

STAKEHOLDER REPORT
to Ukraine's Periodic Report under the International Convention on the Elimination of All Forms of Racial Discrimination

Evaluation of implementation of the CERD concluding observations on Ukraine's 19-21st periodic reports (CERD/C/UKR/CO/19-21, 14 September 2011)

This is a joint publication developed by the Coalition of human rights organizations for evaluation of Ukraine's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination and the CERD concluding observations on Ukraine's 19-21st periodic reports.



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Positive aspects noted by the Committee, evaluation of developments and implementation in 2011-2016 provided by the Coalition of human rights organizations for evaluation of Ukraine's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (selected aspects):

3. The Committee notes with interest the State party's resolve during the period under review to strengthen the legal framework and remedy duplication and lack of clarity among various institutions and programs aimed at the integration and protection of ethnic groups, including:

(a) Amendments to articles 115, 121, 127 and 161 of the Criminal Code concerning liability for offences motivated by racial, ethnic and religious intolerance, and the recognition of racial, ethnic and religious motives as aggravating circumstances for a range of criminal offences including murder and grievous bodily harm.

The Criminal Code of Ukraine contains several articles that can serve to qualify a hate crime, namely: art. 161 (violation of equality of citizens; the article contains an open list of protected characteristics), art. 67 (aggravating circumstances), article 115§2(14) (murder), art. 121§2 (intended grave bodily injury), art. 122§2 (intended bodily injury of medium gravity), art. 126§2 (battery and torture), art. 127§2 (torture), and art. 129§2 (threat to kill).

Amendments to articles 115, 121, 127, and 161 only are insufficient to ensure effective and comprehensive investigation of hate crimes in Ukraine. First, the list of bias grounds in articles 115, 121 and 127 is exhaustive, i.e. it includes only religious, ethnic, and racial prejudice and leaves other types of hate crime outside the scope of investigation and adequate qualification. Second, there is no penalty for hate crimes that did not cause grave bodily harm. In practice, virtually all these crimes are qualified as hooliganism without any consideration of the motive. It sends a signal to the victims that these matters do not constitute an important social issue. There is a lack of official statistics on qualification of these crimes – only the data on registration of complaints about hate crimes in the Unified State Register is available. However, there is neither information about the number of qualified cases nor open statistics about the trial outcomes. According to the state court registry, these articles were almost never used in the past years for qualification of crimes. At the same time, the number of reports on hate crimes has not decreased, especially when it comes to crimes against ethnic and religious minorities, and LGBT people.

(b) The enactment of the Law on Refugees, Persons in Need of Complementary and Temporary Protection No. 7252, adopted by the Parliament on 8 July 2011, which strengthens the quality of refugee status determination procedures, the screening of asylum claims and temporary settlement, and medical services to refugees and asylum seekers, including the most unprotected applicants;

Since the time of the last CERD review for Ukraine in 2011, there has been a number of insufficiently strong yet positive developments in the legislation. These include, in particular:

- 1) Amendments to the Law "On Refugees" and relevant by-lawsⁱⁱ lifted territorial restrictions on the use of temporary protection mechanism, broadened and clarified the definition of complementary protection for the purposes of legal application, and slightly improved the procedure for documenting refugees and asylum seekers;

- 2) The Criminal Procedure Code adopted on 13 April 2012 has clearer regulations on the extradition procedure and transfer of criminal cases. It forbids extradition of foreigners and stateless persons until the final decision on granting international protection in Ukraine, or if extradition violates Ukraine's obligations under international law;
- 3) Due to amendments introduced on 19 May 2016, the Law of Ukraine "On the Legal Status of Foreigners and Stateless Persons" (adopted 29 September 2011) improved procedural safeguards for foreigners and stateless persons in consideration of the matter of expulsion, and detention for identification or expulsion. There was also a careful but necessary step towards implementing the presumption of the right to liberty and personal security, which is recognized under international human rights standards, through introduction of several alternatives to detention.
- 4) On 11 January 2013, Verkhovna Rada ratified the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;
- 5) The National Human Rights Strategy and the Action Plan for its implementation, adopted in 2015-2016, include clear goals that, if achieved, can ensure significant improvement of the national asylum and migration management system. In particular, these norms impose the following obligations on the relevant state authorities:
 - ensuring compliance with the principle of non-refoulement, including creation of complementary mechanisms for regulating the status of foreigners and stateless persons where expulsion violates the right to freedom from cruel treatment or the right to respect for private and family life – migration amnesty and/or tolerant status, or other complementary forms of international protection in accordance with international standardsⁱⁱⁱ;
 - allowing migration detention only if absolutely necessary and in compliance with the proportionality principle, including introduction of alternatives to detention as a mean of ensuring expulsion;
 - provide adequate instruments of protection for children of foreigners separated with the family;
 - adequate reception conditions for asylum seekers and integration of refugees.

c) The migration policy, adopted by presidential decree No. 622/2011 on 30 May 2011, which contains significant provisions that protect the human rights of migrants;

The State did not provide comprehensive information on the status of implementation of this decree. There has been no action plan developed for the policy, neither there were clarifications given to the central and local authorities regarding the steps they ought to take to implement it. Therefore, the policy remained only a declaration on paper.

d) The establishment of the new State Migration Service in December 2010 with a consolidated mandate aimed at enhancing the protection of migrants' rights, including those of unaccompanied minors, and streamlining decision-making on migration issues;

There is a need for significant improvements of the performance of the State Migration Service (hereinafter –the SMS). First of all, it concerns professionalism and objectivity of its staff. Analysis of the SMS practices in relation to recognition of applicants for asylum or stateless status, shows the lack of professionalism and, sometimes, bias attitude of the SMS staff towards asylum seekers. Often, the SMS staff ignore evidence of a well-

founded fear provided by the applicants or available in credible sources of information on the human rights situation in the country of origin^{iv}. Sometimes, they proceed to distort the applicant's statement and other evidence to find grounds for rejection. Needless to say, implementation of international legal standards on sharing the burden of proof and the benefit of the doubt^v is rare in the practice of the migration service. In addition, national administrative courts in their case law consider the decision to grant refugee status or complementary protection to be a discretionary power of the SMS of Ukraine. Therefore, even when an asylum seeker succeeds in proving that rejection was unfounded in all court instances^{vi}, his/her case will only be directed for a repeat review to the SMS of Ukraine. The migration service can issue an identical negative decision following a half-year long "repeat review". The flaws in the status determination system and inability of national courts to have the last say in these cases lead to a situation where persons in need of international protection remain in the uncertain status of asylum seekers for lengthy periods (in some cases – during several years).

We should note that the practice of the SMS of Ukraine during the last several year proved the validity of concerns expressed by human rights organizations related to the risks of violations of the rights of asylum seekers, refugees and persons in need of international protection. These risks stem from the fact that one state institution carries out the functions of documentation of foreigners and stateless persons and review of asylum applications, and the punitive functions, including imposition of fines on foreigners and stateless persons, in particular refugees and asylum seekers, for failure to register the place of residence, delay in extending validity of asylum seeker certificates and like administrative "offences"^{vii}. It is practically impossible to strictly follow the migration rules and procedure due to obvious flaws of the national legislation and application of the law on migration, asylum, movement, and change of residence. In addition to being an excessive burden for refugees and asylum seekers most of whom are in extreme poverty without any material support from the state, these fines for "offences" are extremely unfair and unreasonable. At the same time, the biggest concern here is that, with the increased punitive powers of the SMS, the inability of asylum seekers to pay fines often leads to termination of review of their asylum application and, accordingly, to the risk of expulsion.

e) The adoption of the Plan of Action to Combat Xenophobia and Racial and Ethnic Discrimination for the Period 2010-2012, which entered into force with Cabinet of Ministers' instruction No. 11273/110/1-08 of 24 February 2010 and the activities, albeit currently on hold, of the Interdepartmental Working Group on combating xenophobia and ethnic and racial intolerance;

Not implemented. Meetings of the Interdepartmental group stopped in 2011 along with the implementation of the Action Plan. Coordination of the Interdepartmental Group was transferred to the Ministry of Culture, and the latter failed the task. The only explanation provided by the Ministry of Culture at meetings with NGOs was the shortage of experts and funds, and complete lack of understanding of how to organize the work, as well as the significance of these activities.

f) The establishment of the Unit within the Ministry of the Interior to combat cybercrime through enhancing cooperation to combat the operation of offshore internet sites spreading intolerance;

There is no information about the work of this Unit, in particular on preventing hate crime. Complaints submitted by NGOs or individuals on dissemination of hate in social media, including incitement to hatred and physical violence against those differing from

the majority in their ethnic background or against LGBT people, often are dismissed by the law enforcement. Social Action Centre NGO filed several complaints; proceedings were initiated and closed without any result in 2011-2016.

g) Administrative reforms including the adoption of the Law on the Cabinet of Ministers and the consolidation of local bodies to improve the governance and coordination of responses to racial discrimination;

In the course of administrative reforms, there were no units or competent officials appointed to oversee activities in the field of preventing racial or other types of discrimination.

On the other hand, religious organizations report cases of discriminatory treatment of minority religious movements, in particular in allocation of land plots for construction of religious buildings. To some extent, it stems from violation of neutrality and secularity principle by the local authorities towards all religious organizations. The local authorities' bias towards separate religious organizations often takes the form of the lack of equal opportunities in access to land, lease of municipal property, and return of church property confiscated by the Soviet authorities, reduced utilities tariffs, and exercise of the right to peaceful assembly of religious nature. Signs of discrimination are evident when one compares adequate response to statements of some religious organizations with the neglect of those who constitute religious minority in certain regions. The difficulty of challenging these cases of discrimination is exacerbated since decisions are made collectively by elected representatives in local councils who often vote in accordance with their personal religious preferences.

For example, the parish of the Ukrainian Greek Catholic Church in Odesa has not been able to receive a plot of land from the municipality to build their temple. In 2010, Odessa Metropole of the Ukrainian Orthodox Church (Moscow Patriarchy) issued a statement that the construction was dangerous, as well as constituted "an attempt at aggressive expansion by the Uniates"^{viii}. The matter is still ongoing. The believers still have to gather in the premises of a public construction site used for prayer rooms.

Ukrainian Orthodox Church of Kyiv Patriarchate publicly complained about the following actions of the authorities in Kirovohrad region deemed to be discriminatory: refusal to allocate land for construction of a cathedral, preferential treatment of one of the denominations in the media space, different rates for the use of land for different churches^{ix}. Currently, among 23 plots of land allocated in Kirovohrad for churches, Ukrainian Orthodox Church (Moscow Patriarchate) received 14 plots, including 5 plots in the city center. Compared to other denominations, there is unequal treatment of religious organizations by the local authorities^x.

At the same time, Kyiv City Council decided to deny real estate tax benefits to the Ukrainian Orthodox Church (Moscow Patriarchate). The deputies excluded UOC (MP) from the list of religious organizations that enjoy benefits in relation to this tax^{xi}. There were also cases of selective allocation of benefits for religious organizations on local taxes and utilities in other regions^{xii}.

Local authorities in Uman (Cherkasy region) are inactive in relation to arrangements for Hasidim pilgrimage. It leads to conflicts between the pilgrims and local population, which creates a constant source of hostility^{xiii}. There is a lack of dialogue with the local Jewish community that has suggestions on how to solve this issue

h) Activities including discussions, exhibitions and production of information materials to raise awareness about the Roma Holocaust.

There are limited activities in this area implemented by the Ministry of Culture of Ukraine. However, there has been no dedicated work with the public to initiate discussion about the Roma Holocaust. There were individual activities by NGOs with the support of international donors, e.g. International Renaissance Foundation, or community members. A monument to the Roma yardman^{xiv} installed in 2015 in Mukachevo by the local authorities had no relation to the Roma Holocaust or the fact that there is a big Roma community living in the city. It only caused a wave of resentment among the public in Zakarpattia.

Concerns and recommendations: evaluation of the state of implementation in 2011-2016 provided by the Coalition of human rights organizations for evaluation of Ukraine's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (selected issues and recommendations):

4. The Committee notes with concern the information that the State Committee on Ethnic and Religious Affairs, the Inter-Departmental Working Group against Xenophobia and Ethnic and Racial Intolerance as well as the separate departments of the Ministry of the Interior for investigating and combating ethnic crimes ceased to be operational during 2010 despite the fact that administrative reforms were still pending.

The Committee urges the State party to continue to consider racial discrimination as a priority regardless of the outcomes of pending administrative reforms. Given the importance of safeguarding the independence, visibility and effectiveness of institutional mechanisms to counter racial discrimination, such as the planned new Central Authority for National and Religious Affairs, the Committee recommends that they be established and their mandates defined in conjunction with the new framework anti-discrimination legislation. It also recommends that the State party re-activate the institutions which have ceased to be operational, particularly the Inter-Departmental Working Group against Xenophobia and Ethnic and Racial Intolerance as well as the mechanisms for investigating and combating ethnic crimes.

In 2011-2016, no authority for preventing racial and other forms of discrimination has been established. In 2012, the Inter-Departmental Working Group against Xenophobia and Ethnic and Racial Intolerance terminated all its activities. There were no publications of statistical data on complaints about discrimination on any grounds with the exception of the individual complaints data published by the Human Rights Commissioner (since 2013) and NGO data.

The only institution doing systematic work on prevention of all forms of discrimination (including racial, ethnic, and religious discrimination) is the Ukrainian Parliamentary Commissioner for Human Rights. No other state authority, including the Ministry of Culture that still has a formal obligation to oversee activities for prevention of racism and xenophobia, undertake any systemic action. In 2014-2015, the State attempted to create a position of a separate Commissioner for Ethnic Policy^{xv}. However, the Commissioner failed to achieve any success during a year of his work, and demonstrated inability to build dialogue with different ethnic groups or prompt the Parliament to solve issues of concern to the national minorities in Ukraine.

The Action Plan for implementation of the National Human Rights Strategy ^{xvi} (2016-2020) includes several tasks that could support implementation of the Committee's recommendations. We should note, however, that most executors of the plan delay appointing officials responsible for the measures and ignore information requests. Moreover, the Ministry of Culture, which is responsible for a large number of measures in relation to national and religious groups, sent a letter to the working group asking to relieve them of the responsibility because of the lack of understanding of how to do this work, shortage of experts and funding.

5. The Committee notes with concern that, despite its recommendation of 2006 that the State party adopt new framework anti-discrimination legislation, the draft Anti-Discrimination Act was prepared only in 2011 and its further development and adoption is contingent on the drafting and approval of the new Inter-Departmental Strategy against Discrimination and Intolerance mandated by the President of Ukraine in May 2011 (arts. 1 (1) and 2 (1) (d)).

The Committee urges the State party to accelerate the adoption of a comprehensive anti-discrimination act to stipulate, inter alia, the definition of direct and indirect as well as de facto and de jure discrimination, together with structural discrimination, liability for natural and legal persons extending to both public authorities and private persons, remedies to victims of racial discrimination and the institutional mechanisms necessary to guarantee the implementation of the provisions of the Act in a holistic manner.

Currently, Ukraine has the pre-requisites for a modern legal system ^{xvii} that would prohibit discrimination, allow victims to restore their rights and receive compensation, and even create conditions for developing state policy on preventing and combating discrimination. The 2012 Law of Ukraine "On the Principles of Preventing and Combating Discrimination" ^{xviii}, along with other legal instruments, is the foundation of the system for preventing and combating discrimination. However, both the anti-discrimination law and other legislation need improvements. Despite comments of national and international experts, certain shortcomings of the legislation have not been resolved. The lawmakers did not ensure the following: inclusiveness of the Law (a broad list of protected grounds that would include most discriminated groups in Ukraine), an effective mechanism for challenging discrimination, and the necessary amendments to the existing legislation to ensure harmonization of the legal system and avoid collisions.

In response to recommendations of international institutions, the law provides a definition of discrimination, its direct, indirect and other forms, includes a list of protected grounds. However, due to the lack of efforts to harmonize legislation, different laws not only contain different lists of protected grounds (the Constitution, anti-discrimination law, and the Criminal Code), but there are also different definitions of discrimination in different laws, which leads to legal uncertainty.

In May 2014, Verkhovna Rada approved changes to the anti-discrimination law that resolved certain shortcomings (for instance, the definition of the forms of discrimination was improved and extended, affirmative action was defined along with the mechanism of its use and oversight, powers of the Ukrainian Parliamentary Commissioner for Human Rights were expanded, and the principle of shifting the burden of proof was included into the Civil Procedure Code). In 2015, sexual orientation was included into the list of protected characteristics in the Labor Code (the amendment was introduced to the old version; the new version pending review by the Parliament does not include this characteristic). Draft law No.3501 suggests amendments to the Administrative Code of Ukraine, such as establishing the system of fines for discrimination and partial

removal of discrimination from the Criminal Code. Yet, there are other unresolved issues. For instance, there are problematic procedural aspects (authorities with the power of review and imposing fines, jurisdiction over cases only in the area where discrimination took place, timeframe for reviewing a complaint); not all characteristics are mentioned in the list (sexual orientation, gender identity, health condition), there is no comprehensive definition of reasonable accommodation, and definitions of different forms of discrimination are not harmonized in different laws.

Another aspect causing legal uncertainty and discouraging potential plaintiffs is the lack of regulation of the procedure for complaints on discrimination. For instance, article 16 of the anti-discrimination law states that persons responsible for violating requirements of the legislation on preventing and combating discrimination shall bear civil, administrative, and criminal liability. However, only the Criminal Code has a clear sanction for discrimination (more precisely, for “direct or indirect limitation of rights or establishing direct or indirect privileges for citizens on the grounds of ...” with a non-exhaustive (open) list of characteristics – article 161 of the Criminal Code). If a person wants to complaint about discrimination directly to a court, it can be done in civil or administrative proceedings. However, there are no relevant articles or sanctions for perpetrators in the Civil or Administrative Offences Codes.

Another way of challenging discrimination is a complaint to the law enforcement and initiation of criminal proceedings under article 161 of the Criminal Code^{xix}. This is the least effective method: in addition to disproportional punishment, it requires proof of the motive, which is not always possible in discrimination cases. The only recent attempt to amend article 161 of the Criminal Code (except the draft law No. 3051 in late 2015) was including “disability” into the list of protected characteristics in July 2014. Authors of this bill concentrated on formal expansion of the list of grounds and overlooked evaluation of effectiveness of application of article 161 and proportionality of the punishment.

The draft law No. 3051 provides for removing part 1 of article 161 of the Criminal Code and introducing administrative penalty for violations of anti-discrimination law. The Law creates the power for the Parliamentary Commissioner to review complaints and impose fines, since the Commissioner is already the body responsible for compliance with the law in preventing and combating discrimination. The only issues related to the changes are the issues of jurisdiction (the law suggests that complaints are reviewed only where violation takes place); term for review of complaints (no more than 3 months), and the Commissioner’s capacity to review complaints in effective and timely manner, particularly when it comes to complaints from the regions (Ombudsman’s representatives are not present in every region).

6. The Committee notes with regret the absence of information on the effectiveness of the Office of the Parliamentary Commissioner for Human Rights.

The Committee recommends that the State party include in its next periodic report detailed information on the effective functioning of the Parliamentary Commissioner for Human Rights, a national human rights institution set up in accordance with the Paris Principles, mandate it with specific competence in the field of racial discrimination, in particular to process complaints and take measures in response to the concerns of victims of racial discrimination, and ensure their effective access to the Commissioner’s Office at the regional, district and municipal levels.

The only comprehensive document on preventing and combating discrimination on all grounds is the Strategy for Preventing and Combating Discrimination in Ukraine for 2014-2017^{xx}(December 2013) and the Action Plan-2015 developed and adopted by the Human Rights Commissioner in cooperation with the civil society institutions. Published in the spring 2016, the Commissioner's report for 2015 fully reflects the achievements of the national human rights institution in the matters of equality, as well as provides evaluation of the state activities in this sphere, which is virtually identical to the assessment of civil society.

The Commissioner is the only institution that collects and publishes statistical data about individual complaints on discrimination, which provides a basis for identifying patterns of discrimination. In addition, the Commissioner's office is the only stakeholder that consistently conducts education activities on preventing discrimination. In 2014, the Commissioner joined the partnership in developing a manual for state and local authorities on preventing and combating discrimination, as well as held trainings in 10 pilot regions, including Kyiv city. In 2015, the Commissioner's Office staff held trainings for officials of the judiciary of Ukraine. In 2016, the Commissioner partnered with civil society organizations in the conduct of trainings for police and local authorities on preventing discrimination and hate crimes (6 pilot regions of Ukraine).

The capacity of the Office was increased due to an increase in funding and personnel training supported by the Council of Europe in cooperation with international and domestic experts in non-discrimination. The Commissioner also is a partner in the information campaign "Discrimination Limits. Counteract"^{xxi}, implemented with the international donor support by the Coalition for Combating Discrimination in Ukraine^{xxii}. Unfortunately, other state institutions have not expressed their willingness or readiness to support the campaign or, at least, use its information resources to fulfill the Human Rights Strategy Action Plan requirement on informing the public about the problem of discrimination in Ukraine.

7. The Committee remains concerned also about the lack of updated statistical data disaggregated by ethnicity, gender and age on the victims of racial discrimination and of accurate data on the occurrence of hate speech and hate crimes, the number and nature of cases brought against perpetrators, convictions obtained, sentences imposed and compensation awarded (art. 2 (1)).

The Committee recommends that the State party develop and apply appropriate methodologies for the collection of relevant information about victims of racial discrimination including on mother tongues, languages commonly spoken, or other indicators of ethnic diversity on the basis of self-identification of persons and groups, together with the number and nature of cases brought against perpetrators of racial discrimination, convictions obtained and sentences imposed, in accordance with the specific guidelines (CERD/C/2007/1).

In 2011-2014, the law enforcement bodies did not publish official statistics on hate crimes. According to the ODIHR data, the number of crimes reported by the State was significantly lower than corresponding data provided by NGOs. For instance, in 2012, EAJC recorded attacks against 19 persons; another 29 cases of violence against LGBT people were documented, while official state data showed information about 3 cases. First official data on the number of hate crimes was published in 2016 – following establishment of the National Focal Point on Hate Crime in 2015.

Targets of these crimes include mostly the "visible minorities" (foreign students often become victims of attacks), representatives of religious groups, and the LGBT

community (there has been an increase in homophobic attacks during 2012-2016). Information on the number and nature of these crimes is available in reports of non-governmental and international organizations.

Only in 2016, the National Police published data segregated by types of hate crime (grounds)^{xxiii}, recorded in the Unified State Register of Pre-Trial Investigations during 2015. There is no data on age, gender, or ethnic background of victims.

In the end of 2015, the Prosecutor's Office, the National Police, and non-governmental organizations reached an agreement on amendments to the crime report form to include a relevant checkbox to reflect the victim's statement on bias as a motive. On 30 May 2015, the Minister of Interior signed an order amending the Instruction on unified recording of statements and reports on criminal offences and other events by the police. A point on whether the applicant pointed out circumstances suggesting that the crime was bias-motivated was added to the Protocol of receiving a crime report. The order enters into force upon its official publication. The question remains whether these changes will be reflected in the Unified registry of pre-trial investigations, and, importantly, in the practice of police.

There is a need to ensure effective investigation of crimes and establish an effective dialogue that would include communities and CSOs for the purposes of reporting on the results.

The problem with investigation of hate crimes is that in most cases they are qualified as hooliganism manifested in the form of vandalism, assault, minor bodily injuries etc. Moreover, vandalism is also qualified as hooliganism or damage to property despite there being specific articles in the Criminal Code (e.g. articles 178, 179, 297, and 298). The motive of bias against religious groups is discarded even when the targets are Holocaust memorials, synagogues, mosques, and other religious buildings and memorials. Analysis of available court decisions shows that, in 2012-2016, article 161 was used in 7 court decisions (including one decision cancelled afterwards).

Problems in investigation also include the ineffectiveness of investigators' actions, refusals to accept a crime report, delaying procedural actions etc. As a result, there is no proper investigation of hate crimes, which leads to impunity or lesser punishment for perpetrators, as well as less incentives to report these crimes.

8. The Committee expresses its concern at the absence of information on the specific legal and policy measures to prohibit and condemn "racial segregation and apartheid" in accordance with article 3 of the Convention.

In light of general recommendation No. 19 (1995) on racial segregation, the Committee recommends that the State party address problems of ethnically related social exclusion and segregation through the adoption of necessary legislative and policy measures.

It might seem that there are no segregation-related problems in Ukraine. However, even a superficial analysis of the conditions of Roma in different regions (particularly in Zakarpattya) shows that modern segregation exists in the country. Its victims are mostly Roma. When looking at the implementation of regional policy in areas of compact settlement of national minorities in Zakarpattya, we should remember that policy design is impossible without recognition of existing problems and evaluation of their scale. The first Ukrainian census in 2011 recorded over 14 thousand Roma in Zakarpattya, and 47.6 thousand Roma living in Ukraine. However, according to the Regional Department of Health in Zakarpattya, there are 39.27 thousand Roma living in Zakarpattya. For 62.4% of them Hungarian is the mother tongue, Romani – for 20.5%, Ukrainian – 16.7%,

and for 0.2% - Russian and other languages. Accordingly, one of the problems is inability to establish the real number of Roma living in Ukraine and in Zakarpattya, in particular. According to the Regional Department of Nationalities and Religions in Zakarpattya, there were 31090 Roma living in Zakarpattya in 2013^{xxiv}. This data was collected during 109 house visits with medical personnel. Analysis of different sources shows discrepancy between the 2001 census data and information provided by the Department of Health in Zakarpattya (fig. 1.1)^{xxv}.

Roma minority have the lowest educational level in Ukraine. Over 90% of them drop out of school, and only 6% have completed secondary education or professional training, and only rare individuals have higher education. According to the Roma Education Fund, there is a significant number of Roma (hundreds?) with higher education degree in Ukraine, including dozens in Zakarpattya. Roma minority in Zakarpattya is different from other minorities in their way of life, ethnic cultural mobilization, and ethnic mentality. The difference is, first of all, in the low educational level. Therefore, ethnic policy for the Roma in Zakarpattya should be focused on increasing the general educational level of this national minority. Social and family conditions of the Roma community in Zakarpattya have the following characteristics: having many children, early marriages, specifics of the mode of life, demographic seasonal migration of the students' parents; poverty and unemployment of the majority of families; decreased responsibility of parents for upbringing of their children; only 20% of Roma population in Zakarpattya consider Romani their native language; low educational level of Roma prevents them from exercising their right to a profession, employment, appointment to responsible and managerial positions; the problem of documentation (obtaining passports); certain part of the Roma community has no clear position as to education of their children either in separate schools or with children of other nationalities. All the above leads to the Roma community being segregated both in education, and also in everyday life, from other population in Zakarpattya.

Solving Roma issues in the local policy in Zakarpattya is the responsibility of Zakarpattya Regional State Administration, including its units – the Department of Nationalities and Religions and the Center for the National Minorities' Cultures (subordinated institution). The Presidential decree (No. 201/2013, 08 April 2013) "On the Strategy for Protection and Integration of the Roma National Minority into Ukrainian Society until 2020" and the Action Plan developed by the Ministry of Culture have stimulated activities of the local governance in Zakarpattya in relation to the Roma minority. On 12 November 2013, the head of the regional state administration O.O. Ledyda approved "The Action Plan for the Strategy for Protection and Integration of the Roma National Minority into Ukrainian Society until 2020" (order No. 389). The Action Plan includes 44 points divided into 6 sections – "General issues", "Social security and employment", "Increasing educational level", "Healthcare", "Improving living conditions", "Fulfillment of cultural and informational needs"^{xxvi}.

The Action Plan is general and only declarative; it has no concrete measures or methods for implementation. There are still many problems that need urgent solutions. A significant shortcoming in the ethnic policy towards the Roma in Zakarpattya is the exclusion of Roma non-governmental organizations from the discussion and decision-making by the local authorities. The main problem of the regional ethnic policy is that its focus is the culture while the Roma community faces more important issues. In particular, it is necessary to tackle the everyday problems of Roma, including the lack of identification documents, restricted access to educational, medical and social services, lack of accommodation with adequate sanitary standards, and barred access to employment.

9. *The Committee remains concerned that while in practice foreign nationals and stateless persons legally present in Ukraine enjoy the same rights and freedoms and have the same obligations as Ukrainian citizens, subject to restrictions provided by law, many legal provisions still do not guarantee the equal protection of rights and freedom from discrimination to non-citizens (art. 4 (a)).*

The Committee recommends that the State party guarantee equal rights and freedom from discrimination, including under article 161 of the Criminal Code, to all persons subject to its jurisdiction with the aim of avoiding ambiguity in ensuring protection to all persons, in accordance with general recommendation No. 30 (2004) on non-citizens.

In May 2014, the Law “On Preventing and Combating Discrimination in Ukraine” was amended to include citizenship to the list of explicitly mentioned characteristics. Therefore, anti-discrimination legislation provides protection for non-citizens against discrimination. However, there were no similar changes to the Constitution (the list in the equality article does not include citizenship) or the Criminal Code of Ukraine (articles 161, 67 (aggravating circumstances), 115, 121, and 127).

10. *The Committee expresses its concern at the dismissive attitudes and reluctance to accept the racist or discriminatory nature of hate crimes by the law enforcement authorities as well as the repeated incidents of ethnic and racial profiling by the police, resulting in a majority of the reported hate crimes remaining unanswered (art. 4 (a)).*

In light of its general recommendation No. 31 (2005), the Committee urges that the State party take immediate measures to effectively investigate reported hate crimes and ensure that the police do not engage in racial or ethnic profiling when conducting document checks on foreigners or members of “visible minorities”. To that end, the Committee recommends that the State party investigate and bring to justice perpetrators of such acts regardless of their official status, and continue to expand training on human rights issues for staff of the Ministry of the Interior, State Migration Service, State Border Guard Service and the police.

The problem with investigation of hate crimes is that in most cases they are qualified as hooliganism manifested in the form of vandalism, assault, minor bodily injuries etc. Moreover, vandalism is also qualified as hooliganism or damage to property despite there being specific articles in the Criminal Code (e.g. articles 178, 179, 297, and 298). The motive of bias against religious groups is discarded even when the targets are Holocaust memorials, synagogues, mosques, and other religious buildings and memorials. Analysis of available court decisions shows that, in 2012-2016, article 161 was used in 7 court decisions (including one decision cancelled afterwards).

Problems in investigation also include the ineffectiveness of investigators’ actions, refusals to accept a crime report, delaying procedural actions etc. As a result, there is no proper investigation of hate crimes, which leads to impunity or lesser punishment for perpetrators, as well as less incentives to report these crimes.

In addition to the problems of investigation of hate crimes, we also note the continued practice of manifesting xenophobic attitudes in statements and actions of the law enforcement and local authorities. For instance, programs for preventing crimes often include “measures to identify criminal groups created on ethnic basis”, which serve as a ground for conducting police raids to identify the so-called “ethnic criminal groups”. Some programs explicitly mention a specific ethnicity that the law enforcement intend to “combat”: “To hold measures directed at identifying criminal groups formed on the

basis of ethnicity, primarily – among representatives of Roma nationality”. In one of its messages, the police called upon citizens to beware of the “non-Slavic looking persons”. These statements and actions are not only ineffective, but also they lead to decreased credibility of the law enforcement and lower motivation for the victims to report future hate crimes. Messages about raids against persons with unregulated status traditionally include hate speech – press services of the police, border guards, and migration service use the words “illegal migrants” or even “illegals” on a daily basis (while there is no concrete identification of the detained person’s status).

Systematic education of the police on preventing and combating all forms of discrimination, including racial and ethnic profiling, recording and investigation of hate crime, started only in 2015 along with the reform of “militsiya” and creation of the National Police of Ukraine. In 2015, “Tolerance and Discrimination” mandatory course for patrol police was developed and implemented by experts and trainers from the civil society. In 2016, a pilot course for investigators on preventing and combating discrimination and investigating hate crime was introduced in 3 pilot regions of Ukraine^{xxvii}. There were also trainings for the State Migration Service staff in 10 regions^{xxviii}.

11. In light of the resurgence of activities by extremist organizations such as “Social National Assembly” and “Patriots of Ukraine”, the Committee notes with concern the repeated attacks against foreigners and members of “visible minorities” by young extremists and the information contained in paragraph 85 of the State party’s report to the effect that the extreme right-wing movements are “in some respects beyond the Ministry of the Interior’s legal competence” (art. (4) (b)).

The Committee strongly recommends that the State party closely monitor the activities of extremist organizations, and adopt legal and policy measures with the aim of preventing their registration and disbanding their activities, as necessary, and ensuring the protection of foreigners and members of “visible minorities” against all acts of violence.

In 2015, amendments to the Law “On Citizens’ Associations” expanded the ban on establishment and functioning of public associations for specific purposes. Prohibition of propaganda of communist and/or national-socialist (Nazi) totalitarian regimes and their symbols was added to the list of grounds, which previously included propaganda of war, violence, incitement to interethnic, racial, and religious hatred, and encroachments upon human rights and freedoms.

There is a Commission for compliance with the Law “On Condemnation of the Communist and National-Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibition of Propaganda of Their Symbols”. The Commission’s conclusion can trigger an application to the court to ban the organization. Nevertheless, there were no Commission’s conclusions found in relation to organizations engaging in propaganda of the national socialist regimes. In addition, information about proceedings of this kind and examination of these issues is unavailable.

However, representatives of several organizations have manifested intolerance towards different groups. These include the Right Sector and Azov Civilian Corps (anti-immigrant march in Yahotyn, threats towards the Equality March), the Social National Assembly, the Fashion Verdict (Modnyj Vyrok) (the organization is allegedly linked to several homophobic attacks), C14, Misanthropic Division (blocking and violence against participants of the Equality Festival in Lviv) and others. There is also information that Azov Civilian Corps held a raid together with Bila Tserkva police department.

Even in the light of the above, according to the head of the State Security Service, there were no radical right organizations registered in Ukraine.

There were proceedings against the SNA (a verdict was cancelled by the court, the case was returned for further investigation), "Tryzub", "Patriot of Ukraine", Autonomous Resistance (Avtonomnyj Opir) and others. The police was more active in this sphere in 2012. Possibly, the activity was motivated by the EURO 2012 football tournament and the related attention to the radical right movements in Ukraine. However, there is no detailed information on similar measures in 2013-2016.

In 2016, the law enforcement used additional safety measures for the protection of participants of the Equality March in Kyiv due to threats before the event. However, instead of preventive work, police used the so-called "preventive detention" (which is not mentioned in the procedure code) and arrested everybody who, in their view, could have had an intention to prevent the march. According to NGO information, at least three potential participants of the March were arrested because the law enforcement thought they looked like members of the radical right subculture. In addition, religious leaders claimed there was discrimination based on religion: a Lutheran bishop and believers were not admitted to their regular place of the Sunday service during the Equality March^{xxix} due to heightened security measures.

12. The Committee is also concerned about the reported growth in outreach activities by extremist organizations expanding their propaganda and using electronic social networks to address the youth of the country (art. 4 (a)).

The Committee further recommends that the State party resolutely counter the activities of extremist organizations including on the internet and adopt educational and awareness-raising measures to prevent and discourage the involvement of young sympathizers in extremist organizations and movements.

There are no systemic activities in this sphere neither by the National Police, nor by the Ministry of Education. The latter ignores any information and awareness-raising work for preventing and combating discrimination. In 2015, the Ministry joined the Council of Europe No Hate Speech campaign. However, the only support provided was in the translation of the manual for trainers and campaign activists. The campaign itself was not visible or effective in Ukraine due to low engagement of the state authorities.

Individual complaints to threats, incitement of hatred online, in particular in social networks, are usually dismissed or not investigated by the police properly. The main argument in these cases is the lack of time and technical capacity for investigating cases that are considered insignificant by the police.

There is no understanding of the significance of preventing the radical right and extreme ideas in the society, particularly, among the youth.

13. The Committee observes that the effectiveness of article 161 of the Criminal Code is contingent on balancing protection from discrimination and violence with the right to freedom of opinion and expression under article 4 of the Convention.

In light of general recommendation No. 15 (1993) on the implementation of article 4 of the Convention, and drawing attention to general comment No. 34 (2011) of the Human Rights Committee on the right to freedom of opinion and expression, the Committee encourages the State party to modify article 161 of the Criminal Code in

order to strike a balance between the protection of both the right to freedom from discrimination, according to article 4 of the Convention, including against hate speech and the right to freedom of expression.

There were no amendments to article 161 (except for including disability into the list of protected characteristics). Draft law No. 3501 (amendments to the Law “On Preventing and Combating Discrimination”) pending second hearing in the Parliament, includes certain changes to article 161. However, these changes do not address the Committee’s recommendations.

There is also an unresolved issue related to whether prohibition of discrimination violates the freedom of speech of religious organizations. The issue stems from the lack of coherence of amendments to the anti-discrimination legislation with the fundamental rights to freedom of thought, speech, expression, conscience, and religion. In particular, legislative changes for the protection of LGBT community in employment caused protests of the religious community due to the lack of cautions on possible restrictions in employment with religious organizations or their social institutions^{xxx}. There is a need for a broad public discussion and awareness-raising activities, which the state has not done. At the same time, when preparing the draft law No. 3501 for the second hearing, the parliamentary committee decided to add a general warning on protection of the freedom of thought and speech, expression, belief and religion to the Law “On Preventing and Combating Discrimination in Ukraine”.

14. The Committee is alarmed by the limited effectiveness of legislative and policy measures addressing the issues relating to education of Roma and notes with concern the limited availability of educational materials for education in, and on, Roma language and culture. The Committee is further concerned by reports of the enrolment of Roma children in special classes and the failure to consult their parents (art. 5 (e) (v)).

The Committee recommends that the State party revise its legislation, policies and programmes to provide education to Roma children, and on Roma language and culture, in consultation with parents and concerned Roma organizations, and employ mediators as necessary, ensuring that schools are sensitive to their needs while preventing enrolment of Roma children in special classes where there are no objective grounds for assigning them thereto.

In 2013, Ukraine officially declared its commitment in relation to Roma community by adopting the Strategy for Protection and Integration of Roma National Minority into Ukrainian society until 2020 and approving the Action Plan for its implementation^{xxxxxxii}. At the same time, effectiveness of the action plan implementation is questionable due to both the flaws in the plan, and also the lack of realistic official data on Roma. The latter creates significant obstacles both for adequate assessment of the problems, and also their proper solution by the state authorities.

One of the Strategy’s goals is increasing the educational level of Roma community, popularizing education among Roma, and ensuring equal access to all levels of education as compared to other citizens. Other important tasks include: awareness raising activities with Roma on the importance of primary, secondary, vocational and higher education for children; ensuring cooperation between educational institutions and Roma public organizations; and providing employment guidance to motivate Roma to receive technical and higher education.

Obtaining education is one of the most pressing issues for the Roma population as the level of education is extremely low. According to research, incomplete secondary

education is most widespread educational level among Roma (37.2%). At the same time, every fifth Roma has no education (24%). Only a miniscule percentage (1%) of them have higher education^{xxxiii}^{xxxiv}. There are also difficulties when it comes to knowledge of the state language. Almost every fourth Roma cannot read and write in Ukrainian (23% and 23% respectively), and a third of them can do it poorly (33% - reading, 36% - writing). 14% of interviewees have no or poor command of Ukrainian language, and another 12% most likely do not understand Ukrainian. Most of interviewed Roma said they had not thought about it. Only 6% of Roma plan to obtain educational that would allow them to have a profession (4% - education, 2% - higher education)^{xxxv}.

According to the leaders of Roma organizations, Roma can only work as unskilled laborers due to the low level of education. At the same time, they note that recently more children chose to have a secondary specialized or higher education. This is connected primarily to availability of educational programs from international funds and organizations. Primary and secondary education in Ukraine is officially free. However, many Roma cannot afford to pay constant school fees for refurbishment, foreign language classes, school events, textbooks and work notebooks, school supplies etc. Some schools also demand the purchase of uniforms, which are expensive for the Roma population.

In addition, discrimination by both school staff, pupils, and their parents remains a problem (mentioned by 12% interviewees). According to the community representatives, this problem is more widespread than described by the Roma. The discriminatory treatment is one of the reasons why children quit even before graduating from the primary school:

"They send the child to school, for instance. She goes there for some time until they tell her "tsyganka, tsyganka [gypsy]". And children start to be self-cautious. So they quit studying, start to live the adult life, sell things at the market, collect nuts in the villages etc."^{xxxvi}

Main problems in providing quality education and access of Roma to education include: low awareness of state and NGO representatives about the key aspects of the Strategy and the Action Plan (many have pointed out having a rather vague knowledge about these documents), lack of proper communication between the state authorities and NGOs defending Roma rights; insufficient funding of the programs mentioned in the Strategy, which leads to most of them existing only on paper. The lack of funding is also a significant restriction of initiatives of the state authorities for improvements in the field of Roma rights in Ukraine.

15. While noting the progress in issuing the necessary identification papers to Roma without relevant identification documents including birth certificates, the Committee remains concerned that, while over 2,000 Roma had been documented, approximately 1,700 persons still remain without such documents especially in light of the State party's argument that the lack of evidence of ethnicity on the part of the State party is a major factor in limiting the production of identification documents (art. 5 (a) and (e)).

The Committee urges that the State party issue as a matter of priority the necessary identification documents to all Roma in order to facilitate their access to the courts, legal aid, employment, housing, health care, social security, education and other public services.

As noted above, in the section on positive aspects, there is a pressing issue of calculating the number of Roma living in Ukraine. The 2001 census data is inaccurate, and it does not correspond to the numbers from other services or numbers voiced by Roma organizations. Therefore, when talking about a group of at least 300000 people (most of them – undocumented), the documentation of 2000 people is insufficient.

Issuing documents is one of the steps listed in the Action Plan to the Strategy for Protection and Integration of the Roma National Minority into Ukrainian Society until 2020^{xxxvii}. The Cabinet of Ministers issued a relevant order on establishment of the Inter-Departmental Working Group (iDWG) that would work on this matter^{xxxviii}. At the same time, the question of the functioning of this collegial body, its powers and competences is still open. We should point out that administration of this body is the responsibility of the Department for Religions and Nationalities of the Ministry of Culture while human and material resources of the Department were not increased. The Action Plan to the Strategy approved in 2013 is declarative only, it has no time limits for implementation or reporting indicators. There was no funding allocated for implementation of activities in the current budget year. The situation with the regional (oblast) action plans^{xxxix} is the same.

On the other hand, Roma organizations note recent improvements related to issuing passports to the Roma. First of all, it is a result of the effective work of NGOs and Legal Aid Centers (Receptions), as well as establishment of cooperation with directorates of the State Migration Service and the Civil Registry Offices in the regions. Currently, the most urgent problem is receiving other documents, in particular birth certificates (registration) for children. In Odesa, Zakarpattya, Volyn, and Cherkasy region there are towns where people have no documents whatsoever, even birth certificates.

16. The Committee notes with concern the absence of legislation on indigenous peoples implementing the guarantees to indigenous peoples and national minorities contained in articles 11 and 92 of the Constitution (art. 2 (2)).

The Committee urges the State party to adopt legislation to protect indigenous peoples and guarantee their economic, cultural and social development, and to consider ratifying International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989).

On 20 March 2014, the Verkhovna Rada adopted the resolution No. 1140-18 “On Verkhovna Rada’s Statement on the Safeguards related to the Rights of Crimean Tatar People in the State of Ukraine”. According to the resolution, Ukraine guarantees preservation and development of ethnic, cultural, language and religious identity of the Crimean Tatar people as the indigenous people and all national minorities in Ukraine; it ensures protection and exercise of the inalienable right to self-determination of the Crimean Tatar people within sovereign and independent Ukraine. In the resolution, Ukraine recognized Mejlis of the Crimean Tatar people, an executive body of the Kurultai, and Kurultai as the highest representative body of the Crimean Tatar people. Ukraine also finally expressed its support for the UN Declaration on the Rights of Indigenous Peoples.

On 15 April 2014, Verkhovna Rada adopted a Law No. 1207-VII “On Ensuring the Rights and Freedoms of Citizens and the Legal Status of the Temporarily Occupied Territory of Ukraine”. The law defined the status of Ukrainian territory under temporary occupation resulting from the armed aggression by the Russian Federation, instituted a special legal regime for this territory, defined the specifics of activities of state and local authorities,

enterprises, institutions and organizations within the regime; it also concerned observance of the rights and freedoms of people and citizens, as well as the rights and legitimate interests of legal persons.

On 17 April 2014, the Law No. 1123-18 “On Restoring the Rights of Persons Deported on the Ground of Nationality” was adopted. It established the procedure for compensation to the deportee or his/her heirs of the cost of real estate and other property confiscated during deportation. The law also created state safeguards to the deported persons who had returned to reside permanently in Ukraine.

On 12 August 2014, Verkhovna Rada adopted the Law “On Establishing the ‘Crimea’ free economic zone and the specifics of economic activities on the temporarily occupied territory of Ukraine” (1635-VII). Pursuant to enactment of the Law, the state authorities (the Cabinet of Ministers, the National Bank etc.) adopted a number of by-laws. As a result, it created restrictions on exercise of their constitutional rights by Ukrainian citizens registered in the temporarily occupied territory of Crimea and Sevastopol.

On 12 November 2015, Verkhovna Rada adopted a resolution “On Recognition of Genocide of Crimean Tatar People” whereby deportation was recognized as genocide, and the occupation of the Crimean peninsula and repressions against the Crimean Tatar People was declared an ethnocide. May 18th was declared the Memorial Day for the Genocide of Crimean Tatar People.

On 31 March 2016, Verkhovna Rada adopted a resolution “On Verkhovna Rada’s Appeal to the UN, European Parliament, NATO Parliamentary Assembly, Inter-Parliamentary Union, the world leaders and all members of international community on condemning the violations of rights and freedoms of Crimean Tatar people related to prohibition of Mejlis and declaring it an extremist organization by the occupant RF authorities of the temporarily occupied territory of Crimea Autonomous Republic and Sevastopol”. The appeal condemns violation of the rights of Crimean Tatar People, calls for immediate halt to persecution or discrimination against Crimean Tatars. The resolution calls upon international community not to leave the problem aside, since respect for human rights is an obligation in its nature.

On 11 May 2016, Verkhovna Rada appealed to the UN, EP, and PACE, OSCE Parliamentary Assembly, the world leaders and all members of international community to condemn the ban on Mejlis by the occupant authorities of the Russian Federation. It also urged to recognize the 1944 deportation of Crimean Tatar people from Crimea as a genocide of Crimean Tatar people. Verkhovna Rada urged international community to support prosecution of those responsible for occupation of Crimea, including those responsible for systemic pressure on Crimean Tatar people and language-based repressions.

Therefore, Ukraine adopted relevant legislation in accordance with the previous report. However, monitoring shows the failure to implement the Law “On Restoring the Rights of Deported People” and Verkhovna Rada Resolution “On Verkhovna Rada’s Statement on the Safeguards related to the Rights of Crimean Tatar People in the State of Ukraine”. There is a need to change mechanisms for implementation and introduce amendments to the legislation accordingly. The Law “On the Status of Crimean Tatar People” needs to be refined and adopted.

17. The Committee continues to be strongly concerned by information alleging difficulties experienced by Crimean Tatars who have returned to Ukraine, including lack of access to land, employment opportunities, insufficient possibilities for studying their mother tongue, hate speech against them, lack of political representation, and access to justice. The

question of restitution and compensation for the loss of over 80,000 private dwellings and approximately 34,000 hectares of farmland upon deportation remains of serious concern, particularly as 86% of the Crimean Tatars living in rural areas did not have the right to participate in the process of agricultural land restitution as they had not worked for State enterprises. The Committee is also interested in following up the situation regarding the enjoyment of human rights by members of other ethnic groups deported in 1944 (art. 5 (b), (d) (v) and (e) (i), (iii) and (v)).

The Committee recommends that the State party ensure the restoration of political, social and economic rights of Tatars in the Crimea, in particular the restitution of property including land or the compensation for its loss under the Civil Code, or through a special law to be adopted to that end. The Committee further recommends that the State party provide updated information in its next periodic report on the enjoyment of human rights by members of other formerly deported ethnic groups.

The state's compliance with this recommendation during the reporting period is unsatisfactory. However, considering the occupation of Crimea and forced displacement of many Crimean Tatars to the mainland in Ukraine, the authors need to mention the two sides of the problem of ensuring the rights of Crimean Tatar people and other indigenous peoples and communities. One side of the problem includes issues that are under control of the Ukrainian authorities; they will be addressed hereinafter. The other side includes issues to be addressed by the occupation authorities; they are described in annexes to this report^{xl}.

Following annexation of Crimea, the Crimean Tatar community of the mainland Ukraine was disconnected from the system of cultural and educational institutions created over the previous 20 years. In order to support the national identity, there is a need to revive it in Kyiv and other areas of compact settlement (Genichesk district of Kherson region). The other problematic issue is the Law No. 1636 "On the 'Crimea' free economic zone and the specifics of economic activities on the temporarily occupied territory of Ukraine" (adopted 12.08.2014). Pursuant to this Law, the National Bank adopted a Resolution No. 699 (03 November 2014, amended by Resolution No. 810), which led to discrimination of internally displaced Crimean Tatars and other IDPs on the ground of being a "resident/non-resident", freezes on bank accounts and cards. It also made it impossible for people from Crimea to engage in economic activities on the mainland. The state needs to take all possible measures to cancel the Law No. 1636-VII "On the 'Crimea' free economic zone and the specifics of economic activities on the temporarily occupied territory of Ukraine", and to bring the National Bank Resolution No. 699 (03 November 2014, amended by Resolution No. 810) into compliance with the current legislation of Ukraine.

Another issue relates to the failure to implement the Law of Ukraine "On Amendments to Laws of Ukraine in relation to State Support for Obtaining Vocation Training or Higher Education for Combatants and their Children, Children whose Parent Died in the Area of the Anti-Terrorist Operation, Combat Hostilities or Armed Conflicts, or during Mass Civic Protests; and Children Registered as Internally Displaced Persons". Administrations of educational institutions block implementation of this law and force children to pay both the tuition fee and also the dormitory accommodation fee. There is no state oversight for compliance with the law.

Another unresolved issue is ensuring religious freedom of Crimean Tatars and other minority groups in relation to occupation of Crimea and the anti-terrorist operation in Eastern Ukraine. Religious minorities, predominantly those including IDPs from Crimea

and areas of hostilities in Eastern Ukraine who moved to other regions, found themselves in vulnerable situation. During the last two years, they have faced the lack of places for worship since local authorities do not provide support in arranging places for service and religious rites for these people. See Annexes^{xii} for detailed information about persecution of religious communities in the occupied territories.

20. Despite the formation of a new State Migration Service in December 2010 and the adoption of the new migration policy in May 2011 aimed at facilitation, inter alia, of processing of about 2,000 asylum claims per year, the Committee notes the need for well-founded decisions in the refugee status determination procedure, for asylum seekers to remain documented throughout the asylum procedure, and for children of asylum-seekers and stateless persons born in Ukraine to be registered and receive birth certificates (art. 5 (a) and (b)).

The Committee recommends that the State party: (a) ensure well-founded decisions in the refugee status determination procedure, and fully ensure procedural safeguards and a proper assessment of asylum claims for all persons in need of international protection; (b) ensure that all asylum-seekers remain documented throughout the asylum procedure, including the appeals stage, so that they do not face the risk of detention or refoulement while pursuing their asylum claims, and that adequate resources are available for the provision of interpretation to them, particularly in the courts and in places of detention so that they can enjoy meaningful access to justice; (c) adopt legislative measures to ensure birth registration and the issuance of birth certificates to children of asylum-seekers and stateless persons born in Ukraine; and (d) consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Partially implemented, see para 3(d). The recommendation to provide opportunity to keep the national ID during refugee status determination procedure has not been implemented. The problem with interpretation/translation both on the application stage, and also during appeal court proceedings upon rejection, has not been addressed. The State Migration Service does not have enough interpreters or funds to involve interpreters. Thus, translation is often left to the applicant.

Often, SMS departments required that asylum seekers provide notarized translation of their documents regardless of the fact that most asylum seekers have no money for food or shelter, let alone payment for translators and notaries fees. Due to the lack of effective procedural safeguards for persons in the refugee status determination procedure, the SMS can afford to pretend that there has been no application in these cases. All paperwork during the refugee status determination procedure is in Ukrainian language with no translation. Asylum seekers have no other choice except for signing important legal documents they do not understand without any explanation in a language they understand. In addition, the SMS provides information on the rejection of application in Ukrainian only. Moreover, the written notice of rejection only contains a reference to the legal provision the SMS used as a ground for its decision. The notice has no mention of particular circumstances of the applicant's case that provided grounds for rejection. The situation is exacerbated by the fact that the law provides on 5 working days to challenge this decision.

A separate issue related to the national asylum system is the treatment of persons in need of international protection at Ukrainian borders. There are no adequate procedural safeguards for persons whose entry is denied by the State Border Guard Service (SBGS).

The security regime at the border crossing points precludes access to legal aid for foreigners and stateless persons, as well as prevents human rights organizations from conducting monitoring. As a result, the situation authorizes instances of unlawful deportation^{xlii}. For instance, according to official data, the SBGS denied entry for 1073 Syrian citizens in 2013-2014. They were returned to countries of departure^{xliii}. According to persons deported from the border crossing points in international airports, they were forced to live and sleep under the border guards' control for several days in the passenger seating areas with no conditions for long-term stay, in cold departure lounges with no food, bed, or drinking water

As to the recommendation of the Committee on acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, we should note that despite ratification of these documents in early 2013, there have been no measures taken to implement them on the national level. As a result, the Convention safeguards for stateless persons and persons at the risk of statelessness are mostly empty declarations without practical implementation. The lack of procedures for identification, status determination, or providing identification documents or administrative support is particularly acute. According to UNHCR, there are at least 35 thousand stateless persons or persons at risk of statelessness in Ukraine^{xliv}. Due to collisions and gaps in legislation of new independent post-Soviet states, most of them cannot obtain passports or other identification documents and, consequently, prove their existence^{xlv}. Moreover, new risks of statelessness in Ukraine stem from the internal displacement crisis in Ukraine (since 2014) and the loss of control over certain territories and archived documents and registries of population forced to remain or move from the conflict areas, combined with difficulties in access to administrative services for issuance and renewal of identification documents and birth certificates.

21. The Committee notes with concern that, while a number of projects and studies were taken to provide housing to refugees and asylum seekers, including in Odessa Oblast, the number of refugee and asylum centres and the funding thereof remain inadequate (art. 5 e) iii)).

The Committee recommends that the State party further improve conditions for the reception of refugees and asylum-seekers by opening new temporary accommodation centres, particularly in Kyiv and Kharkiv, ensuring transparent criteria for admission to centres, and providing assistance to those who cannot be accommodated therein.

The legislation on migration management and its application focus on prohibitions and restrictions, or control and expulsions. Protection of human rights in the context of migration management is a secondary issue. For instance, there are two so-called "Temporary Holding Facilities for Foreigners and Stateless Persons Illegally Staying in Ukraine" (THFs – restricted access facilities) designed for accommodating 339 persons. During several years of their functioning, there was never a need for a full-capacity use of these facilities. However, an opening of another THF in Mykolayiv region was scheduled for late 2016 – early 2017. At the same time, providing accommodation for asylum applicants is not a priority for Ukrainian government despite the acute need in improving material conditions of reception for refugees and asylum seekers. For example, arrangement of the Temporary accommodation center for refugees (TACs – open access facilities), which has been under construction in Kyiv region since 2003, has been postponed. The alleged reason for postponing are public protests stimulated by xenophobic statements of several political powers and radical right groups^{xlvi}. Conditions in TACs and THFs are still problematic. Material and technical supply of

these institutions can be considered satisfactory, yet provision of food for their residents remains an acute issue^{xlvii}.

Now, asylum seekers, except for those who were lucky to get a place at the TAC, receive no material support from the state and have to rent accommodation from private persons. Often, they face discrimination on the real estate market, which leads to increased prices and makes survival even more difficult. For many of them, work is the only means to provide for their daily needs. However, the national legislation requires that asylum seekers (and potential employers who are already unwilling to hire foreigners who do not know Ukrainian language, have valid education diplomas etc.) receive a work permit. Notably, during the entire time of existence of the “simplified” procedure for obtaining work permits for asylum seekers, only one person in the entire country managed to obtain the permit. This goes to show the ineffectiveness of the method provided by the law to fulfill basic needs of asylum seekers through their employment. Employment without such permit can lead to significant fines for asylum seekers and employers.

22. While noting that the application of the Criminal Code remains central to combating racial discrimination, the Committee expresses concern at the lack of instruments of civil and administrative liability, including sanctions, which are also essential for enhancing the prevention of racial discrimination and effective recourse to justice by its victims (art. 6).

The Committee recommends that the State party amend its Civil Code and Code of Administrative Offences to establish civil and administrative liability for racial discrimination, including the hateful opinions spread by the media, as well as to guarantee remedies, including compensation to victims.

As mentioned above, there have been no amendments to the Civil or Administrative Code. Penalty for hate speech is still in the Criminal Code (article 161), which makes the procedure ineffective, nor does it ensure justice or compensation for the victims.

RECOMMENDATIONS

- 1. General recommendations on preventing and combating discrimination:**
 - 1.1.** To introduce changes to the Civil and Administrative Codes to include penalty for discrimination, as well as a simple and transparent compensation mechanism for victims of discrimination.
 - 1.2.** To amend the list of characteristics in article 1 of the Law “On Preventing and Combating Discrimination” by adding sexual orientation and gender identity characteristics.
 - 1.3.** To develop a mechanism for collecting data on hate crime, ensure coherence between the Protocol on receiving a crime report and the Unified registry of pre-trial investigations, as well as establish a mechanism for publishing the results of investigation in these cases.
 - 1.4.** To develop and adopt a regulation on cooperation between the police and prosecution service in hate crime cases.
 - 1.5.** To amend the Criminal Code of Ukraine to introduce penalty for homophobic crimes (art. 67, 115§2(14), 121§26 122§2, 126§2, 127§2, 129§2).
 - 1.6.** To review internal regulations of the penitentiaries to provide reasonable accommodation for representatives of religious communities.

- 1.7. To ensure implementation of the National Human Rights Strategy and the Action Plan, including budgetary allocations for implementation of activities under Section 18 of the Action Plan.
- 1.8. To improve the Procedure for anti-discrimination expert assessment of draft laws and regulations by the executive authorities (approved by the Cabinet of Ministers of Ukraine, order No. 61).

2. On the national minorities:

- 2.1. To implement recommendations of the OSCE High Commissioner on National Minorities in relation to all state policies in the sphere of language, education, media, institutional capacity, participation in decision-making, and integration.
- 2.2. To refine and adopt the updated Law “On Restoring the Rights of Deported Persons” and Verkhovna Rada resolution “On Verkhovna Rada’s Statement on the Safeguards related to the Rights of Crimean Tatar People in the State of Ukraine”. It is also necessary to adopt the Law “On the Status of Crimean Tatar People”.
- 2.3. To ensure participation of the public in the monitoring of the Action Plan for the National Human Rights Strategy (“The Rights of National Minorities” Section).
- 2.4. To engage the leaders of national minorities in Ukraine and independent experts in the joint work on constitutional and legislative protection of the rights of national minorities and indigenous people.
- 2.5. In the light of the police reform, to ensure proper training for law enforcement staff (in particular for the National Police) on sensitivity to cultural specifics of ethnic minorities in their regions.
- 2.6. To consider the ethnic component in the process of merging territorial communities with the purpose of preventing the ethnic dimension in the struggle for resources.
- 2.7. To establish institutions responsible for development, implementation and coordination of policy on interethnic cooperation (in the short-term perspective – restoring the position of the Governmental Commissioner on National Minorities, as well as restoring units on inter-ethnic relations within Odesa and Kherson state administrations).
- 2.8. To support projects for national and cultural cooperation and the use of the “public diplomacy methods”; to sign twin-city agreements with cities in the countries of origin to fulfill national and cultural needs of minorities.
- 2.9. To combine efforts of the Central Election Committee, NGOs in partnership with international donor organizations to conduct public awareness-raising campaigns on electoral rights of national minorities. There is a particular need for these campaigns in areas of compact settlement of national minorities located far from oblast centers.
- 2.10. To ensure functioning of educational and cultural institutions of Crimean Tatars in areas of compact settlement in Kherson region and in cities with new communities of internally displaced Crimean Tatars.

3. On protection of the rights of Roma:

- 3.1. In areas of Roma compact settlement, to introduce a position of an inspector for Roma community work at the regional and district state administrations.
- 3.2. To develop in cooperation with NGOs an annual plan for monitoring Roma rights and preventing discrimination on ethnic basis in the regions of Ukraine;
- 3.3. To develop and implement a program for training/retraining of lawyers who provide consultations or legal services to persons who are illiterate or have very low level of education.

- 3.4. To provide legal framework for the exercise of the rights of Roma to self-governance and create conditions for establishment of self-governance bodies as an experimental form of cooperation between the state and local authorities to achieve the Strategy's goals and objectives.
- 3.5. To engage Roma leaders in awareness raising work for staff of educational institutions.
- 3.6. To provide Roma pupils with free transportation in the areas of compact settlement.
- 3.7. To conduct activities to increase the number of Roma children (age 3-6 years) attending kindergarten.
- 3.8. To create a sufficient number of kindergartens in the areas of compact settlement.
- 3.9. To provide conditions for school principals and the department of education to establish Sunday classes on traditional cultural and artistic Roma trades.

4. On ensuring the right to freedom of religion without discrimination:

- 4.1. State authorities and officials on all levels must remain neutral towards any religion or belief to ensure equality of religious organizations before the law and promote the atmosphere of religious tolerance and mutual respect in society.
- 4.2. The government of Ukraine shall develop recommendations for the National Public Television and Radio Company of Ukraine and other media, including Internet outlets, on increasing the voluntary professional standards and self-regulation mechanism with the aim of:
 - Spreading information about different religions and better understanding thereof;
 - Providing objective and accurate information about religious beliefs and events;
 - Providing opportunities for representatives of churches and religious organizations to express their opinions, as well as respond to criticism.
- 4.3. In the work on amending the anti-discrimination legislation, the Government and the Parliament of Ukraine shall take into consideration the relation between fundamental human rights, in particular the freedom of expression, speech, conscience, and religion, and the issues of tolerance and non-discrimination in order to find the balance between different human rights in accordance with the PACE recommendations^{xlviii}.
- 4.4. The government of Ukraine shall counteract stigmatization, marginalization, social exclusion of religious organizations, as well as prevent incitement to religious hatred, in particular, in the form of hostile secularism.
- 4.5. To bring article 21§5 of the Law "On the Freedom of Conscience and Religious Organizations" in compliance with articles 24 and 39 of the Constitution of Ukraine by cancelling the permit-based registration of peaceful assemblies of religious nature and restrictions on the period for submitting a notification.

5. On ensuring the rights of refugees, asylum seekers, migrants and stateless persons

- 5.1. To ensure comprehensive transposition of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness into the national legislation, including introduction of the system for identification and documentation of stateless persons.
- 5.2. To ensure adoption of reasonable decisions during determination of the status of refugees and persons in need of international protection, in compliance with the principle of legal certainty and proportionality in relation to review of the application by the SMS and court appeal against the negative SMS decisions.

- 5.3.** To fully ensure procedural safeguards for non-refoulement principle in relation to persons in need of international protection, including in border crossing points through:
- a)** automatic recording of applications for asylum in any form;
 - b)** providing sufficient resources for written and oral translation;
 - c)** cancellation or disconnection of penalties for violations of migration rules from the refugee status determination procedure;
 - d)** providing actual grounds for decision of the SMS on international protection in the notice about such decisions; increasing the time frame for challenging administrative decisions on international protection, as well as all other decisions that may result in deportation;
 - e)** introducing legislative safeguards for the rights of persons who are denied entry to Ukraine, as well as for conditions of accommodation in border crossing points.
- 5.4.** To provide adequate material conditions of reception for asylum seekers and safeguards against poverty through removing obstacles in their access to employment and providing documents necessary for exercise of basic rights (including identification documents or similar documentation for situations when the law requires to present an identification document for exercise of asylum seeker's legal rights).

ANNEXES AND REFERENCES:

ⁱ About the authors of this report and members of the informal coalition:

Coalition for Combating Discrimination is an all-Ukrainian non-governmental civic human rights initiative founded in 2011 to jointly promote the ideas of equality and non-discrimination in Ukraine.

The Coalition's main objectives are:

- 1) To advocate for the adoption of a comprehensive anti-discrimination law for the purpose of developing legal and procedural framework for combating discrimination in Ukraine;
- 2) To harmonize the national terminology in the sphere of combating discrimination with international principles;
- 3) To promote inclusion of explicitly mentioned protected characteristics into the legislation in accordance with the contemporary needs;
- 4) To improve knowledge and practical skills of different social and professional groups in the sphere of promoting anti-discrimination initiatives.

Website: <http://www.antidi.org.ua>

The No Borders Project/Social Action Centre – is a human rights NGO, which acts to advocate rights of refugees and migrants and counteract to racism and xenophobia in Ukraine. The Project provides assistance to those who are in need, using national and international legal, and social and civil support instruments. The Project contributes to adjusting national legislation and practice in the spheres listed above to international standards of human rights protection. The Project also acts as a resource base for activist movement and conducts educational and awareness-raising activities.

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Association of Middle East Studies. Founded in 1994, the Association of Middle East Studies, Kyiv, and (AMES) is a think tank dedicated to the analysis of the Middle Eastern politics, Ukrainian foreign and domestic policies, regional and national security. Since early 2000s, the Center's research and educational projects focused on the rights of Muslims and other minorities in Ukraine, as well as issues related to social and political development of Crimea.

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Right to Protection is an all-Ukrainian charity foundation working in close cooperation with an international NGO HIAS. The Right to Protection works to protect the rights of refugees in Ukraine, IDPs, stateless persons, persons at risk of statelessness, undocumented and other vulnerable categories of migrants. We follow the human rights situation in these spheres and provide direct legal assistance in Kyiv city and region, Dnipro, Volyn, Zaporizhzhya, Lviv, Kharkiv, and Chernihiv regions, as well as in Donetsk and Luhansk regions (controlled by Ukrainian government). In addition, Right to Protection in partnership with HIAS implements advocacy campaigns directed at bringing the national legislation and its application in compliance with international legal standards, as well as works to increase awareness on human rights and build capacity of state authorities, lawyers of the free legal aid system, public initiatives and organizations.

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- ii Order of the Ministry of Internal Affairs of Ukraine No. 649 “On approving the Regulation on reviewing applications and issuing documents necessary to determine the issue of recognizing a person as a refugee or person in need of international protection; the loss and cancellation of the refugee status and complementary protection, and cancellation of decision on recognition of a person as a refugee or person in need of international protection”.
- iii For instance, when it relates to the need to ensure the principle of absolute prohibition on expulsion in accordance with Article 3 of the ECHR (see ECHR decision in Saadi v. Italy (Nº37201/06, 28.02.2008), or when deportation constitutes disproportionate interference with the right to private or family life existing in Ukraine (see *mutatis mutandis* ECHR decision in Rodrigues da Silva and Hoogkamer v. The Netherlands, Nº50435/99, 31.01.06).
- iv On assessment of the quality of country of origin information sources and accepting them as relevant and sufficient evidence of a well-founded fear of persecution or cruel treatment, see ECtHR decision in Saadi v. Italy (Nº37201/06, 28.02.2008).
- v On the meaning and application of the principle of the benefit of the doubt and distribution of the burden of proof in asylum cases in accordance with obligations under article 3 of the ECHR, see ECtHR decision in Singh and Others v. Belgium (Nº 33210/11, 02.10.12), R.C. v. Sweden (Nº 41827/07, 09.03.10).
- vi The general practice of the SMS of Ukraine lies in consecutive appeal to any court decisions (up until the last instance, the cassation) in cases of asylum seekers against the SMS of Ukraine, where the decision was taken in favor of asylum seekers.
- vii Article 203 of the Code of Administrative Offences of Ukraine qualifies violations of the “rules of stay in Ukraine” by foreigners and stateless persons, including asylum seekers, recognized refugees and persons who were granted international protection, as administrative offences, which include: stay without documents allowing residence in Ukraine, stay with expired documents, employment without a relevant permit where the permit is required by the legislation, or failure to follow the procedure for moving and change of residence. These offences are punishable by fines ranging from 510 to 850 UAH (USD 20-35).
- viii The Ukrainian Greek Catholic Church urged the President of Ukraine to prevent incitement to inter-confessional hatred in Odesa region and issued a statement on inequality in the treatment of churches. URL: <http://goo.gl/pVh1zw>

ix An open letter on violation of the rights of adherents of the Ukrainian Orthodox Church (Kyiv Patriarchate) in Kirovohrad region. URL: <http://www.cerkva-el.com.ua/article/vidkritiy-list-shchodo-porushennya-prav-viruyuchih-upc-kp-na-kirovogradshchini>

x Situation with religions in Kirovohrad region and distribution of land among churches of different denominations: <http://corruptua.org/2016/04/rinkovi-vidnosini-biznes-ta-tserkovna-zemlya-u-kirovogradi/>

xi Ukrainian Orthodox Church (Moscow Patriarchate) deprived of benefits on land fees. URL: <http://kiev.pravda.com.ua/news/54c8ff1278327/>

xii The problem was partially resolved by the Parliament when it introduced an equal approach to all religious organizations in relation to real estate taxes in the Tax Code. http://www.irs.in.ua/index.php?option=com_content&view=article&id=1558:1&catid=34:ua&Itemid=61

xiii Tent city of Hasidim pilgrims destroyed in Uman: <http://goo.gl/LQ09kC>

xiv More about the events here:

<https://humanrights.org.ua/material/romi-z-mitloju-fleshmob-vid-oburenoji-gromadi>

xv The only response to exacerbation of the issue of violation of the rights of national minorities was the introduction of the position of Governmental Commissioner on Ethnic and National Policy in 2014^{xv}. According to his own assessment in May 2015, the Commissioner had no mandate or adequate resources for systemic work. According to the civil society, even the limited resources of the Commissioner allowed for much more than was actually achieved during almost a year at this position. However, instead of consolidating efforts of experts, for instance to complete the work on the state ethnic and national policy, or working with the parliament and civil society to promote draft bills on indigenous peoples or changes to the law on national minorities, or attempting to build effective cooperation between the central authorities etc., the Commissioner spent his time in the zone of the anti-terrorist operation with a mobile hospital or loud and ambiguous statements on the “true nature” of interethnic problems in Ukraine. It had not relation to his position or mandate. In May 2015, this position was terminated.

xvi On approving the Action Plan for the National Human Rights Strategy (including the Action Plan): <http://www.kmu.gov.ua/control/uk/cardnpd?docid=248740679>

xvii Discrimination in Ukraine is prohibited by: the Constitution (guarantees of equality of citizens in accordance with the list of characteristics, which differs from the list in the anti-discrimination law); the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Men and Women”^{xvii} and the Law of Ukraine “On the Basics of Social Security for Persons with Disabilities”^{xvii}, in certain areas – the Law “On Advertising”^{xvii}, the Law “On Employment of Population”^{xvii}, the Labor Code etc. Differential treatment is also prohibited by the Criminal Code of Ukraine.

xviii <http://zakon4.rada.gov.ua/laws/show/5207-17>

xix Article 161 in the version of the Law № 1707-VI dd. 05.11.2009; amended in accordance with the Law № 1519-VII dd 18.06.2014

xx <http://www.ombudsman.gov.ua/ua/page/discrimination/activities/strategy/>

xxi For more information about the Campaign, please visit <http://www.discrimi.net>

xxii For more information about the Coalition, please visit <http://www.antidi.org.ua/ua/>

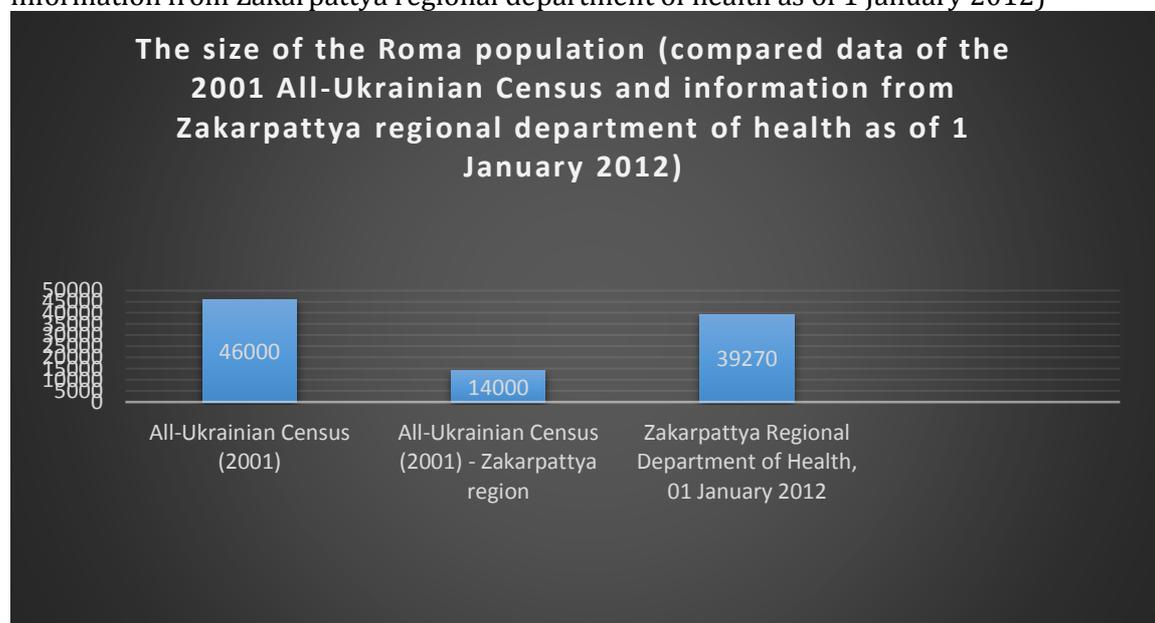
xxiii In detail here: <http://noborders.org.ua/politsiya-rozglydila-79-zlochiv-na-gruntin-NAVISTI-2/>

xxiv Reference materials on the status of implementation of the Order of the President of Ukraine No. 201/2013 (08 April 2013) “On the Strategy for Protection and Integration of Roma National Minority into Ukrainian society until 2020” in the region are available

on the website of Zakarpattya Center of National Minorities' Culture. URL:
<http://centerkultur.xtreemhost.com/archives/category/materialu>

^{xxv}Figure 1.1.

The size of the Roma population (compared data of the 2001 All-Ukrainian Census and information from Zakarpattya regional department of health as of 1 January 2012)



^{xxvi} Action Plan for Regional Implementation of the Strategy for Protection and Integration of the Roma National Minority into Ukrainian Society until 2020 / Order of the Head of Zakarpattya State Regional Administration No. 389 dd. 12.11.2013. Website of Zakarpattya Center of National Minorities' Culture, URL:

<http://centerkultur.xtreemhost.com/>

^{xxvii} The training program was developed and implemented by the trainers of the No Borders Project/Social Action Centre NGO

^{xxviii} The course was developed by experts of the Ukrainian Helsinki Human Rights Union.

^{xxix} See:

http://www.irs.in.ua/index.php?option=com_content&view=article&id=1700:1&catid=34:ua&Itemid=61

^{xxx} See:

http://www.irs.in.ua/index.php?option=com_content&view=article&id=1625:1&catid=34:ua&Itemid=61

^{xxxi} Uryadovyj Kuryer (official publication), No. 70 dd. 13.04.2013.

^{xxxii} Ibid.

^{xxxiii} Monitoring report for implementation of the Action Plan for the Strategy for Protection and Integration of the Roma National Minority into Ukrainian Society until 2020. URL: www.ombudsman.gov.ua/files/alena/ZVIT_ROMA.pdf.

^{xxxiv} Ibid.

^{xxxv} Public monitoring of implementation of the Action Plan for the Strategy for Protection and Integration of the Roma National Minority into Ukrainian Society until 2020: 2014 Report.

^{xxxvi} Information about implementation of the Action Plan in 2014 for the Strategy for Protection and Integration of the Roma National Minority into Ukrainian Society until 2020.

^{xxxvii} The Order of the President of Ukraine dated 08 April 2013 No. 201/2013, URL:

<http://zakon3.rada.gov.ua/laws/show/201/2013>

^{xxxviii} Resolution No. 993 dated 25 November 2015, URL:

<http://www.kmu.gov.ua/control/ru/cardnpd?docid=248677547>

^{xxxix} The comment was provided by Olha Zhmurko, Roma Program Initiative Director, International Renaissance Foundation (IRF).

^{xl} The occupation authorities dismantled the system of Ukrainian education in Crimea and Sevastopol, almost all Ukrainian-language schools and majority of classes, prohibited bringing most Ukrainian print media to the temporarily occupied territory, as well as removed Ukrainian electronic media in an illegal manners, made it impossible to print Ukrainian-language newspapers, and reduced Ukrainian language broadcasting at the State TV and Radio Company “Crimea” almost to nothing.

The most pressing issue for people in Crimea is the closure of Ukrainian-language schools and classes.

Local officials force parents to refuse from studies in Ukrainian. For instance, the only Ukrainian-language school in Simferopol has only one class out of four studying in Ukrainian language. In Crimea, there were 7 Ukrainian-language schools, now there are none. Out of 400 Ukrainian-language classes, there are no more than 50 left. Majority of students are now forced to study in Russian. Despite Ukrainian language being an official language in Crimea, education in Ukrainian in 9-11th grades is prohibited. The same trend goes for all schools with Ukrainian language. Ukrainian language and literature teachers have to re-qualify to teach Russian language and literature. Those who refuse or are unwilling to teach Russian are fired.

In practice, there is one class of Ukrainian language and literature in most Crimean schools per week. Often, it becomes an elective subject. Ukrainian schools named after famous Ukrainian people are renamed (the school named after Olena Teliha in Prymorske next to Feodosiya, Ivan Franko school in Simferopol).

The department of Ukrainian language culture, Ukrainian language studies, theory and history of Ukrainian literature of the Ukrainian philology faculty (Tavriya National University) were closed. The faculty of Ukrainian philology is completely dismantled. Now, there is only the department of Ukrainian philology at the faculty of Slavic philology and journalism of Tavriya Academy of Vernadsky Federal University. Books and Ukrainian-language library funds are destroyed and given to recycling.

In the sphere of culture:

- The plate “Museum of Ukrainian Embroidery of the Hero of Ukraine Vira Royik” in Simferopol was removed;
- The name of a renown Ukrainian writer Ivan Franko was removed from the title of the Republican scientific library named after Ivan Franko (the title comes from Soviet period)
- Ukrainian Drama Theatre in Simferopol (opened in 1954) was also renamed – the occupants removed “Ukrainian” from the title.

In information policy – the office of the only Ukrainian-language newspaper “Krymska Svitlytsya” was taken away. Publication Ukrainian-language periodicals “Dumka”, “Krymske Slovo”, and “Dzvin Sevastopolya” was terminated. Crimean online media “Media-Krym”, “Holos Tavriyi”, “Ukrayinskyi Kavkaz” were hacked. “Ukrainian Life in Sevastopol” (<http://www.ukrlife.org/>) newsroom moved to the mainland. TV and radio company “Bryz” in Sevastopol was destroyed; its newsroom was transferred to Odesa. Newsroom of the newspaper of Ukrainian navy “Ukrainian Navy” was also moved to Odesa. The former State TV and Radio Company “Krym” has one Ukrainian-language program “Ridna Hata” out of four; it broadcasts only twice a month for 13 minutes.

There is a need for support and protection for the journalists who provide accurate information about the situation, as well as for human rights activists. Unfortunately, most of them were forced to leave the territory due to danger. For instance, the

following journalists left Crimea: the Cabinet of Ministers newspaper correspondent Lyudmyla Shchekun, journalists of the Center of Journalist Investigations Valentyna Samar, Anna Andriyevska, journalist of Chornomorska TV and Radio Company Oleksandr Yankovksy, special correspondent of Radio Svoboda Volodymyr Prytula and others. Other remain under threat of detention, arrest etc. There were searches of families of the journalists who left Crimea. In particular, there was a search in the apartment of Anna Andriyevska's parents; the law enforcement paid several visits to the parents of Lyudmyla Shchekun. The law enforcement detained a journalist Serhiy Mokrushyn; the federal Security Service interrogated Nataliya Kokorina, a journalist.

^{xli} Events related to occupation and annexation of Crimea by the Russian Federation led to religious persecution of priests, individual believers and religious communities on the peninsula. Everyone who, in the view of authorities, posed a threat to annexation of the peninsula due to pro-Ukrainian views (personal or related to the denomination) became target of persecution. Priests and the congregation of the Ukrainian Orthodox Church (Kyiv Patriarchate), Ukrainian Greek Catholic Church, the Salvation Army, and some protestant churches were threatened, assaulted, their property was confiscated by pro-Russian structures. Introduction of Russian laws in Crimea only exacerbated restrictions on the freedom of religions, which were complemented by searches, fines, confiscations of equipment and religious literature on the grounds of extremism or terrorism charges. In addition, almost all religious organizations in Crimea faced the problem of re-registration in accordance with the Russian legislation, which requires, in particular, that founders must have Russian citizenship^{xli}.

Russian aggression against Ukraine, which includes political, military and information support of the separatists on certain territories of Donetsk and Luhansk regions in Eastern Ukraine, is still accompanied by active use of the religious factor. Moscow orthodox doctrine "The Russian World" created an artificial ideological basis for mobilizing pro-Russian forces, radicalizing and exacerbating the conflict. As a result, starting from March 2014, religiously motivated persecutions, particularly of Evangelical Christians (Baptists, Pentecostals, Adventists, and Charismatics etc.), representatives of Kyiv Patriarchate and the Ukrainian Greek Catholic Church, Mormons and Jehovah's witnesses, reached a terrifying scale and forms in the cities controlled by pro-Russian forces in Eastern Ukraine. These include taking hostages, torture, and even murders of religious activists and believers. Dozens of temples and other places of worship were taken and not returned to the parishes. Some of them were used by the pro-Russian forces for military purposes^{xli}.

^{xlii} See article 14§1(2) of the Law of Ukraine "On the Legal Status of Foreigners and Stateless Persons" and article 14§1(2) of the Law of Ukraine "On Border Control" in the light of the ECtHR decision in Amuur v. France (№19776/92, 25 June 1996).

^{xliii} Mostly concerning Turkey and Lebanon.

^{xliiv} See UNHCR Report "Global Trends: Forced Displacement in 2015" available at: www.unhcr.org/576408cd7

^{xliv} See UNHCR Report "Global Trends: Forced Displacement in 2015" available at: www.unhcr.org/576408cd7

^{xlvi} See www.bbc.com/ukrainian/politics/2016/03/160328_yahotyn_migrants_vc

^{xlvii} On March 11 2015, the Cabinet of Ministers resolution No. 144 on the food norms for foreigners in THFs and TACs was adopted. However, according to the new rules, residence of THFs and TACs are supposed to receive even less food than persons suspected of committing a crime or serving a sentence in penitentiary institutions (the standard norm is 2537 kcal, including 84 gr of protein, 67 gr of fats, 392 gr of carbs per day for THF and TAC residents as compared to 3026.2 kcal, including 95.09 gr of protein, 90.81 gr of fats, 457.33 gr of carbs for persons in penitentiaries, remand prisons and reception facilities). Moreover, the new norms do not account for dietary needs of residents of THFs and TACs, including those related to health condition or religious

views. It is no wonder that immediately after this resolution entered into force in mid-April 2015, there was a hunger strike in one THF against the worsening of conditions. The tension was resolved with the assistance of international organizations that started buying extra food.

^{xlviii} PACE Resolution 2076 (2015) Freedom of religion and living together in a democratic society: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=22199&lang=en>