have seen some progress. Five law-enforcement officers accused of murdering 48 people were arrested and their trial has begun. In relation to the violence in Odesa, the investigations have progressed selectively, the trials have been subjected to undue delays and continued interference, and no one has been held accountable. This underscores the limited independence and lack of impartiality of the judiciary, police and prosecution systems.

Recommendations

- *Ensure independent, thorough and effective investigations of the human rights violations committed during the Maidan and Odesa events and bring the perpetrators to account;*
- *Ensure that investigations for killings and other violations in the east are prompt, independent and impartial and that those responsible, directly or as bearers of command authority, are brought to justice;*
- *Ensure that no impunity to perpetrators complicit with acts of arbitrary deprivation of life and other gross violations of human rights and serious violations of international humanitarian law shall take place in the context of amnesty and pardoning envisaged by the Minsk Agreements or any other amnesty or pardoning;*
- *Repeal legal provisions allowing a person to be detained for up to 30 days without any court review;*
- *Establish a mechanism for periodic independent review by the Parliament of the necessity of measures derogating from the ICCPR and lift the derogation as soon as it is no longer required;*
- *Prevent interference with the independence of the judiciary, including through securing the safety of courtrooms, judges, prosecutors and defence lawyers;*
- *Take steps to establish the State Bureau of Investigation and ensure its effective functioning.*

IDPs, refugees and asylum seekers

Status of implementation of previous recommendations

Irregular migrants are provided by law with free secondary legal aid, allowing them to draft appeals and be represented at court. However, they often do not make use of this right due to the low level of information provided by detaining authorities and the absence of

¹² Article 4 of ICCPR.

interpreters¹³. In addition, free secondary legal aid is not available in administrative detention/forcible expulsion cases during first instance court hearings.

Human rights developments during the period under review

The conflict in the east and the situation in Crimea have led to the internal displacement of 1.6 million people. Challenges faced by IDPs include restricted freedom of movement, problems accessing accommodation, documentation, access to rights, social benefits and pensions. IDPs are at heightened risk of SGBV due to displacement, separation of families, disruption of community and institutional protection structures. In 2016, the Government adopted resolutions affecting the provision of social assistance and benefits to IDPs. They reduced the amount of targeted social support; suspended the validity of IDP certificates; imposed a single banking operator for social payments; and conditioned the access of pensions and benefits for people living in areas controlled by armed groups to their compulsory registration as IDPs in Government-controlled territory and to their actual relocation.

IDPs and the civilian population in the conflict-affected area have been affected by limitations to the freedom of movement. They have to queue at official entry-exit checkpoints, or take roundabout paths that are dangerous due to the presence of mines and explosive remnants of war. Checkpoint personnel retain the ability to deny entry or exit to any person deemed to be a “threat to national security”. Without clear criteria, civilians may be arbitrarily denied movement across the contact line.

Ukraine has no state migration policy strategy. The maximum detention period for irregular foreigners and stateless persons has been increased from 12 to 18 months as per the *Law No. 1379-VIII*,¹⁴ including for those persons who, prior to adoption by the State Migration Service of a final decision on their asylum claim, tried to illegally exit the country. Legislative changes were adopted, introducing alternatives to detention for irregular migrants in the form of guarantees provided by legal entities. However, they are still inapplicable due to the absence of a regulatory mechanism. Only two government-run reception centres, located in Odesa and Zakarpattya, are available. The opening of an accommodation center in Yagotyń (Kyiv region) in 2016 was prevented by the local community. Aside from these centres, there is no government housing scheme for refugees and asylum-seekers and no state social assistance is provided to them.

Recommendations

- *Develop special simplified procedures for people who have lost their identification documents to obtain temporary travel and civil registration documents.*
- *De-link IDP registration from all social entitlements not related to the IDP situation, including pensions, and seek ways to ensure citizens of Ukraine living in territories controlled by armed groups have access to their pensions and other social protection benefits.*
- *Facilitate civilians’ freedom of movement and transportation of goods across the contact line in the east and the administrative boundary line with Crimea according*

¹³ Recommendation 97.117.

¹⁴ *Law No. 1379-VIII*, titled “Amendments to some legislative acts of Ukraine regarding improvement of regulations on judicial protection of foreigners and stateless persons and regulation of certain issues related to combating illegal migration”, from 19 May 2016.

to norms and principles of international humanitarian law, particularly the legality, necessity and proportionality of the restrictions on movement of civilians and goods.

- *Adopt by-laws introducing a regulatory mechanism for the application of alternatives to detention for irregular migrants.*
- *Amend legislation to oblige detaining authorities to notify Free Legal Aid Centres on the date and time of first instance court hearings on forcible expulsion from Ukraine, as well as on the detention of foreigners and stateless persons, and to establish a mechanism of notifications regarding second instance court hearings for detained irregular migrants.*

Rights of the child

Status of implementation of previous recommendations

Ukrainian legislation does not define sexual exploitation nor contain a specific definition of child pornography. It prohibits prostitution and provides for administrative sanctions, which may also apply to children. This is concerning as children are treated as offenders instead of being viewed as victims. Services for HIV prevention and care fail to reach many adolescents¹⁵. The National AIDS Programme for 2014-2018 envisions scaling up services for adolescents. A revised national HIV testing and counseling protocol was drafted including statutory regulations on information to be provided to adolescents during pre- and post-test counseling, but the protocol has yet to be finalized. Youth Friendly Clinics providing medical and social services to children and young people have been established by regional health care and social departments. The staff are trained and their activities monitored by a Youth Friendly Clinic Monitoring Centre established by the Ministry of Health.

The quality of support services for children with disabilities falls short of international standards, and a large number of children are placed in residential facilities as means for rehabilitation. Institutions house more than 70,000 children with health problems and developmental delays, many in remote locations. Few families are aware of the advantages of caring for children with disabilities at home, and few children are aware of their rights or ways to seek help for abuse.

Insufficient efforts were made to prevent abuse of children in detention facilities, which lack critical support services¹⁶. Some facilities use disciplinary isolation cells and some staff members condone violence by children as a way to discipline other children. Hierarchical subcultures developed amongst the imprisoned children, leading to abusive and oppressive environments¹⁷.

Ukraine did not become a party to the Hague Convention on the Protection of Children and Co-operation in respect of Inter-country Adoption¹⁸.

Human rights developments during the period under review

The armed conflict has created unprecedented challenges to the fulfillment of children's rights and psychologically affected children and their caregivers. Families are exposed to

¹⁵ Recommendation 97.74

¹⁶ Recommendation 97.79

¹⁷ UNICEF Ukraine. Kharkiv Institute for Social Researches. Parliament Commissioner for Human Rights of Ukraine. Protection of the rights of children in detention. 2013

¹⁸ Recommendation 97.12

significant hardship related to protracted and often multiple displacements and the depletion of coping mechanisms and savings. As of February 2016, 25% of children aged 9-17 and 31% of those aged 9-10 were experiencing high levels of post-traumatic stress in the government-controlled areas of Donetsk and Luhansk regions, after a period of more than one year of non-direct contact with the conflict.

Ukraine has experienced a sharp decline in immunization coverage. While it is largely associated with demand-related factors, the supply of both services and information is critical. The occurrence of two cases of polio in western Ukraine was confirmed by the Ministry of Health on 1 September 2015.

Ukraine has a very good overall coverage of prevention of mother-to-child transmission services while coverage of injecting drug users and female commercial sex workers remains insufficient.

The number of children convicted of crimes decreased between 2005 and 2015. At the same time, the rate of repeat offending by children has not fallen as sharply, and the number of orphans and children in residential care who are registered by the police for criminal behaviour has remained static. Ukraine had six facilities for convicted children at the beginning of 2017 with 282 children in detention. These youth are often released on conditional sentences with little or no follow up.

The Government adopted a “National Plan of Action on CRC implementation 2017-2022” aiming to establish an effective child rights protection system at the local level and form a child-friendly environment based on international standards.

Recommendations

- *Ensure compliance of legislation with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.*
- *Improve immunization coverage monitoring, disease surveillance, quality and safety, and financial sustainability.*
- *Enhance capacity of service providers on HIV counseling and testing, taking into account the specifics of all age groups, adolescents’ right to testing without parental consent, anonymity, the voluntary nature of counseling and testing, and the prescription of anti-retroviral therapy.*
- *Develop a separate legislative framework on juvenile justice and establish a system of complaints and responses for the violations of the rights of children in detention in line with international standards.*
- *Develop a specialized child monitoring system regarding the conflict in eastern Ukraine.*
- *Strengthen community-based services for families with children with disabilities, ensuring required safety nets and preventing abandonment or use of institutions as a form for rehabilitation.*

Women’s rights and gender equality

Status of implementation of previous recommendations

Amendments to the Law on Political Parties stipulating a 30% quota for women¹⁹ on party lists were adopted in 2013 but have no enforcement mechanisms. The October 2015 local elections were held for the first time in Ukraine with gender quotas, but the share of elected women remains very low. This is due to non-compliance with the quotas requirements but also to the fact that the quotas apply to candidates but not elected positions. The Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) was not ratified,²⁰ although adaptation of national legal acts to the Convention provisions has been on-going since 2014. Failure to ratify was related to references in the Convention to ‘gender’, ‘sexual orientation’ and ‘gender identity’, which many deputies consider to be contrary to ‘Christian values’.

Human rights developments during the period under review

Women’s political leadership and participation in decision-making remain disproportionately low. Women make up 12% of Parliament deputies and 12% of Government ministers. On 1 March 2017, the new position of *Commissioner on Equal Rights and Opportunities for Women and Men* was approved and placed under the Vice-Prime-Minister’s Office. Upgrading the national machinery for the advancement of women to the Government level is a positive step, which can ensure effective oversight, coordination and monitoring. Women earn less than men regardless of their professional background and more women are concentrated in the low-income sector. Ukraine’s Labour Code does not ensure the application of the ILO treaty obligation of “equal pay for work of equal value.” Women experience more serious barriers in terms of access to justice than men, although disaggregated data is mostly unavailable.²¹ There is no systematic data collection on violence against women. Police information on family violence is not disaggregated by gender, age, or the relationship of the perpetrator to the victim. No data is available on prosecution or conviction rates. There is no government policy on preventing and responding to GBV and no comprehensive definition of violence against women and GBV in the legislation. Domestic violence is considered to be an administrative offence rather than a crime. There are no state shelters for survivors of GBV. The Ministry of Social Policy is responsible for 750 social centres to support people with a range of needs, including victims of domestic violence. However, the centres do not provide specialised support for survivors, are understaffed and underfinanced.

The emergence of sexual violence related to the conflict has been documented by OHCHR²² and others. Violations occurred mostly when men or women were deprived of liberty but also at entry-exit checkpoints at the contact line. National legislation and legal practice regarding the prosecution of sexual violence is limited and is not fully in line with international standards and practice. Due to gaps in legislation and a lack of capacity, acts of sexual violence are often recorded by law enforcement as bodily injury. Lawyers, police officers, prosecutors and judges lack knowledge of how to document, investigate and consider these cases. There are no comprehensive services for survivors, especially in rural areas. Victims of sexual violence are often confronted with inaction from State authorities or armed groups who exercise control over certain areas.

¹⁹ Recommendations 97.31; 97.53; 97.52; 97.54

²⁰ Recommendations 97.11; 97.78; 97.76; 97.77.

²¹ “Security and Justice in Ukraine: Perspectives from Communities in Three Oblasts”, UNDP Report, March 2017

²² http://www.ohchr.org/Documents/Countries/UA/ReportCRSV_EN.pdf

Recommendations

- *Align national laws and policies on gender-based violence with international standards and ratify the Convention on Preventing and Combating Violence against Women and Domestic Violence;*
- *Develop a mechanism to implement temporary special measures, including quotas, and ensure the integration of a gender perspective in all State reforms;*
- *Put in place systems for data collection, analysis, and monitoring of GBV and CRSV;*
- *Develop and provide timely, non-discriminatory, and comprehensive assistance to survivors of GBV, including proper referral mechanisms. Assistance should be made available including health services (including sexual and reproductive health), psychological, free legal aid, livelihood support and other multi-sectoral services;*
- *Ensure that the law-enforcement, forensic services, and judiciary document, investigate, prosecute, consider cases of domestic and sexual violence, applying a survivor-centred approach, as well as engage promptly and appropriately in the prevention and protection against all forms of violence against women;*

Protecting minorities and combating discrimination and xenophobia

Status of implementation of previous recommendations

The Law on National Minorities (1992) was not amended. It is vague and inconsistent, resulting in legal uncertainty for persons belonging to national minorities with regard to the enjoyment of their rights in the areas of education, language or representation in elected bodies²³. The Ministry of Culture has primary responsibility for minority issues but insufficient staff and capacity. The Government took steps to prevent and combat discrimination affecting national minorities. Public awareness campaigns were conducted to overcome prejudices and stereotypes²⁴. The National Police of Ukraine provided statistics on crimes committed in 2015 on intolerance grounds. A police registration form for verbal complaints was amended to include a paragraph allowing mention of complaints by victims claiming violations on grounds of intolerance. The training curriculum for law enforcement officers was amended to include a course on “Tolerance and non-discrimination in the work of police officers.” Yet, hate crimes²⁵ remain underreported, often due to improper legal qualification of the offense by the police. There is no government system in place for monitoring hate crimes. In 2015, Ukraine adopted labour legislation prohibiting discrimination on the grounds of sexual orientation²⁶, although no criminal sanctions are foreseen for discrimination based on sexual orientation and gender identity.

Human rights developments during the period under review

Incidents of discrimination have highlighted the need for measures to ensure that minority rights are protected in law and practice. A violent incident involving the destruction of Roma houses and forced eviction of Roma families took place in Loshchynivka village, Odesa region, after local police disclosed the name and ethnicity of a man suspected of killing and raping a local girl on 27 August 2016. OHCHR observed negligence by police at the scene, a lack of accountability for those who attacked and destroyed Roma homes and identified more

²³ Recommendations 97.61, 97.136, 97.137, 97.140.

²⁴ Recommendation 97.63 and 97.64.

²⁵ Recommendations 97.65, 97.66, 97.105 and 97.107.

²⁶ Recommendations 97.25 and 97.69 to 97.73.

than 40 media reports containing hate speech. On 5 October 2016, the Parliamentary Committee on Human Rights, National Minorities and Interethnic Relations concluded that the Government has inadequately implemented the Strategy for the Protection and Integration of the Roma and its Action Plan. Several Roma community members were targeted by the armed groups in the east, subjected to enforced disappearances and killed. The armed groups persecuted members of religious minorities - mostly Protestants and Jehovah's Witnesses - who were abducted and ill-treated. Church buildings and houses of prayer were seized or looted by armed groups. LGBT people experienced aggressive behaviour and violence from Ukrainian far-right groups as well as armed groups in the east. An LGBT 'Equality March' was effectively secured by law-enforcement in Kyiv on 12 June 2016.

In 2016, UNHCR documented hate incidents involving five persons originating from Somalia and Iran who faced physical and verbal abuse because of their race and religion. Despite the legal assistance provided, none of the incidents was investigated effectively (perpetrators were not identified, such aggravating circumstance as a biased motivation was omitted by the authorities, and the investigation was closed on formal grounds). In spite of the provisions of the Criminal Code of Ukraine (Art. 161), the racial or ethnic grounds of discriminatory acts are rarely taken into account at the stage of investigation or trial.

Recommendations

- *Improve the legal and institutional framework to better respond to the needs of minorities and establish a specialized institution with necessary human and financial resources.*
- *Ensure prompt and effective investigation of all religiously or ethnically motivated acts of violence, ensuring access to justice, remedies for victims and accountability for perpetrators.*
- *Conduct public campaigns promoting cultural diversity and tolerance towards victims of hate crimes, including migrants, refugees, asylum seekers and foreign students.*
- *Promptly and firmly address all instances of hate speech, intolerance and discrimination.*
- *Secure assemblies and protect protesters regardless of their political affiliation, sexual orientation, origin or nationality, and investigate cases of violations.*

Trafficking in human beings

Status of implementation of previous recommendations

The Government adopted regulatory acts to enforce existing anti-trafficking legislation. The Ministry of Social Policy developed methodological recommendations and minimum standards of assistance required from stakeholders engaged in the National Referral Mechanism²⁷. They apply to the areas of prevention and victim assistance²⁸, including child victim assistance. The Ministry of Interior and General Prosecutor's Office introduced an anti-trafficking specialization for investigators and prosecutors. Yet, the effectiveness of investigations remained limited, notably due to the significant understaffing of the counter-trafficking department within the National Police²⁹.

²⁷ Recommendation 97.2

²⁸ Recommendations 97.82 and 97.85

²⁹ Recommendation 97.83

Human rights developments during the period under review

The number of cases of human trafficking identified by the police slightly increased in 2014-2016. The National Counter-Trafficking Coordinator of the Ministry of Social Policy demonstrated commitment to address human trafficking challenges. Awareness raising campaigns were conducted. Meetings of the *ad hoc* coordination group comprised of central and local governmental agencies, NGOs and international organizations were regularly organized. Recommendations from various international monitoring instruments were implemented. A National Action Plan for 2016-2020 was adopted in February 2016. However, its estimated cost exceeds state budget funds committed for that purpose. The armed conflict has increased the risk of trafficking in persons. Trafficking cases are poorly investigated due to lack of proactive activities of the National Police and because victims rarely report due to lack of legal knowledge, stigma and fear, perpetuated by harmful gender stereotypes.

Recommendations

- *Address challenges related to the growing number of cases of trafficking and exploitation among the conflict-affected population, including identification and referrals.*
- *Identify and prosecute trafficking with the purpose of labor exploitation.*
- *Proactively identify child VoTs among children in institutional care and street children and assist them.*
- *Formalize the status of NGOs within the National Referral Mechanism and establish mechanisms ensuring their access to state funding.*
- *Obtain from the Supreme Court clarifications on article 149 (Human Trafficking) of the Criminal Code of Ukraine to ensure uniform case litigation and introduce an anti-trafficking specialization of judges.*

Social and economic rights

Status of implementation of previous recommendations

Healthcare reform has come out as one of three national priorities of citizens in the nation-wide SDG consultation carried out in 2016. Ukraine began the process of reforming its national health system in 2016. Maintaining free universal health care services has been a challenge due to inefficiencies, corruption and lack of investments in primary health care infrastructure. The health care priorities³⁰ of the Government have centered on the issues of high health care costs, shortage of certain drugs and the limited availability of health care services, especially in rural areas. Ukraine has continued its efforts to prevent and combat HIV/AIDS³¹, including through the implementation of the National HIV/AIDS Programme. Following the introduction of health care reforms and international assistance on procurement of medical products in 2016, coverage of testing throughout the country has improved and shortages of antiretroviral drugs have been addressed including by the introduction of generic-based antiretroviral drugs. In 2015, the Parliament temporarily transferred the emergency procurement of medicines to UN agencies and other international partners.

Human rights developments during the period under review

³⁰ Recommendations 97.46 and 97.128.

³¹ Recommendation 97.129

The economic crisis and the armed conflict have had major impacts on the enjoyment of social and economic rights, particularly for people displaced by the conflict or living in territory outside Government control. The existing social protection systems do not meet the needs of the poorest and most marginalized. Due to inefficiencies and outdated methodologies, the employment and social benefits systems chronically underperform and do not generate decent and sustainable work and living conditions: 56.7% of Ukrainians live below the poverty line and nearly 40% of households rely on social payments.

Ukraine lacks a comprehensive State rehabilitation programme for demobilized soldiers and members of volunteer battalions that would facilitate reintegration into communities. It also lacks a unified registry of civilians who suffered physical injuries as a result of the conflict, including victims of mines and UXOs.

Recommendations

- *Ensure access to affordable, quality and timely health care and medical treatment for all segments of the population.*
- *Align Government Programmes and sector reform strategies with human rights, including social and economic rights, by harmonizing them with SDG targets and indicators and applicable human rights standards.*
- *Collect and systematically disaggregate data to enable evidence-based targeting of policies and specific interventions.*

National Human Rights Institution

Status of implementation of previous recommendations

Since the last UPR cycle the National Human Rights Institution of Ukraine, which is the Ombudsperson Office, has been confirmed in its highest accreditation level (the “A” status), which indicates full compliance with the Paris Principles. It has also substantially increased its local level presence. In 2016, the Ombudsperson approved a strategy to establish regional offices in all regions of Ukraine or arrange for collaboration with local civil society activists.

Human rights developments during the period under review

The Ombudsperson has taken up new mandates, including anti-discrimination, personal data protection, access to public information, and torture prevention. In general, it has managed to cope with its new functions effectively: thematic representatives were appointed and line experts are in place. At the same time, legislation that entrusted the Ombudsperson with mandates on personal data protection and access to public information contains provisions according to which the institution is acting partially as an executive branch body. By acting as such and being a defender of constitutional rights, the Ombudsperson could face a conflict of interests, leading to a decrease of its independence and efficiency.

By the end of 2016, all 24 regions of Ukraine were covered by the Ombudsperson’s regional network. This allowed for over 4,000 consultations to citizens enabling better access of citizens to the NHRI.

Recommendations

- *Enhance the regional presence of the NHRI under the current model of Ombudsman Office staff combined with civil society partners with proper State funding.*
- *Adopt legislation establishing an independent supervisory body in the field of access to public information and personal data protection.*