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DRAFT REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW

Ukraine *

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Introduction

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its second session from 5 to 19 May 2008. The review of Ukraine was held at the 11th meeting on 13 May 2008. The delegation of Ukraine was headed by Mr. Yevhen Korniychuk, First Deputy Minister of the Ministry of Justice. For the composition of the delegation, composed of 13 members, see annex below. At its 15th meeting held on 15 May 2008, the Working Group adopted the present report on Ukraine.

2. On 28 February 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Ukraine: Republic of Korea, Russian Federation, and Guatemala.

3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Ukraine :

(a) A national report submitted in accordance with paragraph 15 (a) (A/HRC/WG.6/2/UKR/1);

(b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/2/UKR/2);

(c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/2/UKR/3).

4. A list of questions prepared in advance by Denmark, Germany, Netherlands, Russian Federation, Sweden and the United Kingdom of Great Britain and Northern Ireland was transmitted to Ukraine through the troika. These questions are available on the extranet of the Universal Periodic Review.

I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

A. Presentation by the State under review

5. At the 11th meeting, on 13 May 2008, Mr. Yeven Korniychuk, First Deputy Minister of the Ministry of Justice, introduced the national report. He expressed appreciation and support for the work of the Human Rights Council that was, in his opinion, one of most remarkable achievements of the 2005 World Summit. The Ukrainian Government had been striving to develop economic, social and cultural, as well as social and political rights with the aim at ensuring better life quality for all. Compliance with international legal standards and the establishment of a system of protection of human rights was an essential element of the Government's action. Through the presentation of its national report, Ukraine wishes to demonstrate its openness and interest in discussing an assessment of the human rights situation in the country. The national report was prepared by the Ministry for Foreign Affairs with contributions from the Ministries of Justice, Interior, Family-Youth and Sports, Education, the State Committee on Nationalities and Religious Affairs, the General Prosecutor's Office, the State Department on the Enforcement of Sentences and several non-governmental organizations.

6. The representative of Ukraine moved to consideration of the most significant features of the Government human rights action. Life conditions in prison and correctional institutions have been improving with the adoption of the new Criminal Procedure Code in 2003, which entered into force in January 2004, especially with the introduction of new alternative forms of punishment, which has

led to significantly reducing the number of inmates. In August 2006, the Government also adopted the State Programme for improving detention conditions, which will last until 2010. With regard to tuberculosis and HIV/AIDS, the improvement guaranteed by modern technologies has allowed the preparation of increasingly effective programmes. In addition, to be noted were the future implementation of two further programmes on AIDS and the results of an international conference, to be organized together with WHO, on this issue. The general conditions of detention have improved as well: visits of jails and correctional institutions by national and international organizations, in addition to religious and mass media groups, are nowadays a regular feature. The abolition of disciplinary punishment and the upgrading of equipment and resources available to the detainees have also contributed to the improvement of quality life while in detention.

7. The Deputy Minister stated that the Government had been endeavouring to bring national legislation in line with international standards through, inter alia, comprehensive studies which also include a gender perspective. Several conclusions drawn from these studies brought changes to the Criminal Code and the Criminal Procedure Code with a view to humanizing the judicial system. As an example, it was noted that imprisonment was the main form of punishment and that certain offenders like minors, elderly persons and women could have more lenient sentences for less serious offences. The concept of torture was redefined and it is now believed to be in line with article 1 of the Convention against Torture.

8. In its effort to reform the criminal justice system, the Government drafted a bill aimed to compensate persons who went through long pre-trial detention periods and undue lengthy court proceedings. A recent Presidential decree also created an ad hoc code for minor offences which will require short periods of detention, replacement of detention by fines and other administrative measures and temporary deprivation of certain rights. Another priority was the reform of pre-trial investigation and detention. Finally, the global reform of the judicial system will also include the solution of certain cases through a mediation procedure, and the creation of a network of social institutions working for the rehabilitation and the reintegration of former detainees.

9. Protection of minorities' rights and the fight against racism were constant concerns of the Government, which spared no efforts to thwart related phenomena such as xenophobia, the incitement of racial hatred and intolerance, crimes punishable with sentences up to five years. The Deputy Minister wished to underline that, by and large, occurrences of racism were neither systemic nor widespread within the Ukrainian society, which condemned these acts.

10. The resettlement of previously deported peoples, such as the Bulgarians, Armenians, Greek, Germans and Crimean Tatars has been one of the priorities of Ukrainian Governments since 1991, when a specific budget line was created for the return and successful reintegration of those peoples within the Ukrainian society. Education and teaching in mother tongue was used as a means of reintegration and adaptation to the Ukrainian society; approximately 50 schools in Crimea teach in Crimean Tatar language.

11. In a democratic society, the Deputy Minister said, fully fledged cooperation between State and non-State actors is essential to the progress of democracy. With the aim to redeem the shortcomings of the previous legislation on freedom to association, the Government enacted a new bill on social organization, based on relevant international provisions and article 36 of the Constitution. The bill removed all territorial restrictions to NGOs activities and provided them with a new legal definition. NGOs, which could also have commercial activities on a non-profit basis, must notify their existence to the Ministry of Justice, which will maintain a NGOs registry available, inter alia, on its website.

12. According to the representative of Ukraine, violence against women and children was a global challenge that needed joint action from the international community. The Government of Ukraine identified three areas of work: Changing social attitudes, changing legislation and creation of a comprehensive system of assistance to victims. A number of measures were taken: the prohibition of scenes of violence in mass media; broad assistance campaigns, creation of crisis centres, networks for the medical and social reintegration of victims, and preventive programmes available in all regions of the country. The prevention of violence against children and minors was seen as a major factor to obtain a lasting improvement of the situation. Training courses in schools, with the assistance of NGOs, could increase awareness and help in the development of a new culture.

B. Interactive dialogue and responses by the State under review

13. During the ensuing interactive dialogue, statements were made by 26 delegations. Several of them commended Ukraine on the quality of the national report and participation of civil society organizations during its preparation, as well as on achievements and efforts undertaken to improve the promotion and protection of human rights in the country.

14. Poland commended Ukraine on steps undertaken by the Government concerning the protection of national minorities, and combating racism and xenophobia. Regarding the equal status of women, Poland welcomed the enactment of the law ‘On Maintaining Equal Rights and Opportunities for Women and Men’ and the State Programme for Confirming Gender Equality in Ukrainian Society to 2010. Poland invited Ukraine to provide more details on the Community Council, responsible for the protection of human rights, Human Rights Monitoring Departments, as well as mobile groups for monitoring constitutional rights and freedoms.

15. Algeria noted that employment legislation remains as a complex problem in the labour market and asked what Ukraine could do to address this issue. It noted that the Human Rights Committee and other treaty bodies commended on the measures taken by Ukraine to combat trafficking of women by creating legislation to prosecute and punish offenders. It thus recommended to Ukraine to persevere in punishing offenders of women’s rights. Algeria noted the establishment in 2006 of a Council for State Policies and the advancement of rights and freedoms, including of national minorities and Ukraine’s legal mechanisms for preventing manifestations of discrimination and prejudicial treatment based on national or ethnic identity. It recommended to Ukraine to continue its efforts to improve legislation and policies and to create institutional mechanisms to combat all forms of discrimination. Algeria also encouraged Ukraine to follow through on creating an advisory council to address discrimination, to adopt comprehensive anti-discrimination legislation, as recommended by the Committee on Economic, Social and Cultural Rights (CESCR) in 2007, and to continue to direct attention to enhance human rights training for police officers and more effective ways of dealing with hate crimes.

16. Azerbaijan highlighted that Ukraine is a party to almost all core human rights treaties and that it has issued a standing invitation to special procedures mandate holders. It also welcomed the establishment of the Ukrainian Parliament Commissioner for Human Rights (UPCHR) and noted Ukraine’s initiatives to protect the rights of women and children as well as the establishment of the Community Council. Azerbaijan asked how the Government plans to tackle the high unemployment rate, a concern also expressed by the Committee on the Elimination of Discrimination against Women (CEDAW) and CESCR, and how it views the recommendations made by CESCR on amending the Criminal Code by including relevant provisions on racially motivated crimes. Azerbaijan also enquired about future initiatives aimed at raising human rights awareness among the population and whether Ukraine considers becoming a party to the International Convention on

the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), noting that Ukraine is one of the sender, transit and receiver countries of migrant workers.

17. Italy noted that problems of trafficking seem to persist and invited the Ukrainian representative to further elaborate on this. Welcoming efforts undertaken to ensure the protection of the rights of the child, including legislative measures and the establishment of the office of Children's Ombudsman, Italy recommend to Ukraine to continue to assess effectively the protection of the rights of the child, including child trafficking, the fight against child prostitution and pornography and child labour. With reference to concerns expressed by the Committee against Torture (CAT) in 2007 about allegations of torture and ill-treatments committed by law enforcement personnel, Italy recommended, as did CAT and the Human Rights Committee, to ensure the safety and proper treatment of all persons held in custody by the police and to consider the establishment of an independent police complaints mechanism. Finally, Italy recommended developing a national strategy for human rights education in the school system in accordance with the Plan of Action 2005-2009 of the World Programme for Human Rights Education, including the review and revision of curricula and textbooks, the training of teachers and the practice of human rights in the school community.

18. Tunisia stated that the institution of the UPCHR would obviously be strengthened through the creation of offices in all regions in order to bring the procedure closer to the citizens. It inquired about the nature of the decisions taken by the UPCHR, about their binding nature and their implementation.

19. The United Kingdom of Great Britain and Northern Ireland asked what steps are planned to increase the independence of the judiciary and what further measures are planned to tackle corruption in the judiciary and across the executive. The United Kingdom recommended undertaking further work in these areas. It welcomed recent steps taken to pay attention to the increase in racist attacks, but noted an apparent reluctance among some officials to recognize the problem and in particular to fail to distinguish between racists and hooligans. The United Kingdom urged the Government to respond to such instances, and asked what the Government plans to do to ensure that public and official awareness of the need to tackle racism is improved. The United Kingdom recommended that the Government mainstream tackling racism throughout its departments and in its policy-making. It welcomed sentencing of police officers found guilty for the murder of a journalist Georgiy Gongadze but noted that the case is not yet closed on who ordered the murder. It welcomed the Ombudsman's recent admission that torture persists and recommended further progress on the CAT recommendation to set up an independent oversight mechanism for investigating torture. The United Kingdom welcomed the steps taken by the Ministry of Interior to establish a mechanism to monitor places of detention.

20. The Russian Federation noted the situation of the Russian-speaking population and recommended: (a) to ensure full and effective compliance of national legislation and law enforcement practices, particularly in the areas of education and mass media with the obligation of article 27 of the International Covenant on Civil and Political Rights (ICCPR) and the obligations that derive from Ukraine being party to other international legal instruments, including on the protection of national minorities; (b) to ensure, in areas of compact residence of linguistic minorities, conditions for the unhindered use of the native language and to receive education in the mother tongue; (c) and given that Russian is the mother tongue of a significant proportion of Ukraine's population, to consider assigning the Russian language the status of second national language. It also recommended that a programme be developed to effectively improve the situation of persons in deprivation of liberty, including measures that would lead to a reduction of mortality rates among prisoners.

21. Belgium recalled reports on cases of discrimination and intolerance against minorities and expressed concern regarding violent attacks based on racism or xenophobia, which seem to be on the increase. Welcoming the measures taken by the Government in this regard, and the Plan of Action Against Racism 2007, Belgium enquired about the most effective recent measures in combating discrimination and recommended that the Government step up its struggle against racism, inter alia through implementing the recommendations made by the Committee on the Elimination of Racial Discrimination (CERD) concerning identity documents for Roma as well as those made by CEDAW and the Committee on the Representation of Women in Public Services.

22. Austria noted the constructive cooperation of Ukraine with the international human rights mechanisms, including the treaty bodies and special procedures. Austria recommended to Ukraine to consider ratifying the Rome Statute of the International Criminal Court as a matter of priority. With reference to concerns voiced by several treaty bodies as well as the Special Rapporteur on the sale of children about the remaining high number of persons trafficked for purposes of sexual exploitation, Austria noted important measures, including the adoption of legislation to prosecute the offenders under the framework of the States Programme to Combat Trafficking in Human Beings and asked about provisions for the protection of victims of trafficking and protection measures they might entail. Austria recommended to the Government of Ukraine to allocate sufficient funds for the implementation of the State Programme and establish training and awareness-raising projects for law enforcement officials dealing with victims of trafficking. It also noted that according to the Human Rights Committee, corruption, in particular in the judiciary, remains a persistent problem in Ukraine and asked how the Government promotes the integrity and independence of the judiciary. Austria recommended to the Government to implement the recommendations of various treaty bodies as well as the national Parliament Commissioner for Human Rights to establish a separate juvenile justice system for children and youth in line with European and international standard as soon as possible.

23. Ukraine noted that the responses to many of the questions were reflected in the national report. It noted great interest in issues related to the status of women, gender equality and cooperation with NGOs and the community councils. In 2005, such a community council was created within the Ministry of Interior, bringing together national and international NGOs as well as OHCHR. It examines issues related to the prevention of violence against women and children, the promotion of gender equality in law enforcement agencies, the protection of the rights of citizens in detention, and the prevention of trafficking. Similar councils have also been established at the regional levels. In 1998, criminal responsibility for trafficking in persons was introduced, reflected in article 149 of the Criminal Code, which was amended in 2006 by broadening its definition to bring it in compliance with international instruments. Ukraine had adopted two national plans of action against trafficking, one in 1993-2001 on the prevention of the trafficking in women and children, and a comprehensive programme against trafficking in persons until 2005, to which a budget of 2.6 mill. UAH was allocated. The new State programme on the prevention of trafficking in persons until 2010 was adopted in March 2007, for which similar funds were earmarked. However, its budget was further revised, with allocations for 2009 increased by four times. The bodies responsible for combating trafficking are the Ministry of Interior, the Ministry of Family, Youth and Sport and the General Prosecutor's Office.

24. Ukraine is changing its approach to issues related to migration and refugees, and a new policy is currently being elaborated which will lead to changes in existing legislation, in particular related to issues such as the status of foreigners, stateless persons, refugees and persons who are in need of additional temporary protection. Some of the new laws on immigration, particularly on labour migration and the rights of migrants will be more liberal.

25. On the question of establishing an ombudsman for children, Ukraine stated that the Constitution provides for the establishment of a single ombudsman institution to control Parliament in respect to all human rights. There is a separate unit for children's rights within the Office of the Ombudsman, with separate components for boys and girls to ensure upholding gender equality. This institutional structure received the support of the Athens Conference of European Ombudsmen. There are regional ombudsman offices in three regions and new offices will be opened shortly in half of the provinces. The Ombudsman submits its report and its recommendations to Parliament, which adopts binding decrees. The Ombudsman supports the idea put forward to create a body for the prevention of torture and the need to complete the establishment of a juvenile justice system. The representative also expressed appreciation for the assistance provided by Cuba to the children victims of Chernobyl.

26. Regarding human rights in places of detention, in April 2008, the President approved the concept for the reform of the State Department on the Enforcement of Sentences, which includes provisions concerning the right to life, health, education, employment, and to ensure that upon their release, detained persons may realize their rights. Detainees do not only represent the multi-ethnic state of Ukraine; 32 countries are represented among the prison population, and contacts with the embassies of these citizens reveal that no complaint about their treatment has been received recently. A manual on human rights has been developed and the question of detention is regularly examined by the national monitoring bodies and NGOs. Ukraine also referred to the development of additional inspections and the introduction of probation and alternative sanctions.

27. The Government recently approved a special programme to combat corruption, which is being presently carried out. The principle responsibility for anti-corruption activities lies with the Ministry of Justice, which include the preparation of draft legislation to strip officials of privileges and immunities, and the monitoring of new anti-corruption laws. The role of the law enforcement agencies is crucial, including the Ministry of Interior, and the General Prosecutor's Office. Recent trends point towards an improvement. As regards the independence of judges, draft legislation has been submitted to Parliament amending the status of judges and the judiciary in general. This draft legislation includes amendments to the law on the appointment of judges, which is to be done by the council of judges without the participation of the executive branch, and on lifting immunity of judges for acts not related to their profession, and to simplify the process of bringing judges to criminal and administrative responsibility.

28. As regards the elimination of racism, Ukraine has developed legal tools and the mechanisms to implement these regulations, facilitating the elimination of racism, racial discrimination, xenophobia and intolerance. At present, 90 percent of the work is preventive in nature and aimed at educating people, and only 10 percent is punitive. Community councils include representatives of refugees and migrants' organizations with a view to implementing the migration policies.

29. In Ukraine there are all conditions necessary for preservation and development of Russian culture and language, in particular, in place. About 40 per cent of printed mass media in Ukraine is published in Russian. Programmes of the Russian Federation's Public television are broadcasted. Besides, the overall percentage of Russian broadcasting of the regional TV and radio companies makes up from 5 to 90 per cent depending on the region. For example, 56 per cent of TV and radio broadcasting of the "Crimea" State TV and Radio Company is in Russian, as well as 74 per cent of radio broadcasting and 89 per cent of TV broadcasting of Sevastopol district TV and Radio Company. In 31 higher education institutions there are training programmes on Russian language and literature. The libraries contain almost 60 million of books in Russian. Within the framework of the Committee on humanitarian cooperation of the Ukrainian-Russian Interstate Commission there is a sub-commission for cooperation in the area of cultural and linguistic needs of national

minorities. Following the June 2007 second meeting of the sub-commission, a decision was taken to carry out a joint monitoring of the state of exercise of the rights of Russian minority in Ukraine. There had already been positive experience in that area. The final third stage of the joint Ukrainian-Romanian monitoring of the state of exercise of the rights of Romanian minority in Ukraine is planned for May-June 2008, with participation of experts from the Council of Europe and OSCE.

30. The legislation guarantees freedom of choice of language for education for the national minorities in Ukraine. The language of tuition is a decision taken by parents and children themselves, and the schools adapt to their demand. Of the some six million students enrolled in the secondary education system, there are around 800,000 Russian speakers, which correspond to the overall percentage of the population.

31. Ukraine has always supported the idea of establishing an international criminal court and has actively taken part in the drafting and signing of the Rome Statute of the International Criminal Court. Ukraine fully subscribes to the Statute, evidenced by the fact that Ukraine has signed and ratified the International Convention on Privileges and Immunities for the ICC. The ratification of the ICC Statute requires constitutional amendments, which has not yet been done for technical reasons.

32. Canada noted the recommendations of the Human Rights Committee to ensure that all members of ethnic, religious and linguistic groups are protected against violence and discrimination and the recommendation of CERD to take preventive measures to protect the religious sites of minorities. Canada took note of the adoption of the Domestic Violence Act in 2006 and the establishment of crisis and rehabilitation centres for victims of abuse, and also noted the CESCR recommendation to proceed with the adoption of a criminal law provision criminalizing domestic violence. Canada also noted the legal reforms to the criminal legal justice system and measures taken to reduce prison population and to ensure that detainees are treated humanely and efforts to provide alternative sanctions from crimes and emphasis being placed to rehabilitate those incarcerated. It observed that the Human Rights Committee has recommended the establishment of an independent police complaints mechanism and CAT recommended that all allegations of torture and ill treatment be promptly and impartially investigated. Canada recommended that Ukraine take measures to implement the Human Rights Committee and CERD recommendations to protect the rights of persons belonging to ethnic, religious and linguistic minorities. It called for concerted public efforts to combat xenophobia, racism, anti-Semitism, and religious intolerance and to pursue and prosecute the perpetrators of such offences. It also recommended taking measures to criminalize domestic violence in accordance with CESCR recommendations; to continue to fund and set up victim-centric services for women and children dealing with domestic violence; and to take measures to implement CESCR, CAT and Human Rights Committee recommendations regarding prison conditions and the treatment of detainees.

33. The United States of America asked about steps taken to improve conditions in the pre-trial detention facilities and to solve problems resulting from overcrowding and inadequate medical care. It asked what Ukraine was doing to comply with its laws regarding the length of pre-trial detention. The United States recommended that the Government vigorously investigate and prosecute prison and police officials guilty of the mistreatment of detainees and prisoners. In addition, it recommended to the Government to change its domestic laws to make confessions obtained under torture inadmissible as evidence in criminal court proceedings against the person who confessed. It noted the lack of a clearly defined asylum authority, which has led to a great deal of confusion; asylum seekers often lacking registration documents and unable to legally obtain work and housing, and reports of *refoulement* of asylum-seekers. The United States recommended that Ukraine

provide a more orderly process for refugees/asylum applicants and ensure that repatriations are carried out in line with UNHCR guidelines.

34. Slovenia noted the improvement of the situation regarding human rights and freedoms over the last years and the abolition of the death penalty in 1999. While noting the incorporation of the Convention on Elimination of all Forms of Discrimination against Women into the Ukrainian law, it observed however that women are paid less for the same work, are rarely represented in top positions in the public and private sectors and do not enjoy equal access to employment. Slovenia asked about the measures Ukraine intends to adopt to improve this situation. Slovenia also observed that domestic violence still remains widespread and that shelters for victims of violence were few. It asked if Ukraine intended to increase the number and capacities of these shelters. It also noted that homophobia has increased in the last years and that the problems homosexual persons face in the work place with law enforcement bodies. It asked how Ukraine intends to promote tolerance and to increase education of public servants in this field. Slovenia recommended to Ukraine to report regularly to CEDAW; recruit more women for public office and to adopt measures requiring equal pay for equal work; include systematically and continuously, a gender-perspective into the follow-up process to the Universal Periodic Review; and to consider applying the Yogyakarta Principles on the Application of International Human Rights Law in relations to Sexual Orientation and Gender Identity as a guide to assist in policy development.

35. France asked whether Ukraine intends to amend its criminal legislation in order to provide a legal foundation to prosecute for discrimination against minorities. It also inquired whether Ukraine intends signing and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, and if not, what difficulties it is confronted with in ratifying that convention. Regarding freedom of the press, France asked about measures the Government intends to take to promote a greater independence of the media vis-à-vis the business world and whether it envisages setting up a system of public financing of the media. France recommended that Ukraine take all measures necessary to ensure that all acts of violence against journalists be investigated and that appropriate punishments are meted out.

36. Netherlands noted that CAT requested the State to publicly condemn hate crimes and other violent acts of racial discrimination, xenophobia and related violence and work to eradicate incitement and any role public officials or law enforcement personnel might have in such violence. Netherlands recommended that Ukraine take further efficient measures to ensure that law enforcement officials, prosecutors and judges involved in enforcing the law relating to hate crimes and other violent acts of racial discrimination and xenophobia fully understand the nature of such crimes and that statistics on racist incidents are kept centrally and are publicized. It referred to concerns expressed by CAT, the Committee on the Rights of the Child and the Human Rights Committee about allegations of torture and ill-treatment and noted that the Council of Europe and others are ready to assist Ukraine to improve the situation. Netherlands recommended that Ukraine take further efficient measures to ensure that all people deprived of their liberty are held in conditions that meet international standards and that the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment regarding per-trial detention are fully implemented.

37. Turkey encouraged Ukraine to continue its endeavours to strengthen the democracy standards and the constitutional framework on the basis of the rule of law and the independence of the judiciary. It also noted reports of the activities of the Ombudsman in regions including the Autonomous Republic of Crimea. It asked for more information on the activities and findings of the Ombudsman in this region, particularly on the issue of discrimination of Crimean Tatars and how these findings are addressed by Ukraine in line with CERD recommendations. It also noted

Ukraine's commitment to preventing the rising racist acts in the country and noted the adoption of the Action Plan against Racism by the Ministry of the Interior in May 2007. It asked whether any amendments to strengthen the legislative framework on racial discrimination are contemplated in this regard.

38. China welcomed the amendments made to the Law on Immigration, the Criminal Code and the Code of Criminal Procedure to raise the legal status of immigrants and to step up reforms of the criminal justice and penitentiary system. China took note of the commitment to the protection of children, of the adoption of a State programme on gender equality as well as of the national strategies and laws against domestic violence and poverty alleviation. Regarding the 2001 national strategy of overcoming poverty, China asked how it is being implemented and what difficulties are encountered.

39. Brazil commended the Government for signing the Memorandum on Implementation of the Joint Action Plan for 2008 between the United Nations Representative in Ukraine and the Ombudsman in December 2007. It stressed the adoption of the Action Plan against Racism, which provides a wide range of measures to prevent racial, ethnic and religious discrimination. Brazil noted with concern that the number of orphans and children without parental care is not declining and that every year about 20,000 teenagers enter Ukrainian orphanages. In this context, Brazil recommended that the Government of Ukraine work towards the implementation of the recommendations of the Committee of the Rights of the Child. Brazil also asked what concrete measures are being taken by the Government to guarantee the right to protection from all forms of family violence and human trafficking and what steps remain to be taken for the full implementation of the law on preventing family violence.

40. Germany noted the concern expressed by several treaty bodies on the Ukrainian Parliament Commissioner for Human Rights on the lack of independence and its ineffectiveness in defending economic, social and cultural rights. It asked about the measures Ukraine implemented to ensure the independence of the Ombudsman and to widen public access, including by minority groups, to the Commissioner's Office at all levels. Germany asked in what ways Ukraine ensures that racial and religious hatred acts are investigated and prosecuted quickly and that the General Prosecutor's Office is involved in these measures. It recommended to Ukraine to ensure the independence of the Ukrainian Parliament Commissioner for Human Rights, including financially; and to continue to combat racial and ethnic hatred, and to ensure that manifestations of racial, ethnic and religious hatred are promptly investigated and prosecuted.

41. Noting the Government's emphasis on dealing with HIV/AIDS, Malaysia enquired about measures taken in improving access of HIV/AIDS patients to health services. It noted with encouragement the existence of various mechanisms to protect children's rights and welfare, congratulated the Government on the significant decline in cases of crimes committed by juveniles, and asked whether the Government considers establishing a juvenile justice system in the near future.

42. Mexico recommended Ukraine to redouble its efforts and ratify the Rome Statute, the ICRMW, the Convention Relating to the Status of Stateless Persons of 1954 and the 1961 Convention to Reduce Statelessness. It welcomed the legislation in force against torture but noted the concern expressed by CAT regarding cases of torture and ill-treatment during detention and regarding the lack of appropriate measures for rehabilitation of victims and compensation. Mexico asked information on measures taken to date to address these concerns. It also noted that CESCR expressed concern that more than 400,000 children under 15 are working in the informal economy and it recommended to Ukraine to intensify efforts combat child labour. CESCR also recommended

to improve its prevention and treatment of HIV and to combat discrimination against persons living with HIV/AIDS, and Mexico asked for more information on measures being carried out to implement these recommendations. Mexico recommended that Ukrainian legislation on the determination of the status of refugees and stateless persons be brought in line with international standards.

43. Cuba commended Ukraine on the steps taken in combating racism and xenophobia, including the Plan of Action of the Ministry of Interior. In the field of economic, social and cultural rights, Cuba noted the praiseworthy efforts in promoting the legal and social status of women and the various programs and measures promoting children's rights. Cuba asked for more information on measures taken under the Plan of Action to combat racism and xenophobia and recommended that Ukraine continue its efforts to reduce juvenile violence and address the root causes of the problem.

44. Switzerland welcomed the adoption of a national action plan against racism by the Ministry of Interior in May 2008 and asked for more information about measures to prevent acts of racism in this new action plan. Switzerland noted that issues of racist discrimination and racist attacks have been raised by special procedures, treaty bodies and NGOs and recommend that Ukraine step up efforts to investigate such attacks and punish the perpetrators and tackle the underlying causes of these issues as part of its ongoing reform of the justice system. With reference to concerns expressed by CAT and several stakeholders from civil society regarding ill-treatment by law enforcement officials in places of detention, Switzerland noted that impunity in these cases is still a major problem. It asked what specific measure have been adopted to punish police officers guilty of such acts. Switzerland requested more information about the scope of a training programme for human rights for law enforcement officers and measures taken to ensure that human rights education will achieve the desired results.

45. Romania noted that CESCR encouraged Ukraine to recognize the right of self-identification to all ethnic groups in Ukraine and to ensure protection and development of their cultural heritage. Romania recommended that the authorities implement the CESCR encouragement. They also asked for elaboration on the measures taken in order to allow persons belonging to national minorities to run in parliamentary or local elections, as representatives of their respective organizations or as independent candidates.

46. Jordan noted with interest Ukraine's initiative on declaring 2008 the Year of Support for National Adoption and Other Forms of Family Education of Orphaned Children and Children Deprived of Parental Care. Jordan recommended that Ukraine continue its efforts to further enhance the role of the Ukrainian Parliament Commissioner for Human Rights and of the national machinery for the advancement of women.

47. Portugal recommended that Ukraine sign and ratify, at the earliest opportunity, the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, as well as the Rome Statute of the International Criminal Court. It noted the concern expressed by CESCR on the lack of independence of the Ukrainian Parliament Commissioner for Human Rights and asked about concrete measures taken to ensure adequate funding and to ensure the independence of the Ombudsman. With reference to the Special Rapporteur on freedom of opinion and expression, according to which there is a need to address racial hatred against ethnic groups, immigrants and other foreigners, and to the Human Rights Committee, which was concerned about anti-Semitism, Portugal enquired about measures taken to ensure protection of minorities against violence and discrimination. Portugal also evoked concerns expressed by CAT and the Committee on the Rights of the Child on allegations of torture and ill-treatment committed by law enforcement personnel and

asked about measures taken to combat impunity and to ensure fundamental legal safeguards of all detained suspects.

48. Cameroon noted measures taken to combat all forms of discrimination, whether racial, social or economic, and bringing legislation regarding judicial procedure in line with standards set forth by the Council of Europe, particular in relation to investigations, as well as proceeding to a reform of the penitentiary system and combating torture at all levels in the judicial process. With reference to recommendations made by treaty bodies, Cameroon encouraged Ukraine to combat violations of rights of minorities, refugees and foreigners.

49. In response to questions regarding practical measures taken to combat xenophobia and violence, in particular in law enforcement bodies, the delegation indicated that measures are being taken to preserve national and inter-religious harmony. In 2008, the Ministry of Interior and the security services have established a separate unit to combat xenophobic acts and incidents of racist and other related nature. The interagency commission to combat racism and xenophobia is developing a set of recommendations for the Government to combat these phenomena, which include public awareness and education against racism, also with schools and higher education institutions, to foster tolerance among young people. More information is needed, including TV spots and leaflets/brochures. Churches as well take part in these efforts.

50. Regarding the treatment of detainees in pre-trial detention facilities, efforts have been made to improve medical and sanitation services and to offer education in pre-trial facilities. As pointed out by WHO, the mortality rate, in the SIZO (*sledstvennyi isolator*) facilities for detention on remand has been cut by half thanks to better food and medical care as a result of cooperation with other ministries. Another issue is the need to renew the infrastructure, since 28 out of the 32 SIZOs need to be replaced. Regarding information on the deportation of eleven persons from Sri Lanka, Ukraine indicated that in February 2008 the regional court had ordered their deportation as illegal immigrants, in line with article 256 of the Code of Administrative Procedure. Their request for refugee status was refused based on article 9 of the Refugee Law as the obligation to immediately contact the authorities to ask for refugee status upon arrival had not been fulfilled. The Ministry of Interior established a working group, which included *inter alia* representatives of the Community Council, well known human rights organizations and UNHCR to examine the legality of the actions regarding their case.

51. Preventing journalists from carrying out their activities is an offence covered by the Criminal Code, and in 2007 and 2008, six cases were brought before the courts. In 2008, the Appeal Court of Kyiv upheld life sentences against three police officers for the murder of journalist Georgiy Gongazde.

52. Regarding the activities of the Ombudsman concerning discrimination against Crimean Tatars, the Ombudsman carried out comprehensive monitoring on the observance of human rights in Crimea, as a result of which the authorities retained 15 proposals; in this context, measures have been taken regarding, *inter alia*, water and gas supplies and the development of transport links. Parliamentary hearings on the exercise of human rights were held by the Parliament of the Autonomous Republic, and the Ombudsman prepared the report thereon. The Government has prepared a draft law on the restoration of rights of persons formerly deported on the basis of ethnic origin, which is now going through public consideration. It also provides major financial support to the Crimean Tatar people; over the years of independence, more than one billion UAH has been allocated for their social, economic and cultural needs.

53. The Constitution and the laws on the Ombudsman guarantee the independence of the Ombudsman. There have been positive developments in terms of financing and creating better staffing conditions.

54. Data of the Ministry of the Interior showed that in 2007, some 88,000 persons, predominantly men, were registered for committing domestic violence. Penalties for domestic violence are usually fines, and sometimes up to 15 days of administrative arrest. Domestic violence includes both physical and psychological violence. There is a need to amend the existing law, including by introducing rehabilitation programmes for victims, and to ensure that sanctions are directed towards the perpetrators and are not borne by the family as a whole.

55. Regarding the enforcement of sentences, the State Department on the Enforcement of Sentences is dealing with some 2,000 minors, who are considered as criminals. According to the records of criminal inspections, the department has about 6,000 minors in this category. In order to ensure their rights and provide them with education there are a number of cooperation agreements and programmes, for instance with UNICEF.

56. Regarding the accession to international instruments, such as the Convention on Enforced Disappearance and the ICRMW, this information can be provided after the delegation returns to Ukraine. The head of the delegation stated that all other questions will be reflected in practical actions taken by the Government, through new legislation and amendments to existing legislation, and integrated into the implementation of Ukraine's international and Council of Europe obligations.

II. CONCLUSIONS AND/OR RECOMMENDATIONS

57. The recommendations formulated during the interactive dialogue have been examined by Ukraine and the recommendations listed below enjoy the support of Ukraine:

- 1. To consider signing and ratifying the Rome Statute of the International Criminal Court as soon as possible (Austria, Mexico, Portugal);**
- 2. To work towards the implementation of the recommendations of the Committee on the Rights of the Child (Brazil);**
- 3. To ensure the independence of the Ukrainian Parliament Commissioner for Human Rights, including financially (Germany);**
- 4. To continue its efforts to further enhance the role of the Parliament Commissioner for Human Rights and of the national machinery for the advancement of women (Jordan);**
- 5. To persevere in punishing offenders of women's rights (Algeria);**
- 6. To continue its efforts to improve legislation and policies and to create institutional mechanisms to combat all forms of discrimination (Algeria);**
- 7. To follow through on creating an advisory council to address discrimination, to adopt comprehensive anti-discrimination legislation, as recommended by the Committee on Economic, Social and Cultural Rights in 2007, and to continue to direct attention to enhance human rights training for police officers and more effective ways of dealing with hate crimes (Algeria);**

8. To mainstream tackling racism throughout its departments and in its policy-making (United Kingdom);
9. To step up its struggle against racism, *inter alia* through implementing the recommendations made by the Committee on the Elimination of Racial Discrimination concerning identity documents for Roma as well as those made by the Committee on the Elimination of Discrimination against Women and the Committee on the Representation of Women in Public Services (Belgium);
10. To combat xenophobia, racism, anti-Semitism, and religious intolerance and to pursue and prosecute the perpetrators of such offences (Canada);
11. To report regularly to the Committee on the Elimination of Discrimination against Women; to recruit more women for public office and to adopt measures requiring equal pay for equal work (Slovenia);
12. To continue to assess effectively the protection of the rights of the child, including child trafficking, the fight against child prostitution and pornography and child labour (Italy) ;
13. To implement the recommendations of various treaty bodies as well as of the national Parliament Commissioner for Human Rights to establish a separate juvenile justice system for children and youth in line with European and international standards, as soon as possible (Austria);
14. To continue its efforts to reduce juvenile violence and address the root causes of the problem (Cuba);
15. To take measures to criminalize domestic violence in accordance with the recommendations of the Committee on Economic, Social and Cultural Rights; to continue to fund and set up victim-centric services for women and children dealing with domestic violence (Canada);
16. To develop a programme to effectively improve the situation of persons in deprivation of liberty, including measures that would lead to a reduction of the mortality rates among prisoners (Russian Federation);
17. To take measures to implement the recommendations made by the Committee on Economic, Social and Cultural Rights, the Committee against Torture and the Human Rights Committee regarding prison conditions and the treatment of detainees (Canada);
18. To take further efficient measures to ensure that all people deprived of their liberty are held in conditions that meet international standards and that the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment regarding per-trial detention are fully implemented (Netherlands);
19. To allocate sufficient funds for the implementation of the State Programme and establish training and awareness-raising projects for law enforcement officials dealing with victims of trafficking (Austria);

20. **Further progress on the recommendation of the Committee against Torture to set up an independent oversight mechanism for investigating torture (United Kingdom);**
21. **To vigorously investigate and prosecute prison and police officials guilty of the mistreatment of detainees and prisoners (United States of America);**
22. **To change its domestic laws to make confessions obtained under torture inadmissible as evidence in criminal court proceedings against the person who confessed (United States of America);**
23. **To undertake further work regarding the independence of the judiciary and corruption in the judiciary and across the executive (United Kingdom);**
24. **To take further efficient measures to ensure that law enforcement officials, prosecutors and judges involved in enforcing the law relating to hate crimes and other violent acts of racial discrimination and xenophobia fully understand the nature of such crimes and that statistics on racist incidents are kept centrally and are publicized (Netherlands);**
25. **To continue to combat racial and ethnic hatred and to ensure that manifestations of racial, ethnic and religious hatred are promptly investigated and prosecuted (Germany);**
26. **To step up efforts to investigate racist attacks and punish the perpetrators and tackle the underlying causes of issues of racist discrimination and racist attacks as part of its ongoing reform of the justice system (Switzerland);**
27. **To take all measures necessary to ensure that all acts of violence against journalists be investigated and that appropriate punishments are meted out (France);**
28. **To ensure full and effective compliance of national legislation and law enforcement practices, particularly in the areas of education and mass media with the obligation of article 27 of the International Covenant on Civil and Political Rights and the obligations that derive from Ukraine being party to other international legal instruments, including on the protection of national minorities (Russian Federation);**
29. **To provide a more orderly process for refugees/asylum applicants and ensure that repatriations are carried out in line with UNHCR guidelines (United States);**
30. **To bring its legislation on the determination of the status of refugees and stateless persons in line with international standards (Mexico);**
31. **To develop a national strategy for human rights education in the school system in accordance with the Plan of Action 2005-2009 of the World Programme for Human Rights Education, including the review and revision of curricula and textbooks, the training of teachers and the practice of human rights in the school community (Italy);**

32. To include, systematically and continuously, a gender-perspective into the follow-up process to the Universal Periodic Review (Slovenia).

58. The following recommendations will be examined by Ukraine which will provide responses in due time. The response of Ukraine will be included in the outcome report to be adopted by the Human Rights Council at its eighth session:

- 1. To redouble its efforts and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families the Convention Relating to the Status of Stateless Persons of 1954 and the 1961 Convention to Reduce Statelessness (Mexico);**
- 2. To sign and ratify, at the earliest opportunity, the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto (Portugal);**
- 3. To implement the Committee on Economic, Social and Cultural Rights encouragement to recognize the right to self-identification of all ethnic groups in Ukraine as well as to ensure protection and development of their cultural heritage (Romania);**
- 4. To ensure the safety and proper treatment of all persons held in custody by the police and to consider the establishment of an independent police complaints mechanism (Italy); and**
- 5. To consider applying the Yogyakarta Principles on the Application of International Human Rights Law in relations to Sexual Orientation and Gender Identity as a guide to assist in policy development (Slovenia).**

59. Recommendations noted in paragraphs 20 (b) and (c) and 32 above (protection of rights of persons belonging to ethnic, religious and linguistic minorities, as well as the status of the Russian language) did not enjoy the support of Ukraine.

60. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.

Annex

Composition of the delegation *

The delegation of Ukraine was headed by Mr. Yevhen Korniychuk, First Deputy Minister of the Ministry of Justice and composed of 13 members:

Mr. Nazar Kulchytskiy, Head of the Secretariat of the Governmental Commissioner of the European Court for Human Rights of the Ministry of Justice;

Mr. Oleksandr Sagan, Head of the State Committee on Nationalities and Religions of Ukraine;

Mrs. Tetiana Kondratyuk, Deputy Minister of the Ministry of Ukraine for Family, Youth and Sport;

Mrs. Kateryna Levchenko, Counsellor of the Minister of the Ministry of International Affairs;

Mr. Viktor Pshonka, Deputy Prosecutor General;

Mr. Andriy Ipatov, Senior Assistant of the Deputy Prosecutor General;

Mr. Dmytro Kozoriz, Deputy Head of the Department of the international cooperation and European integration of the Ministry of education and science;

Mrs. Natalia Kalashnik, Deputy Head of the State Department of Ukraine for execution of punishment;

Mr. Volodymyr Vassylenko, Ambassador Extraordinary and Plenipotentiary of Ukraine;

Mrs. Olena Otrosh, First Secretary of the Ministry of Foreign Affairs of Ukraine;

Mr. Volodymyr Yatsenko, Representative of the Ukrainian Parliament Commissioner for Human Rights;

Mr. Ihor Turyanskyi, Adviser to the Ukrainian Parliament Commissioner for Human Rights.

* Circulated as received