

ENGLISH only

Information
on protection of the rights of persons belonging to
national or ethnic, religious and linguistic minorities in Ukraine

According to the active legislation in the field of protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities, the Ukrainian state guarantees its citizens equal political, economic, social and cultural rights irrespective of their ethnic origin, language and religion. Ukraine's Criminal Code envisages punishment for the limitation of these rights as well as stirring up ethnic hatred, degrading honor and dignity of the representatives of ethnic groups.

The corps of legislation in this field includes:

the Constitution,

the Declaration on Rights of Nationalities of Ukraine,

the Laws: "On National Minorities", "On Local Self-Government", "On Associations of Citizens", and "On Printed Mass Media (Press) in Ukraine".

Article 24 of the Constitution of Ukraine stipulates that all citizens are equal before the law, and that there shall be no privileges or restrictions based on race, color of skin, political, religious and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics.

Article 37 of the Constitution prohibits the establishment and the activities of organizations (including political parties) whose programs, goals or actions are directed towards, inter alia, incitement to inter-ethnic, racial or religious hatred. This Article stipulates that the prohibition of the activity of associations of citizens is exercised only through a judicial procedure.

Article 53 of the Constitution stipulates that citizens who belong to national minorities are guaranteed, in accordance with the law, the right to receive education in their native language or to study their native language in State and communal educational establishments and through national cultural societies.

Article 25 of the 1989 Language Law, which is still in force insofar as in conformity with the 1996 Constitution provides that a free choice of the language of learning is an integral right of citizens. In this respect, the Ukrainian authorities have stated that parents have a right to request the setting up of a class in a certain language when the parents of at least eight children so request.

Ukraine is a party to the European Framework Convention on Protection of National Minorities. On May, 15, 2003 the Verkhovna Rada passed the Law "On Ratification of the European Charter for Regional and Minority Languages".

Under this document the Charter's provisions will be applied to 13 minority languages, including the Jewish minority, in seven main spheres of social life: education, legislation, administrative and public institutions, mass media, culture, economy, trans-border cooperation.

The draft laws, concepts, state programs and other acts on interethnic relations and ethnic minorities' rights are being considered by the Advisory Council of Heads of all-Ukrainian Organizations of National Minorities with the State Committee on National Minorities and Migration. The Council also deals with the manifestations of ethnic prejudice and recommends relevant measures to be taken.

One of the main tasks both for the government institutions and non-governmental organizations is to adopt policies that strengthen the awareness of the richness that cultural diversity brings to society. This includes development of the school curricula and teacher education programs to promote intercultural societal dialogue.

The Ukrainian state attaches special importance to establishing harmonious relations between the representatives of different nationalities and confessions, developing the culture of tolerance, as well as preventing and combating anti-Semitism and racism, including full use of the law-enforcement measures.

This includes the mass-media as Ukrainian authorities realize the danger of the publications that hurt ethnic dignity and honor of the citizens of Ukraine. Within this context the State Committee for National Minorities and Migration monitors mass media market tracking down publications of anti-Semitic or xenophobic character. In case of their appearance it submits requests for the appropriate actions to the Prosecutor General, State Committee on TV and radio broadcasting, regional administrations, editors of newspapers, as well as issues the statements of its own.

After the publications of articles which exploited the idea of the so-called "Jewish conspiracy" on January, 28, 2004 the court of law ordered the closure of the newspaper "Silski visti" for the propagation of the information, that stir up interethnic hostility.

The role of NGOs in promoting dialogue, tolerance, acceptance of diversity and rejection of racism, xenophobia and discrimination is of paramount importance. Constant attention is being paid in Ukraine to the development of understanding and mutual respect between the representatives of various ethnic and religious groups by promoting joint efforts and partnership between the governmental institutions and non-governmental organizations.

An active role in this respect is being played by the Association "For interethnic peace and stability in Ukraine", the Institute of Judaica and Antidefamation League

etc. They monitor relevant publications in newspapers, engage in dialogue with the state bodies, judiciary, and organize conferences, seminars concerning the rights and freedoms of ethnic communities and their social protection. The All-Ukrainian Church Council is another example of mechanisms to promote tolerance and mutual respect that are successfully working in Ukraine.

The Ukrainian authorities are currently working on the National Program on Tolerance Education.

Ukraine views the problem of combating anti-Semitism manifestations in the wider context of combating intolerance, discrimination and xenophobia through developing and strengthening dialogue among different cultures and civilizations with the special emphasis on preventive measures.

The general mechanisms of combating crimes based on racism, xenophobia and intolerance are determined by the norms of Ukrainian national legislation, in which the relevant provisions of international conventions have been implemented.

The UN International Convention on the Elimination of All Forms of Racial Discrimination (1966), the UN Declaration on the Elimination of All Forms of Racial Discrimination (1963) are currently in force in Ukraine. The definition and the rights of national minorities as well as foreigners and persons without citizenship are determined in the Laws: "On National Minorities of Ukraine", "On legal status of foreigners and persons without citizenship" and other legislative acts of Ukraine.

The violations of the human rights of the citizens of Ukraine based on racism and xenophobia also result in the criminal responsibility if these actions are provided for in the relevant articles of the Criminal Code of Ukraine which entered into force in September 2001.

In particular, the Criminal Code provides in its **Article 67** that racial, national or religious enmity and hostility are specific aggravating circumstances for the purposes of imposing a punishment.

The main criminal law provision in the field of combating racism and intolerance is **Article 161** of the Criminal Code. This Article punishes:

willful actions inciting national, racial or religious enmity and hatred; humiliation of national honor and dignity, or the insult of citizens' feelings in respect of their religious convictions; and any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based, inter alia, on "race", color of skin, political, religious and other convictions, ethnic and social origin, linguistic or other characteristics. All these prohibited acts carry heavier penalties if they

involve violence or threat of violence or fraud or if they are committed by a public official. The penalties are further increased if they are committed by a group of persons or if the prohibited acts have caused loss of life or other grave consequences.

In conformity with the norms of the active Criminal Code of Ukraine prejudicial inquiry of the criminal cases envisaged by the aforementioned Article 161 is carried out by the investigators of the General Office of Public Prosecutor of Ukraine.

According to the statistics, 2 criminal proceedings against the crimes provided for in the Article 161 of the Criminal Code were instituted in Ukraine in 2003.

An important role in the fight against racial and ethnic discrimination and racism in the country plays the Authorized Representative of the Supreme Rada of Ukraine on Human Rights (hereafter, Human Rights Ombudsman).

Any person who believes that his/her human rights have been violated can file an application with the Human Rights Ombudsman. The Ombudsman has the power to investigate such complaints and to make recommendations to the public authorities to address any problems found. Most complaints filed by formerly deported persons and their descendants and by foreigners have concerned the domain of citizenship or the issue of legalization of their status. Members of ethnic minorities have also filed complaints. In three such complaints referring to allegedly unlawful behavior of law enforcement officials, the racist motivation was invoked but not found by the investigating authorities. One case involving ill-treatment by the police of a member of the Roma/Gypsy community resulted in recommendations to the police and received considerable public attention.

Besides in September 2001 a State Committee for Nationalities and Migration was established in Ukraine. The Committee takes part in the development and implementation of the state policy in the field of relations between different ethnic groups in Ukraine. The Committee also drafts relevant legislation and carries out analyses of the social, economic, and cultural life and the demographic situation of national minorities.

The State Committee for Nationalities and Migration of Ukraine plans to propose several amendments to the Criminal Code which will envisage the responsibility for the crimes based on manifestations of xenophobia, anti-Semitism, racial and religious intolerance. In this regard the abovementioned Committee has elaborated the draft law "On Enhancement of administrative and criminal responsibility for manifestations of xenophobia, anti-Semitism, racial and religious intolerance". It has been recently sent for expert analysis to such international organizations as the

Council of Europe and the OSCE as well as relevant governmental bodies and institutions of Ukraine.

With the purpose of preventing manifestations of inciting of interethnic or racial hostility in Ukraine the State Committee for Nationalities and Migration has recently initiated setting up the Council on xenophobia, racial discrimination and intolerance.

In this connection the Cabinet of Ministers of Ukraine has entrusted the relevant government bodies and institutions of Ukraine to study the issue and make proposals to the draft Statute of the Council which will be further elaborated by the State Committee for Nationalities and Migration of Ukraine.

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