



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Ukraine and welcome the constructive engagement of the delegation from Ukraine led by the Deputy Minister of Justice during the 28th session of the UPR Working Group in November 2017.

As the final outcome report on the review of Ukraine was recently adopted by the Human Rights Council at its 37th session, I am writing to follow up on a number of areas raised in two reports that my Office prepared for the review of Ukraine – the compilation of UN information and the summary of stakeholders' submissions – which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR. In identifying these areas, I have also considered the recommendations made by 70 countries, Ukraine's presentation and responses, and the action taken by Ukraine to implement the 112 recommendations it accepted during the second cycle of the UPR. The areas cover a range of issues and are set out in the annex to this letter.

I welcome a series of positive measures taken by your Government since Ukraine's previous UPR with a view to strengthening human rights in the country, in particular the constitutional amendments creating legal conditions for an independent judiciary, as well as the establishment of several human rights mechanisms and institutions, including the Office of the Commissioner for Gender Equality, the National Preventive Mechanism to prevent torture and ill-treatment, the National Anti-Corruption Bureau and the Specialized Anti-Corruption Prosecutor's Office, and the Ministry of Temporarily Occupied Territories and Internally Displaced Persons.

I further welcome the adoption of Ukraine's first National Human Rights Strategy in 2015 and its Action Plan 2015-2020, and recommend to strengthen the plan by integrating the areas contained in the annex in order to achieve concrete results and to facilitate Ukraine's preparations for the fourth cycle of the UPR. Such efforts should involve consultations with all stakeholders, in particular civil society organizations, and where necessary, the support of international organizations, including the Office of the United Nations High Commissioner for Human Rights (OHCHR) through the UN Human Rights Monitoring Mission in Ukraine (HRMMU), and other United Nations entities under the leadership of the UN Resident Coordinator.

H.E. Mr. Pavlo Klimkin
Minister of Foreign Affairs
Kyiv, Ukraine

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I encourage efforts towards strengthening the national mechanism for comprehensive reporting and follow-up in relation to international and regional human rights mechanisms and treaty obligations. I strongly recommend to Ukraine the use of the practical guide that my Office released in 2016 on this topic and which is available here: http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Moreover, I am aware that HRMMU aims to support the Government on its implementation of the UPR recommendations, in cooperation with diplomatic missions in Kyiv, with particular attention to those recommendations issued by their respective Member States. Where possible, these will be linked to recommendations from other UN Human Rights Mechanisms, i.e. Treaty Bodies and Special Procedures, as well as those recommendations issued by HRMMU as a result of its monitoring, analysis and public reporting on the human rights situation in Ukraine.

Please be advised that I will be sharing my advice with all Member States as they go through the third cycle with a view to assisting them to begin implementing the UPR recommendations early on, following the review. An important measure that can contribute positively to follow up action is voluntary mid-term reporting. I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the outcome report. I note that Ukraine submitted a mid-term report regarding the implementation of the recommendations made during the first cycle, however not during the second cycle. I encourage it to submit such a report for the third cycle, by 2020.

As the Secretary-General states in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals"*.

I look forward to discussing with you ways in which my Office may assist Ukraine to take action in the areas I have identified.

Please accept, Excellency, the assurances of my highest consideration.

Zeid Ra'ad Al Hussein
High Commissioner for Human Rights

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Strengthen the normative framework by ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Second Optional Protocol to the International Convention on Civil and Political Rights, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), the 2008 Convention on Cluster Munitions, and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention);
- Establish a parliamentary mechanism for the periodic independent review of the necessity of measures derogating from international human rights instruments and, lift derogations as soon as they are no longer required;

National human rights framework

- Ensure that the regional presence of the Ombudsperson's Office is enhanced under its current model combined with civil society partners with proper State funding;
- Consider strengthening the preventive functions of the Ombudsperson's Office in its capacity as national preventive mechanism;
- Entrust the current mandates of the Ombudsperson's Office on personal data protection and access to public information to an independent supervisory body;

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Include national origin, descent, sexual origin and gender identity as prohibited grounds for discrimination in legislation;
- Take further efforts to promptly and firmly address all cases of hate crime, hate speech, intolerance and discrimination, including by adequately and effectively investigating such cases, and ensuring that those responsible are brought to justice;
- Continue to conduct public campaigns to promote cultural diversity and tolerance towards victims of racial motivated incidents and hate crimes;

Development, the environment, and business and human rights

- Address the root causes of corruption as a matter of priority;
- Expedite the establishment of an Anti-Corruption Court as a separate independent body;

B. Civil and political rights

Right to life, liberty and security of person

- 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;
- Redouble efforts to 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 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;
- Continue efforts to ensure that law enforcement officials are fully trained on international human rights norms and standards;
- Amend article 152 of the Criminal Code to incorporate provisions on sexual violence, including a broader definition of rape, in line with international standards;

Administration of justice, including impunity and the rule of law

- Redouble efforts to ensure that (1) killings and other violations in the east, (2) human rights violations committed during the Maidan and Odessa events, and (3) in general, instances of torture and ill treatment, including sexual violence, are independently, thoroughly and effectively investigated, that the perpetrators are brought to account, and that the victims receive adequate reparation;
- 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;
- Prevent interference with the independence of the judiciary, including through securing the safety of courtrooms, judges, prosecutors and defence lawyers;

Fundamental freedoms and the right to participate in public and political life

- Ensure that all individuals can freely and safely exercise their right to thought, conscience and religion;
- Further facilitate and protect civil society space by fully guaranteeing the rights to freedom of opinion and expression, freedom of peaceful assembly, and freedom of

association, including by taking further measures to protect human rights defenders, journalists and bloggers; facilitating and protecting peaceful assemblies, including LGBT rallies; not unduly interfering with non-governmental organizations' independence and activities; and investigating independently, thoroughly and effectively all cases of violations of these rights, bringing the perpetrators to justice, and providing adequate reparation to the victims;

Prohibition of all forms of slavery

- Further address challenges related to the growing number of cases of trafficking and exploitation among the conflict-affected population, including identification and referrals;

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Further address the significant pay gap between women and men, including by ensuring the application of the ILO treaty obligation of “equal pay for work of equal value” in the Labour Code;

Right to social security

- Increase State social standards (i.e. the minimum age, the minimum pension and the subsistence level) to provide workers, unemployed persons and pensioners with a decent living for themselves and their families;

Right to an adequate standard of living

- Continue efforts to combat poverty, focusing particularly on the needs of the most disadvantaged and marginalized individuals and groups, including Roma and Crimean Tatars, and on reducing the disparities between rural and urban areas;
- Concerning the needs of the population affected by the conflict, establish independent, transparent, and non-discriminatory procedures of documentation and verification of housing, land, and property ownership, and establish a specific registry of destroyed or damaged housing and other property and a comprehensive legal mechanism for compensation, including for people residing in territory controlled by armed groups;

Right to health

- Continue efforts to improve immunization coverage monitoring, and ensure access to affordable, quality and timely health care and medical treatment for all segments of the population, including for internally displaced persons;
- Continue efforts to ensure that women victims of sexual violence are given access to comprehensive medical treatment, mental health care and psychological support provided by health professionals who are appropriately trained to detect sexual violence and treat its consequences;

Right to education

- Eliminate all negative and patriarchal stereotypes of women and girls in school curricula and text books;
- Further improve access to education for Roma children;
- Ensure the de facto access of Crimean Tatars to education, in particular in the Tatar language;

D. Rights of specific persons or groups

Women

- Ensure that all national laws and policies on gender-based violence are aligned with international standards;
- Develop a mechanism to implement temporary special measures, including quotas, and ensure the integration of a gender perspective in all State reforms;
- Ensure that the law-enforcement, forensic services, and judiciary document, investigate, prosecute, and consider all 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;
- Further develop and provide timely, non-discriminatory, and comprehensive assistance to survivors of gender-based violence, including proper referral mechanisms;
- Put in place systems for data collection, analysis, and monitoring of gender-based violence and conflict-related sexual violence;

Children

- Ensure that sexual exploitation and child pornography are defined in legislation;
- Enforce the strict application of the minimum age of marriage (18 years);
- Develop a separate legislative framework on juvenile justice, and establish a system of complaints and responses for abuses of children in detention facilities;
- Develop a specialized child monitoring system regarding the conflict in eastern Ukraine;

Persons with disabilities

- Abolish the practice of sterilization without the free and informed consent of the person with disability;

Minorities and indigenous peoples

- Further improve the legal and institutional framework to better respond to the needs of minorities, including by amending the Law on National Minorities (1992);

- Establish a specialized institution on minority issues with necessary human and financial resources;
- Simplify procedures and remove remaining obstacles to ensure that all Roma were provided with personal documents, including birth certificates;
- Strengthen the measures aimed at ensuring favourable conditions for Crimean Tatars to preserve, develop and promote their identity, language and culture;

Migrants, refugees, asylum seekers and internally displaced persons

- Introduce a regulatory mechanism for the application of alternatives to detention for irregular migrants;
- Ensure effective protection from *refoulement* and improve asylum procedures, including by establishing a formalized border monitoring mechanism in cooperation with UNHCR and civil society organizations;
- Develop special simplified procedures for people who have lost their identification documents to obtain temporary travel and civil registration documents;
- De-link registration of internally displaced persons from all social entitlements not related to internal displacement, 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;

Stateless persons

- Harmonize the definition of “a stateless person” with that of 1954 Convention relating to the Status of Stateless Persons;
- Ensure the prompt adoption of the bill that would amend the existing national legislation on foreigners and stateless persons, and implement by-laws that established a statelessness determination procedure in line with the Convention and international standards and best practices;

Specific regions or territories

- Facilitate the access of Ukrainian citizens to and from Crimea, and ensure their property rights;
- Facilitate the access of foreign monitors to Crimea, including human rights defenders and journalists.