

# TREATY BODY MONITOR

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## COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS 39<sup>TH</sup> SESSION UKRAINE, 5<sup>TH</sup> REPORT 7-8 NOVEMBER 2007

Information submitted to the Committee.....	1
The State report.....	2
The list of issues.....	2
NGO parallel reports.....	2
Themes and issues.....	2
Status of the Covenant in domestic law.....	3
National institutions and justiciability.....	3
Non-discrimination.....	4
Gender equality.....	5
Favourable conditions of work.....	7
Trade unions.....	8
Social Security.....	8
Healthcare.....	9
Education.....	10
Cultural life.....	11
Other issues.....	12
Conclusions and next steps.....	12

### Information submitted to the Committee

On 7 June 2006, Ukraine submitted its 5<sup>th</sup> periodic report to the Committee on Economic, Social, and Cultural Rights ('the Committee').<sup>1</sup> The report was submitted in a timely manner, as the date of submission requested by the Committee after its last examination was 30 June 2006. Ukraine also submitted a core document in

<sup>1</sup> E/C.12/UKR/5, 7 June 2006, available at <http://www2.ohchr.org/english/bodies/cescr/cescrs39.htm>

accordance with the guidelines concerning the initial part of reports of States.<sup>2</sup> The head of the delegation pointed out that since the fifth periodic report, there have been significant positive legislative changes directly linked to economic, social, and cultural rights.

### **The State report**

The State report was well-written and informative, running a total of 65 pages. It was divided into three sections. The first described social and economic development in Ukraine, primarily explaining that significant progress has been made towards overcoming poverty, and that a number of instruments have been adopted and measures put into effect to tackle the problem and prevent its resurgence in the future. The second part was on issues relating to the general provisions of the *Covenant on Economic, Social and Cultural Rights* ('the Covenant'), including the right to self-determination, non-discrimination, and equality between men and women. The third and final part focussed on issues relating to specific rights recognised in the Covenant, including just and favourable conditions of work (Article 7); the right to social security (Article 9); protection of the family, mothers and children (Article 10); and the right to physical and mental health (Article 12).

### **The list of issues**

After having considered the State report, the Committee submitted a list of issues to the State on 11 April 2007.<sup>3</sup> The Committee requested additional information and clarification on a wide range of issues including discrimination against Roma and other minority groups, re-introduction of the Gender Equality Law, work in the informal economy, unemployment, child labour, social security, criminalisation of domestic violence, housing and living conditions, access to healthcare, HIV/AIDS and tuberculosis, access to quality education, and cultural heritage. Ukraine submitted written replies to the list of issues,<sup>4</sup> but these were only available in Russian. As for the oral responses by the State party, some were detailed and some were vague.

### **NGO parallel reports**

There were only two documents submitted to the Committee by non-governmental organisations (NGOs).<sup>5</sup> The Ukrainian Helsinki Human Rights Union and the International Renaissance Union submitted a thorough 63-page report critiquing article by article, Ukraine's implementation of the Covenant. It particularly highlighted Articles 7, 10, and 12. The European Roma Rights Centre submitted a second report which essentially detailed the worrying situation of the Roma in Ukraine. It highlights various areas of discrimination and links them to specific articles of the Covenant, including Articles 6, 7, 11, 12, and 13. It outlined an executive summary and presented recommendations to the Committee.

### **Themes and issues**

The First Deputy Minister of the Ministry of Labour and Social Policy, Ms L. Drozdova headed the Ukrainian delegation. She was joined by Ms L. Yefimenko, Deputy Minister from the Ministry of Justice; Mr V. Latic, Head of the Department on the Strategy of Social Development in the Ministry of Labour and Social Policy; Mr R. Doroshevych, Head of the Department on the Development of the Social and Humanitarian Sphere in the Ministry of Economy; Mr O. Sukholytkyi, Head of the Department on the International Cooperation and European Integration in the Ministry of Education and Science; Ms. M. Zhdanova, Head of the Department on the Development of the Medical Assistance in the Ministry of Health; Ms T. Ivanenko, Deputy Head of the

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<sup>2</sup> HRI/CORE/1/Add.63/Rev.1, 15 January 1998, available at <http://www2.ohchr.org/english/bodies/cescr/cescrs39.htm>

<sup>3</sup> E/C.12/UKR/Q/5/, 27 November – 1 December 2006, available at <http://www2.ohchr.org/english/bodies/cescr/cescrs39.htm>

<sup>4</sup> E/C.12/UKR/Q/5/Add.1, 8 October 2007, available at <http://www2.ohchr.org/english/bodies/cescr/cescrs39.htm>

<sup>5</sup> Both are available at <http://www2.ohchr.org/english/bodies/cescr/cescrs39.htm>

Department on the Adoption and Protection of the Rights of the Child in the Ministry of Ukraine for Family and Sports; Mr O. Karbachynskyi, Chief of the Department on the International Cooperation on the State Committee on Nationalities and Religions; and Ms. T. Semeniuta, Secondary Secretary of the Permanent Mission of Ukraine. The Committee members were pleased with the high-ranking delegation and noted that this would help promote constructive dialogue.

Discussion on violations of the Covenant with regard to discrimination against the Crimean Tartars and Roma population was a focal point of the session. The Committee members were clearly prepared for this approach, as was the delegation who responded to the questions. Within the first hour, tensions rose as a misunderstanding surfaced. After the first round of questions by the Committee, the State began to respond, but were interrupted by the Chairperson for giving answers which were completely off-topic and irrelevant to the questions asked. When asked about their approach, the delegation declared that since it had not had time to discuss the answers collectively, it had decided instead to respond to the written list of issues. At that point, the Committee reverted to asking further questions, and the State was requested to respond orally to all the questions on the following day.

In its concluding observations,<sup>6</sup> the Committee welcomed the constructive dialogue with the delegation, and noted the participation of experts from different government departments therein.

### **Status of the Covenant in domestic law**

Several questions were raised on the follow-up, or lack thereof, to the previous recommendations of the Committee. Stressing the importance of conducting follow-up, Mr Riedel asked a general question on the concrete progress that has been made in improving the human rights situation in Ukraine. At the same time, Mr Rzeplinski asked why the previous recommendations have not been translated into minority languages, and Ms Barahona Riera asked why they have not been disseminated to the public. Ms Wilson requested clarification on the mechanism by which people can address the courts when their human rights are violated. Lastly, information was sought on the extent to which the Government has put the Committee's previous concluding observations into practice through plans of action, parliamentary debates, and seminars.

The head of the delegation began by stating that since the submission of the 5<sup>th</sup> report, there have been significant legislative changes directly linked to social, economic, and cultural rights. Another delegate noted that the Covenant can be applied in domestic courts and that legislation stipulates that 'the courts should be guided by domestic law and international legal standards'. This provision is contained in the Procedural Codes which govern how justice is administered. The delegation added that Constitutional Courts frequently and systematically make reference to the standards contained in the Covenant in its decisions, including in cases related to the freedom of trade unions, the death penalty, and the right to free education. Lastly, the delegation stated that in Ukraine, any legal standard relating to the rights and duties of citizens can only come into force once it has been published in certain forms, including in the mass media. Unfortunately, no further elaboration was given on this point.

### **National institutions and justiciability**

Mr Riedel was curious to learn about the independence of the Ombudsman and sought to know whether the Paris Principles are being applied in conjunction with the Covenant. Mr Pillay requested more information on recent cases that the Ombudsman has put forward to the Constitutional Courts with regard to any of the rights contained in the Covenant. Mr Rzeplinski further questioned the delegation on which human rights institutions protect human rights in Ukraine, as well as on the division of power among these.

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<sup>6</sup> E/C.12/UKR/CO/5, 4 January 2008, available at <http://www2.ohchr.org/english/bodies/cescr/cescrs39.htm>

On the Ombudsman, the delegation stated that he does not personally receive appeals from citizens. Appeals are sent to other bodies for decisions to be taken. The purpose of this is to ensure that the Ombudsman receives more detailed information before proper decisions are taken. He is also obliged to submit an annual report to the Parliament on the activities he has undertaken, including details on complaints submitted to his office. With regard to citizens' access to the Constitutional Courts, the Ombudsman does have the right to take cases to the Court. He can report on those cases in which he finds human rights violations, so that the necessary measures may be taken. He also has the right to attend court sessions with prior agreement of the individual concerned. The delegation emphasised that all citizens, regardless of nationality, have the same constitutional, economic, social, and cultural rights in their 'multi-nationality State'. The Ombudsman's budget for 2007 was the equivalent of 1.3 million US dollars, and the same has been allocated for 2008. Lastly, the delegation stated that the Ombudsman's powers are wide-ranging and that the State would like for him to be able to fulfil a greater role and have more rights, as set down in the law. However, at the moment he is limited to carrying out Parliamentary oversight and control.

In its concluding observations, the Committee expressed its concern about the Ombudsman's reported lack of independence, lack of adequate resources, and ineffectiveness in defending economic, social and cultural rights. It therefore recommended the rectification of this situation in accordance with the Paris Principles.

### **Non-discrimination**

Several issues were raised under this topic. Mr Rzeplinski noted that a lot of information in the report represents discrimination in many forms, in large part against the Roma population. He asked for information on the excessive use of force against people of African descent, asylum seekers, and other minorities. He expressed his concern about the lack of identity documents and legal aid, a point which was also raised by Mr Atangana. The State was also asked about discrimination against the Crimean Tatars, specifically their absence in local administrations. The Committee further pointed out that according to notes from the Human Rights Committee in 2006, there is a persistence of anti-Semitism and religious intolerance against Muslims. The Committee then asked whether religious minorities are able to participate equally in their societies' activities, what the real policies of the Government are in dealing with the issue, and the situation on the restitution of religious property. Ms Wilson pointed out that in paragraph 37 of the State report, 'the Ukrainian Government regards it as one of its central undertakings to uphold the rights and freedoms of ethnic minorities, including the Ukrainian Tatars, to suppress racism, xenophobia and anti-Semitism and ensure harmonious ethnic relations'. She asked what concrete steps have been taken so far in relation to this. Other questions included: why Ukraine does not have any anti-discriminatory policies, and whether there is any general legislation on the issue; if there are any plans of action in place, and how criminals would be or are punished; at what stage Ukraine is in the process of harmonising its laws on discrimination. Lastly, Ms Bonoan-Dandan asked about discrimination based on sexual orientation and allegations that gay people are discriminated against. She was concerned about the information that homosexuality is labelled as a mental disability.

On discrimination, xenophobia, and racial discrimination, the delegation said that in Ukraine there are a large number of NGOs, 143 in total, and that their role is very important in terms of monitoring and reporting on the socio-economic, political, and cultural aspects of the State. However, the information received by these groups, the delegation said, needs to be verified, in particular with regards to reports on discrimination and violations of rights. The reason given was that this form of violation does not represent an overall trend, and that race-related attacks are isolated individual events. The delegation affirmed that the State is working to ensure that these will be eliminated. However, given the low level of awareness among the population, negative trends such as racism, racial discrimination and xenophobia are present despite specific preventive action taken by the State. The delegation stressed that progress and evolution in this regard do not happen quickly. In addition, the Criminal Code includes provisions for human rights violations based on race and religion, and the maximum sentence is imprisonment for up to five years.

The delegation also pointed out that information from NGOs and individuals regarding certain national minorities have come to the Government's attention. For example, 23 complaints have been received in 2007 from people of African descent, complaining of various acts in which their rights were violated. The delegation pointed out that in each Ministry or Department there is a monitoring unit which tries to ensure that discrimination does not occur. The delegation recognised that Ukraine has to work more closely with NGOs and get more information on State policies transmitted through the media on this subject.

On anti-Semitism, the delegation stated that the Government has not detected any trends in anti-Semitism, and cannot refer to individual cases. It merely explained that in each case the public authorities and judiciary have been involved, and some very strict sentences have been handed down. The delegation acknowledged that vandalism of holy places such as cemeteries is a problem. It insisted that people who carry out such acts are considered as criminals. On the religious activities of the Crimean Tatar people, the State presented that as of 1 January 2007, there were 366 Muslim organisations, 325 Muslim communities, and 5 madrassahs. The number of recorded Muslim organisations has increased by nine since the previous year. Since independence, 70 places of worship have been constructed, and in Crimea, there are 328 religious workers (clergy type figures), including foreigners.

There are said to be some 52,000 Roma people in Ukraine. There is a health programme for the Roma, including a system of health cards. According to the State, there have been no incidences of forced eviction of Roma. The delegation said that different types of State and social assistance have been given to 8,627 Roma families (more than 10 percent of all the families that have received assistance in the country as a whole). In addition, assistance for maternity grants and childbirth grants are provided, as was childcare up to the age of three. There is also State assistance for children who are under guardianship, single mothers, poor families, and disabled children. The problem of unemployment among the Roma is 'acute' according to the delegation. However, if they address the employment office, they are given a list of services they can obtain. Moreover, the State employment system continues to work with them in order to get as many as possible into employment. Lastly, the delegation said that the State constantly studies the overall situation of the Roma people, and there has been a nation-wide cultural event for all Roma. The State also has links with Roma organisations and societies.

In its concluding observations, the Committee reiterated its concern about reported police abuse and denial of effective protection to minorities against acts of discrimination and violence, the reluctance of the police to investigate properly such incidents, and the tendency to prosecute and sentence perpetrators of such acts under lenient criminal law provisions on "hooliganism". It also noted the unfavourable position and treatment of Roma in the labour market, as well as their poor living standards. The Committee was also concerned about the lack of respect for the property rights of Crimean Tartars. The Committee recommended that the State consider the adoption of comprehensive anti-discrimination legislation and train judges, public prosecutors, and the police accordingly. It also called upon the State to take immediate steps to remedy the discriminatory situation faced by Roma and Crimean Tartars

## **Gender equality**

### ***Women in the public sector***

The Committee expressed a large number of concerns on this issue, primarily dealing with the representation of women in the Government. Mr Rzeplinski was pleased with the large percentage of women represented in the public sector, some 40 percent, but was disturbed to see the low level of women represented in Parliament. He went on to ask if there have been or if there are plans for policy changes in this regard, as well as the possibility for women to access even higher positions in government bodies and ministries. Ms Wilson asked about the initial aim of the gender quota system in Parliament, which was rejected by both the general public and most political parties. She inquired whether this system had been designed to limit the number of women or to increase their number in Parliament. Ms Bonoan-Dandan stated that there needs to be practical

implementation of the new Gender Equality Law, and asked what enforcement mechanisms are available and how the State plans to ensure their effective implementation. Mr Sadi commented that Ukraine appears to have a problem with translating principles into reality due to a lack of appropriate tools and mechanisms. Ms Barahona Rieira added that the new Gender Law is a very good step, but asked if the State plans to address contradictory issues as well, and what position it has in addressing such issues. Lastly, she acknowledged that it is difficult to eliminate gender inequality, as well to ensure that women have access to higher decision-making positions in the Government. She noted that this is due not only to the lack of professional training, but also to the absence of appropriate channels, and asked what the cultural background to this is.

According to the State, significant positive changes in legislation have taken place since the last report, including the introduction of a law on equal rights to opportunities for men and women. This principle is viewed not only as a fundamental prerequisite of social justice and democracy, but also as an essential condition for the exercise of human rights by both men and women. The delegation pointed out that more detailed information on the new Gender Equality Law can be found in the State report. Another improvement was the survey carried out on the Gender Law, looking at all legislation with the aim of identifying gender-discriminatory provisions. At the same time, the delegation did concede that, in practice, Ukrainian women do encounter discrimination in many spheres of life. On the changes in legislation introducing quotas to include women for election to Parliament, the delegation stated that in the last election, each party had to present its policy on equality and nominate a minimum number of women for election. In addition, there will be a minimum quota for women in Parliamentary elections. The delegation further noted that at present, women account for only 7 percent of the Supreme Council of Ukraine, and women are not represented at all in the Cabinet of Ministers. Nevertheless, two State Committees will be headed by women. Thus, to claim that women are not represented at all in high leadership structures is false. Another delegate mentioned that in March 2007, the Parliament adopted changes to several pieces of legislation, including the Labour Code, to address the issue. There will also be changes in the Law on the Ombudsman, which will establish machinery to make it possible to monitor the assurance of equal rights between men and women. In 2000, Ukraine signed the Millennium Declaration, and by 2003 the State had drawn up a periodical report on the Millennium Development Goals. It is now working towards achieving the goal of gender equality through setting out clear goals and objectives, as well as clear tasks for achieving those goals.

In its concluding observations, the Committee highlighted with concern the under-representation of women in the public service, most notably in the Parliament, the Cabinet, and at senior positions. The Committee recommended the adoption of temporary special measures to increase the participation of women in these areas.

### ***Equality in the labour market***

There was also much debate surrounding the status of women in the labour market. Mr Rzeplinski raised this concern under Article 6 of the Covenant on the right to work. He asked for information on the actual situation of women being employed into high-level positions. He stated that according to the information he has, the majority of unemployed people, who happen to be women, are more commonly offered low-paying part time jobs. He asked what the reason for this is, and noting the disparity in the access to jobs between men and women, he asked if public authorities offer women the opportunity and possibility to change their occupation.

On sexual discrimination in the workplace, the delegation stated that this is classified as a crime in Ukraine, with a maximum sentence of three years. People can address the Ombudsman or the Ministry of the Family with regards to equal rights, as well as the police and the courts. Each employer is also obliged to create the necessary working conditions to prevent gender-based oppression. On measures taken to reduce unemployment among women, the delegation said that these figures had fallen by 2.1 percent in 2006. Among women of working age, the unemployment figure is 7.3 percent, and the figure for men is also 7.3 percent. This is a result of an increase in the number of women who work. The revised Labour Code includes additional guarantees for women bringing up children and single mothers, and 5 percent of Ukraine's general

employment is reserved for these women. The delegation added that employment centres are doing a lot of work in providing unemployed women with professional advice and services, as well as in organising vocational training. Therefore, there is no problem when women wish to change their profession, as they can apply to the Employment Services for training to acquire a new set of skills for a new type of job. In addition, all such services are free of charge and accessible to all those who request it, both men and women. The delegation also pointed out that violations of the rights of women regarding equal pay for equal work are non-existent.

In its concluding observations, the Committee expressed its concern about reports that job advertisements frequently favour male candidates, or discriminate against potential female candidates based on age or physical appearance. The Committee also noted that women are disproportionately affected by unemployment and are increasingly employed in low-paid jobs. It thus suggested the training of personnel with a view to combating gender discrimination, the organisation of awareness-raising campaigns, the imposition of sanctions on employers who discriminate against women, and the provision of effective remedies to victims. The Committee also recommended that the State take effective measures to combat discrimination against Roma in the field of employment.

### **Favourable conditions of work**

The two main issues raised in this section involved questions on safety standards in workplaces and minimum wages. Mr Rzeplinski asked if the State plans to ratify the International Labour Organization (ILO) *Convention on the Prevention of Major Industrial Accidents* (1993),<sup>7</sup> as it may help reduce the high number of industrial accidents in Ukraine. He also questioned the delegation on reports that public authorities in some regions employ illegal miners. He also asked a general question on the existence of wage discrepancies in Ukraine, particularly concerning minimum income which is not sufficient to support families with children. Ms Wilson requested updated information and statistics on minimum wages and salaries, which she saw as not being respected, especially in the private sector. In terms of safety in the work place, Mr Riedel commended the targets highlighted in paragraph 180 (a-f) of the State report. He nevertheless stated that the Committee is interested in hearing about what has actually been done, the results, and difficulties preventing the immediate effect of such measures. Lastly, Mr Martynov asked if Ukraine's Employment Act covers disabled persons.

In its response, the delegation firstly noted that 'stabilisation of the country's macroeconomic situation has led to a strong upward trend in people's actual income and their purchasing power'. In addition, there is now a draft before the parliament for a new Labour Code, which prohibits any violation of the principle of equal rights in the labour market and in establishing wages. As part of the social welfare programme launched by the Cabinet of Ministers under the slogan 'meeting people half-way', the Government's efforts are being focused on strengthening social protection for employees, ensuring that people are productively employed, raising salary and wage levels, and reducing income disparities in the population. The delegation also noted that one of the Government's focuses is the creation of real wages and incentives aimed at improving the quality and effectiveness of workers' work. Bearing in mind the real situation of the economy, the Government is making real changes to the minimum wage and is bringing it gradually in line with the minimum amount required for subsistence. One delegate also pointed out that 'fiscal advantages' are given to companies and disabled persons' organisations which give assistance to disabled people throughout the country. There is a set of complementary organisations and programmes to help manage this matter, including vocational training organisations which re-train people to help them acquire new skills. In addition, the All Ukrainian Centre for the Rehabilitation of the Disabled was created in 2001. The Government carried out monitoring of regions and districts to discover its citizens' needs. There have been changes in the labour market based on changes in demand. As for cases of illegal mining, Ms Drozdova acknowledged that these

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<sup>7</sup> Available at <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C174>

have existed and that some of the labour provisions, such as that on long working hours, have been violated. However, raids have been organised by local bodies, the Interior Ministry, and the labour authorities.

In its concluding observations, the Committee expressed its concern that despite the State's efforts, the minimum wage does not provide an adequate standard of living for workers and their families. It was also concerned about the high number of industrial accidents and the reported ineffectiveness of the measures taken to enforce occupational safety and health standards. The Committee therefore recommended that the State take urgent measures to redress the inadequacy of the minimum wage, and to take the necessary steps to increase safety in the workplace. The latter included the ratification of the aforementioned ILO *Convention*.

### **Trade unions**

There was also a significant amount of discussion on the role and status of trade unions in Ukraine. Mr Rzeplinski pointed out that there is a need to distinguish 'old age trade unions' which own massive property and make working conditions and the protection of the rights of employees difficult. He added that according to some reports, union leaders appear closer to management and to the Government than to workers. Furthermore, there is information claiming that leaders of small newly established unions are prosecuted for attempting to set up other smaller unions and companies separate from the larger ones. He thus asked about the protection offered to smaller unions. Mr Riedel also asked whether union rights can be limited during states of emergency or in the interest of national security.

In response, the delegation said that the Constitution contains a provision that in times of war or a state of emergency, limitations on rights and freedoms can be imposed, but they have to have a strict time limit. The restrictions may also be placed in the interest of the maintenance of law and order and national security. In addition, pursuant to the Ukrainian Trade Unions Act, Ukrainian citizens have the right, as an expression of their free will and without the need for any permission, to form, join, and leave trade unions and to participate in their work in accordance with their statutes. Ms Drozdova said that the Ministry of Justice has registered nine new unions and associations this year. She asserted that the union movement has neither been put under pressure nor had its rights limited. She pointed out that a large number of unions are currently registered,<sup>8</sup> and that the union movement in Ukraine is developing in a healthy way. In the last few years, Ms Drozdova added, a massive programme has been carried out by a wide range of unions in various industries to reduce financial quotas in order to ensure equality among all employees. The Government is supportive of this principle, and regardless of the condition of the economic sector, it cannot evade its responsibility.

In spite of the delegation's assertions, the Committee reiterated its concern about the unfavourable situation for labour unions in the State in its concluding observations. It advocated for urgent measures to ensure the protection of trade union rights in law and practice.

### **Social Security**

This topic falls under Article 9 of the Covenant. Mr Abdel-Moneim began by reading part of paragraph 220 of the State report, which describes social insurance funds as 'non-profit independent organisations which operate on the basis of their own statutes and are ratified by boards of the funds' responsible for 'the collection and accrual of insurance contributions and for operating an autonomous funding system'. He noted that this provides a good description of how the social insurance funds are managed, but does not explain how they are addressed. He therefore asked for more information and clarification on the matter. Mr Abdel-Moneim acknowledged that every system in the world has problems, but claimed that the 47.7 percent drop in gross national product (GDP) between 1993 and 1997 mentioned in the core document is a reflection of a rather large problem. Mr Riedel quoted paragraph 251 of the State report, which reads, '[t]he country's pensions arrears were finally settled in September 2000, and that all pension payments were made in full and

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<sup>8</sup> 125 in total, including 43 national unions, and 36 territorial unions.

in accordance with the prescribed schedules'. He went on to ask if this really applies to all people. Mr Riedel also acknowledged that the Ukrainian Cabinet of Ministers approved a strategy for the development of the Ukrainian pension system on 15 December 2005, and then asked about social assistance that is not covered under the labour system and universal system.

With regards to pensions, the delegation said that the situation has constantly been changing. In 2007, some 15 million people out of a population of 40 million received pensions. Poverty levels remained at 28 percent. The delegation added that high hopes have been placed on the adoption of legislation providing for a second layer of pension coverage. There is a mandatory social unemployment fund for unemployment benefits that also covers accidents at work. This works on a tripartite basis whereby the State, employers, and unions delegate representatives to work on the management boards of the funds. All the issues considered by the boards are decided collectively. The delegation noted that measures have been taken to improve pension coverage for citizens, and there had been some changes relating to insurance contribution and wages. Ms Drozdova added that the Government is trying to move towards a social assistance system which targets the needs of families whilst taking into account their property and assets. Little was mentioned about insurance except that for the purpose of implementing a public social insurance system in Ukraine, a set of principles of compulsory national social insurance legislation were elaborated and adopted as a constitutional law on 14 January 1998. This opened the way for the drafting of a number of bills on a wide range of social insurance issues. The impression one got was that this response was slightly unclear and did not sufficiently answer the Committee's concerns.

The Committee, in its concluding observations, noted with concern that despite a recent increase in the minimum unemployment benefits, these benefits only amount to 50 percent of the minimum subsistence level, and that the level of social assistance is reportedly also inadequate to ensure an adequate standard of living. The Committee urged the State to strengthen its efforts and use all available resources to remedy the situation.

## **Healthcare**

On the right to health, Mr Riedel noted that he had read of several measures taken to improve healthcare. He in turn asked about the results of these measures, and requested statistics on a comparative annual basis, in order to be able to assess if there has been improvement or not. He also highlighted HIV as a grave problem, mainly in terms of discrimination against those living with it. There has also been an alarming increase in the number of cases over the last two years. Mr Riedel asked about measures undertaken to stem the spread of HIV in prisons, measures undertaken to treat women affected by it, and the concrete steps the Government is planning to take. He acknowledged the national AIDS programme that was set up, and asked about its interim results. Mr Riedel, as well as Mr Rzeplinski, asked about the prevalence of tuberculosis and the measures being taken to combat it. On the cost of medical care, Mr Riedel pointed out that only half of the services are supplied by the State free of charge, and that this policy still isolates the disadvantaged. He thus asked how the State is addressing this issue. Ms Bras Gomes also asked about the structure of healthcare funding and the status of healthcare in rural areas. Ms Wilson brought up the issue of high infant mortality rates and birth defects, and asked about Government action in this regard. She also questioned the delegation on incidents of cancer, specifically malignant tumours, which seem to be on the rise. She asked if there are any prevention programmes in place, and whether there are any that are specifically designed for women.

With regard to HIV/AIDS, the delegation acknowledged its growing morbidity, but stated that Ukraine has a policy to combat the disease. The State explained that it has developed a State Concept Strategy Paper for the aimed at preventing the spread of the disease up to the year 2011. This, the delegation claimed, is fully in line with the United Nations Declaration Millennium Goals. The Strategy Paper lays out two main areas of work: (1) preventing the spread of HIV/AIDS; (2) ensuring that treatment, care, and support is provided to patients. The delegation highlighted that this has been implemented in the form of a national programme which has already begun, and is expected to last until the end of 2008. It stated that over 6,600 patients are already being treated, half under State funding, and that Ukraine has organised a network of medical facilities for this

initiative. As for cancer and diagnosis work, the delegation noted that this issue is high on the Government's priority list. Many activities have been carried out since 2002 to improve the provision of medical care to patients diagnosed with cancer. The delegation announced that a new programme has been approved, and that details are forthcoming. It further explained that since 2002 there has been a drop in overall mortality indicators, including reproductive health, abortions, disabilities, and tuberculosis. There was an observed stabilisation in 2005, but this was followed in 2006 by another gradual decrease in these indicators.

On healthcare in rural areas, the delegation pointed out that in outpatient clinics and hospitals medical personnel coverage is relatively high (around 75.6 percent) and in even less densely populated areas, there is up to 95 percent coverage. The reason for this is that the Government has established and carries out 'medical consultative brigade tours'. This initiative involves groups of doctors touring the countryside and directly assisting and seeing patients where they live. These visits are carried out during the first quarter of each year. This programme is very well received by the people and has helped improve overall healthcare indicators. With regard to financing in the healthcare system, the delegation explained there has been a two-fold increase, and that funding is a function of GDP figures. In the draft budget for 2008, it will further increase. It noted that funding per capita is also showing positive trends, and that in 2007 financing was about 100 US dollars per person. This also covers free medicine. Priorities for financing are determined by mortality indicators, the delegation explained, as well as the extent of morbidity. Priority is given to children, mothers, and those suffering from certain ailments such as cardio-vascular diseases and tuberculosis. The Government has carried out more than 20 programmes on various diseases, with funding from State, national, and regional budgets.

The Committee, in its concluding observations, noted with concern the disparities in healthcare between urban and rural areas, as well as the high prevalence of HIV/AIDS and tuberculosis. It recommended that the State ensure adequate funding to the improvement of healthcare in rural areas, and improve its efforts in combating HIV/AIDS and tuberculosis.

## **Education**

Articles 13 and 14 of the Covenant cover the right to education, and Ms Wilson began by asking whether education is truly free at all levels, including university and vocational training. She also queried whether there really is equal access to basic primary education for all. She questioned whether compulsory education is actually accessible to children in remote provinces and children of minority backgrounds, and whether the education available to them is of the same quality as that in other parts of the country. Mr Rzeplinski also asked what the policy of the Ministry of Education is in terms of providing equal opportunities and free access for all. He was interested in the situation of lower income families. Mr Rzeplinski also inquired about the Ministry's policy on providing a learning environment free of aggression, alcohol, and drugs. Mr Kerdoun was concerned about the degradation of the wage system for teachers. He noted that the Ukraine is seeking to become part of the European Union (EU), and that in order to do so it has to reform its system of higher education. He went to ask whether its current system of higher education is based on the system found in Russia, and if it is, how it is conceived. He asked how the Government plans to reform the system to raise it to the EU-level if this is not the case. Lastly, Mr Sadi asked about the admission of minorities, such as the Crimean Tatars, to university and whether they have to show the same academic achievements as others, or if there is an affirmative policy towards them. He suggested the possibility of lowering the standards for minorities, and asked if universities have the same quotas for these students.

Responding to these questions, the delegation pointed out that about 30 percent of all students who received a secondary education in 2001 received it free of charge. Subsequent to this, a decision was adopted to provide free education for half of the students in higher education institutions. The delegation stated that secondary education is compulsory, free of charge, and accessible to all sections of the population. On the quality of education in various regions, the State responded that this issue depends first of all on the training and preparation of teachers. Schools in certain areas do receive better technology such as computers. This is

despite the fact that the budget and resources allocated to the development of secondary education has been unified to cover all regions and areas. This is attributed to the fact that the programme for the investment in education in various regions depends not only on budgetary factors, but also on the support of individual municipalities. The delegation noted that there are quotas for access to higher education by various sections of the population, namely for orphans and for the children of Chernobyl survivors and miners. This does not apply to Crimean Tatars, for whom the normal standard of access has to be observed. Crimean Tatars do, of course, have access to schools and are provided education in their own language. Mother tongue education is included in the curriculum at both compulsory and optional levels. Moreover, there is a programme on the reconstruction of some 600 school buildings where Tatar language education will be provided.

On the question of whether the Uzbek education system is similar to the Russian one, the delegation acknowledged that some circumstances cause the duplication of the Russian model. However, the current model in place in Ukraine is basically in accordance with the *Bologna Convention*. The State sees itself as progressing steadily, and gave the example of its transition from a 3-tier to a 2-tier system. As for drugs and alcohol, the delegation stated that their use in and around schools will be punished and that an article of the criminal law is being applied against such acts. Smoking in schools is also prohibited. As for the increase in wage levels for teachers, Article 57 of the Ukrainian Education Act is being changed by the Constitutional Court in order to properly ensure its implementation by means of monthly rather than annual salary payments.

In its concluding observations, the Committee pointed out the reportedly inadequate funding of the public education system. It was also concerned about reports on the high drop-out rate among Roma children in primary and secondary education and various forms of discrimination against Roma children wishing to enrol in mainstream schools. The Committee recommended that the State intensify its efforts to adequately fund the public education system and increase salaries for teachers. It also suggested the adoption of special measures to increase school attendance by Roma children, combat discrimination against them, and raise awareness among Roma people on the importance of education.

### **Cultural life**

In taking up Article 15 of the Covenant, the Committee asked the State about its policy regarding the determination of 'ethnic groups' and 'national minorities', and how this is in accordance with the United Nations *Declaration on the Rights of Indigenous Peoples*. The Committee inquired about the status of the Crimean Tatar minority according to national legislation. Ms Wilson asked for information on the ratification of the *Convention on National Minorities*, as well as what is being done to protect regional languages. Mr Marchan Romero congratulated the State on its achievements in terms of intercultural dialogue, specifically through the Kiev Initiative it adopted in September 2005. He asked for further information on the objectives of this Initiative.

In response, the delegation stated that Ukraine has taken steps to protect the cultural heritage of ethnic minorities. These actions are rooted in national legislation as well as the Constitution. With regards to indigenous populations, the delegation noted that at this time there is no official definition of what constitutes an indigenous population, but this issue is being studied. Legislation defines national minorities as being those ethnic groups that are not Ukrainian. Thus, from a legal standpoint, the Tatars are a minority. The State furthermore acknowledged this issue requires more consideration. On the *Charter for Minority Languages* which Ukraine ratified in 2003, the delegation commented that no special privileges are given to national minorities. All such minorities have a status and all wish to conserve their particular heritage. The delegation added that education in Ukraine takes place in various national languages.<sup>9</sup> In addition, the *Framework Convention on National Minorities* was ratified in 1996. Lastly, the delegation mentioned that it would provide more information on intercultural dialogue in writing.

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<sup>9</sup> These include Russian, Hungarian, Romanian, Crimean Tatar, Moldavian, Polish, Bulgarian, Yiddish, Slovak, modern Greek, Armenian, Turkish, Latin, and Czech.

In its concluding observations, the Committee encouraged the State to recognise the right of self-identification of all ethnic groups, as well as their right to the preservation, protection, and development of their cultural heritage.

### Other issues

Several other issues were touched upon by the Committee. One of these was the provision of social housing and the situation of the Roma, who live with little access to basic amenities and in sub-standard conditions in settlements, and who are subjected to forced evictions. The Committee inquired about the Government policy for dealing with the problem of street children, especially in winter time. It was also interested in issues related to the conditions in detention centres. Another area of interest was the draft law on domestic violence, specifically when it will come into force, and whether it includes criminal law or just administrative measures. To many of these questions, the delegation gave vague answers or promised to reply in writing.

In its concluding observations, the Committee expressed its grave concern about the high incidence of domestic violence, the absence of a criminal law provision specifically criminalising it, the lack of adequate investigations and sentences, and the inadequacy of the support offered to victims. It urged the State to take several measures such as proceeding with the adoption of a criminal law provision specifically criminalising domestic violence, increase the capacity of temporary shelters for victims, and adopt rehabilitation programmes for perpetrators. The Committee also voiced its concern about human trafficking, child workers, street children, and substandard conditions of detention. The Committee accordingly made recommendations on measures to combat trafficking, child labour, child homelessness, and poverty eradication. It also urged the State to ensure an adequate standard of living in Roma settlements. The Committee recommended that the State ensure the effective judicial protection of economic, social and cultural rights, including through the introduction of a right of direct individual access to the Constitutional Court.

### Conclusions and next steps

Although there was some tension at the beginning of the session regarding a miscommunication on modalities, the discussion turned out to be open and frank. At times it still appeared as though the delegation preferred answering questions on certain topics over others. Moreover, many answers detailed prospective programmes and initiatives, which often seemed to frustrate the Committee members, as they repeated their desire to hear about concrete results.

Ms Drozdova, in her concluding remarks, said that in its 5<sup>th</sup> periodic report, Ukraine had informed the Committee of everything that was happening in the country. She noted that in both the written and oral replies, the delegation tried to supplement the State report by giving the broadest possible picture of the situation. She said that the State would submit further written replies. The delegation was grateful to the Committee for its understanding and for the positive assessment that it gave, as well as for the criticisms that it had voiced. In addition, she assured that all the points concerning the accuracy of information had been understood. As for the concluding observations, Ms Drozdova said that they will be considered by the Government, and all the Ministries and establishments that are directly involved will also be acquainted with the text. Ukraine expressed its understanding that its work is ongoing, and that a lot remains to be done.

In its concluding observations, the Committee noted with appreciation a number of positive developments that have taken place in Ukraine. These include the adoption of legislative measures to promote equal opportunities and eliminate discrimination, the adoption of legislative measures on climate protection, the ratification of the *Revised European Social Charter*, and the substantial increase of domestic funding allocated to fight against HIV/AIDS. Moreover, the Committee noted ‘the absence of any significant factors or difficulties preventing the effective implementation of the Covenant’ in Ukraine. Furthermore, it invited

the State to consider ratifying the *Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* and the *Convention on the Rights of Persons with Disabilities* and its *Optional Protocol*. The Committee requested that the State disseminate its concluding observations in as many of the national languages as possible. It also encouraged the State to engage members of civil society in the preparation of its next periodic report.

The Committee requested that the State submit its 6<sup>th</sup> periodic report by 30 June 2011, as well as a common core document in accordance with the 2006 harmonized guidelines of reporting to the international human rights treaty monitoring bodies.<sup>10</sup>

*Last revised and updated: 26 February 2008.*

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<sup>10</sup> Chapter 1, HRI/GEN/2/REV.4

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