



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/UKR/CO/5
23 November 2007

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

Thirty-ninth session
5-23 November 2007

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on
Economic, Social and Cultural Rights**

UKRAINE

1. The Committee on Economic, Social and Cultural Rights considered the fifth periodic report of Ukraine on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/UKR/5) at its 36th, 37th and 38th meetings, held on 7 and 8 November 2007 (E/C.12/2006/SR.36-38), and adopted, at its 52nd, 53rd and 54th meetings held on 19 and 20 November 2007 (E/C.12/2006/SR.52-54), the following concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the fifth periodic report of Ukraine, which was prepared in general conformity with the Committee's guidelines. It also welcomes the constructive dialogue with the delegation of the State party, which included a number of experts from different government departments.

B. Positive aspects

3. The Committee notes with appreciation the legislative measures adopted by the State party to promote equal opportunities and eliminate discrimination against women and disadvantaged and marginalized individuals and groups, in particular:
 - The adoption, in 2005, of the Law on Equal Rights and Opportunities for Men and Women;
 - Recent amendments to the Labour Code prohibiting gender discrimination in employment and remuneration;
 - The introduction in article 19 of the Law on Social Protection of Persons with Disabilities of a 4 per cent quota for the employment of persons with disabilities in all enterprises.
4. The Committee welcomes the adoption by the State party of legislation on climate protection giving effect to the 1997 Kyoto Protocol to the United Nations Framework Convention on Climate Change.
5. The Committee notes with appreciation the recent ratification by the State party of the Revised European Social Charter.
6. The Committee welcomes the substantial increase of domestic funding allocated to the fight against HIV/AIDS, as well as the emphasis on HIV/AIDS prevention in the National AIDS Programme (2004-2008) of the State party.
7. The Committee notes the favourable position of the State party concerning the elaboration of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

C. Factors and difficulties impeding the implementation of the Covenant

8. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in the State party.

D. Principal subjects of concern

9. The Committee is concerned about the Ombudsman's reported lack of independence, lack of adequate resources, and ineffectiveness in defending economic, social and cultural rights.
10. The Committee notes with concern reports about police abuse and denial of effective protection against acts of discrimination and violence committed against ethnic and religious minorities, especially Roma, Crimean Tatars, Asian and African asylum-seekers, as well as Muslims and Jews, 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".
11. The Committee is concerned that, according to the State party, more than 1,000 Roma, although their status is pending, lack personal documents, which are necessary to access employment, health services and education.

12. The Committee notes with concern that only 7 per cent of the members of Parliament are women, that there are currently no women in the Cabinet and that women are also underrepresented at top level in the public service.
13. The Committee is concerned about reports that job vacancy announcements frequently indicate preferences for employing men, especially if they concern managerial positions, or discriminate on the basis of age or physical appearance of potential female candidates, and that women are disproportionately affected by unemployment and increasingly employed in low-paid jobs.
14. The Committee notes with concern that only few Roma can find regular employment in the State party, that the majority of employed Roma work as unskilled labourers, and that discrimination against Roma job applicants and businesses is reportedly widespread.
15. The Committee notes with concern that, despite the State party's efforts to enforce and gradually raise the legal minimum wage (currently 400 hryvnia) to the minimum subsistence level (currently 453 hryvnia), the minimum wage does not provide an adequate standard of living for workers and their families and that, according to the State party, 6.6 percent of workers receive wages below the minimum wage.
16. The Committee is concerned about the high number of industrial accidents in the State party, including fatal accidents, in particular in the coalmining sector, and about the reported ineffectiveness of labour inspections and other measures taken to enforce occupational safety and health standards.
17. The Committee is concerned about reports on employers obstructing the creation of independent trade unions, pressures to resign trade union membership, intimidation of trade union leaders, and the close ties between the authorities of the State party and the Federation of Trade Unions which inherited the property from the former official Soviet trade unions.
18. The Committee notes with concern that, despite a recent increase in the minimum unemployment benefits, these benefits only amount to 50 per cent of the minimum subsistence level, and that the level of social assistance is reportedly also inadequate to ensure an adequate standard of living.
19. The Committee is gravely concerned about the high incidence of domestic violence, in particular against women and children, the absence of a criminal law provision specifically criminalizing domestic violence, the lack of adequate investigations and sentences under existing criminal law provisions, the limited capacity of temporary shelters and social and medical rehabilitation centres for victims of domestic violence, and the exclusion of persons above 35 years from them, and the lack of rehabilitation programmes for perpetrators.
20. While acknowledging the progress made by the State party in combating trafficking in persons, i.e. the recent adoption of a criminal law provision on the crime of trafficking and of the State Programme to Combat Trafficking in Human Beings, as well as the establishment of the Inter-Ministerial Council on the Prevention of Trafficking, the Committee is concerned at the high number of persons trafficked from, through and within the State party for purposes of sexual exploitation and forced labour, as well as at reports on limited access to witness protection programmes and lenient sentences for perpetrators.
21. The Committee is deeply concerned about reports that more than 400,000 children below the age of 15 are working in the informal and illegal economy, in particular in illegal coalmines, in the sex industry and in street begging rings.

22. The Committee is deeply concerned that several thousands of children live in the streets in the State party and are vulnerable to police abuse, sexual exploitation and forced labour, as well as to alcohol or drug addiction and health risks such as HIV/AIDS, and that young persons leaving the reportedly poorly managed State-run school orphanages are particularly vulnerable to becoming homeless.
23. The Committee notes with concern that 28 per cent of the population reportedly live below the official poverty line.
24. The Committee is concerned that, in spite of the efforts undertaken by the State party to resettle and integrate formerly deported persons such as Crimean Tatars in the Autonomous Republic of Crimea, most Crimean Tatars have been excluded from the land privatization process, that only a limited number of Crimean Tatars have obtained plots of land, mainly outside areas that were traditionally settled by them, while others face criminal sanctions for squatting on land, and that many Crimean Tatars live in settlements lacking basic infrastructures.
25. The Committee notes with concern that many Roma live in informal settlements and camps which lack basic infrastructures and services such as safe water, electricity, gas, heating, sewage, garbage disposal and roads, without legal security of tenure and under constant threat of eviction.
26. The Committee is deeply concerned about reports on substandard living conditions and overcrowding in prisons, pre-trial detention centres and centres for refugees and asylum-seekers, including in medical wards for inmates and detainees suffering from tuberculosis.
27. The Committee notes with concern that the rural healthcare system is underfunded and that there are wide disparities in the quality of health care between rural and urban areas.
28. The Committee is gravely concerned at the high prevalence of HIV/AIDS in the State party, including among women; discrimination against persons with HIV/AIDS and high-risk groups such as sex workers, drug users and incarcerated persons; disclosure of information about their HIV status by law enforcement agencies, healthcare and educational institutions; and the limited access by drug users to substitution therapy.
29. The Committee notes with concern information from the State party that in 2006, 70 persons out of 100,000 (80 out of 100,000 in rural areas) were suffering from tuberculosis, which has become the leading cause of death among persons with HIV/AIDS and is particularly prevalent among the prison population.
30. The Committee is concerned about the reportedly inadequate funding of the public education system and the low salaries for teachers in the State party.
31. The Committee is concerned about reports on the high drop-out rate among Roma children in primary and secondary education, the frequent refusal to enrol Roma children in mainstream schools, and their segregation in special classes or placement in special schools for children with mental disabilities.

E. Suggestions and recommendations

32. The Committee recommends that the State party ensure the independence and adequate funding of the Office of the Ukrainian Ombudsman, in accordance with the Paris Principles relating to the Status of National Institutions (General Assembly resolution 48/13 , annex), and strengthen the Ombudsman's role in defending economic, social and cultural rights.
33. The Committee recommends that the State party consider adopting comprehensive anti-discrimination legislation and amending its Criminal Code to include provisions on racially motivated crimes, train judges, public prosecutors and the police on the strict application of such provisions, and include in its next report detailed information, on an annual basis, on the number and nature of reported incidents of racial discrimination and violence, the criminal proceedings initiated and sanctions imposed on perpetrators, and on protection and assistance provided to witnesses and victims.
34. The Committee recommends that the State party take immediate steps, e.g. by removing administrative processing fees and bureaucratic requirements, to provide all Roma with personal documents, with a view to enabling them to access employment, health care and education, as well as other economic, social and cultural rights.
35. The Committee recommends that the State party adopt temporary special measures, with a view to increasing the representation of women in Parliament, the Government, and in senior positions in the public service. This could include, for example, the establishment of minimum quota for the nomination of women candidates in the Law on Political Parties.
36. The Committee recommends that the State party train judges, labour inspectors and officers of the State Employment Service to apply strictly the Law on Equal Rights and Opportunities for Men and Women and the amended Labour Code, with a view to combating gender discrimination in the public and private employment sectors, in particular at the recruitment stage, conduct awareness-raising campaigns for employers, employees and the general public, and ensure that fines or other appropriate sanctions are imposed on employers who discriminate against women, and that the victims of such discrimination have access to effective remedies, including compensation. It urges the State party to further enhance vocational training, job training and retraining opportunities for unemployed women and women employed in low-paid jobs.
37. The Committee recommends to the State party to take effective measures to combat discrimination against Roma in the field of employment and increase its efforts to reduce Roma unemployment through specifically targeted measures, such as vocational training, job training and placement, financial incentives for employers, and assistance for Roma opening their own businesses. It requests the State party to include in its next periodic report updated statistical information on unemployment among Roma, as well as information on the concrete measures taken to create employment opportunities for Roma.
38. The Committee recommends that the State party take urgent measures to ensure that the minimum wage provides workers with an adequate standard of living for themselves and their families, in accordance with article 7 (a) (ii) of the Covenant, and intensify its efforts to enforce the legal minimum wage in the public and private sectors, including through increased labour inspections and fines or other appropriate sanctions for employers who fail to comply with the minimum wage.

39. The Committee urges the State party to increase the effectiveness and transparency of labour inspections and to impose fines or other appropriate sanctions for violations of occupational safety and health standards, in particular in the coalmining sector, where infrastructures should be modernized, and to apply strict safety requirements when granting special permits for underground mining operations.
40. The Committee recommends that the State party take urgent measures to ensure the freedom to form and join trade unions of one's choice, to prevent and punish harassment of members and leaders of independent trade unions, and to guarantee plurality and equality of trade unions in law and in practice.
41. The Committee urges the State party to strengthen its efforts and use all available resources to increase, to the extent possible, the amount of unemployment benefits and other social security allocations, as well as social assistance benefits, especially at the minimum levels, with a view to ensuring an adequate standard of living for recipients of such benefits. It requests the State party to include in its next periodic report updated disaggregated data, on an annual basis, on the minimum levels of unemployment, pension, disability and other social security benefits, as well as of minimum social assistance benefits.
42. The Committee urges the State party to proceed with the adoption of a criminal law provision specifically criminalizing domestic violence; consider deleting provisions on "victim behaviour" from the Law on the Prevention of Violence in the Family; provide mandatory training for judges, prosecutors and the police on the strict application of provisions relating to domestic violence and protection orders; intensify its efforts to increase the capacity of and to open new temporary shelters and social and medical rehabilitation centres for victims of violence, and ensure that such centres and assistance are also accessible to persons above 35 years; adopt rehabilitation programmes for perpetrators; and provide updated data on the number and nature of reported cases of domestic violence, criminal convictions and sanctions imposed on perpetrators in its next periodic report.
43. The Committee recommends that the State party continue and further intensify its efforts to combat trafficking in persons, by ensuring adequate access to victim assistance, rehabilitation and reintegration, and witness protection programmes, providing mandatory training for the police, prosecutors and judges on the strict application of criminal law provisions punishing the crime of trafficking, ensuring a restrictive licensing policy and effective inspections for tourist and marriage agencies, and allocating sufficient funds for the implementation of the State Programme to Combat Trafficking in Human Beings.
44. The Committee urges the State party to intensify its efforts to combat child labour, including through systematic and effective labour inspections and urgent controls by social services, heavier sentences for persons who make use of illegal child labour, mandatory training for the police, prosecutors and judges, awareness raising campaigns for children and parents on the dangers of child labour and the importance of education, and assistance and reintegration for children engaged in child labour.
45. The Committee urges the State party to allocate sufficient funds for the implementation of the State Programme to Combat Child Homelessness and Neglect (2006-2010), increase the capacity of and open new centres for homeless children and day centres for street children, ensure access to

adequate food, health care and social protection for street children and children deprived of parental care, adopt urgent measures to provide these children and young persons leaving school orphanages with education, accommodation and adequate employment opportunities, and intensify its efforts to improve the living conditions in orphanages and seek alternative solutions for children placed in orphanages, such as foster families or family-type children's homes, and by ensuring an effective procedure of adoption by families.

46. The Committee recommends that the State party allocate sufficient funds for the implementation of its poverty eradication strategy, ensure the full integration of economic, social and cultural rights in the strategy, and specifically address the needs of unemployed persons, women, families with children, pensioners, the rural population, ethnic minorities and other disadvantaged and marginalized individuals and groups. In this regard, the State party is referred to the Committee's Statement on "Poverty and the International Covenant on Economic, Social and Cultural Rights" (E/C.12/2001/10). The State party is requested to include in its next periodic report updated statistical data, on an annual basis, on the percentage of the population living in poverty, disaggregated by gender, age, number of children per household, number of single-parent households, rural/urban population, and ethnic group.
47. The Committee recommends that the State party allocate sufficient funds for the implementation of the Programme for the Resettlement and Integration of Formerly Deported Persons and ensure that formerly deported persons have equal access to suitable plots of land and adequate housing and to effective remedies for claiming such land and housing. It also recommends that the State party proceed with the adoption of the draft law on compensation of formerly deported persons. The State party should consider repealing the recent law threatening illegal land occupants with several years' imprisonment. It should also ensure that Crimean Tatars living in settlements enjoy legal security of tenure and access to basic infrastructures, including safe water, electricity, gas, heating, sewage and garbage disposal, and roads.
48. The Committee urges the State party to ensure, by legalizing and intensifying its efforts to improve the infrastructures of Roma settlements or through social housing programmes, that all Roma have access to adequate and affordable housing, legal security of tenure, safe water, electricity, gas, heating, sewage and garbage disposal, and roads. The State party should ensure that adequate alternative housing is provided whenever forced evictions take place, in line with the Committee's general comment No. 7 (1997), and include in its next report disaggregated statistical data, on an annual basis, on the number of forced evictions.
49. The Committee recommends that the State party take immediate measures to ensure adequate occupancy levels and access to safe water, sanitation, food, bedding, natural light, ventilation, and out-of-cell activities in prisons, detention centres and centres for refugees and asylum-seekers, as well as adequate treatment and medication for prisoners and detainees suffering from tuberculosis and other diseases.
50. The Committee recommends that the State party increase its efforts to improve the quality and availability of health care in rural areas, by ensuring adequate funding and strengthening community-based and mobile health services.
51. The Committee recommends that the State party continue its efforts and take urgent measures to improve the accessibility and availability of HIV prevention to all the population and the treatment, care and support of persons living with HIV/AIDS, including in prisons and detention centres, combat discrimination against persons living with HIV/AIDS and high risk groups, ensure

the confidentiality of information about a person's HIV status, and make drug substitution therapy and other HIV prevention services more accessible for drug users.

52. The Committee recommends that the State party take urgent measures to improve tuberculosis prevention and accessibility of specialized tuberculosis treatment and medication, in particular in prisons, detention centres and police stations, and reduce delays in screening detainees for tuberculosis.
53. The Committee recommends that the State party intensify its efforts to fund adequately the public education system and to increase salaries for teachers, including minority language teachers and teachers specialized in teaching Ukrainian and Russian as a non-native language.
54. The Committee recommends that the State party adopt special measures, including subsidies for textbooks and other educational tools, in order to increase school attendance by Roma children at the pre-school, primary and secondary levels, combat discrimination against Roma pupils, promote their admission to mainstream schools and classes, raise awareness among Roma families on the importance of education, including for girls, and provide additional catch-up and Ukrainian and Russian language classes for Roma pupils.
55. The Committee recommends that the State party 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.
56. The Committee recommends that the State party implement the judgment of the Constitutional Court of 9 July 2007, with a view to ensuring the effective implementation of laws and programmes aimed at progressively achieving the full realization of economic, social and cultural rights.
57. The Committee recommends that the State party consider ratifying ILO Convention No. 174 on the Prevention of Major Industrial Accidents (1993).
58. The Committee recommends that the State party consider ratifying ILO Conventions Nos. 102, 117, 118, 121, 128, 130 and 168, as well as the CIS Agreement on the Cooperation in Solving Problems of Disability and Persons with Disabilities (1996).
59. The Committee, while noting that according to the core document of the State party, only Ukrainians are considered to be an indigenous ethnic group, encourages the State party to recognize the right of self-identification of all ethnic groups in Ukraine, as well as their right to the preservation, protection and development of their cultural heritage.
60. The Committee invites the State party 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.
61. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among government officials and judicial authorities, to translate them into Ukrainian and, to the extent possible, into the languages of national minorities, including Romani and the Crimean Tatar language, and to inform the Committee on the steps taken to implement them in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

62. The Committee invites the State party to submit a common core document in accordance with the 2006 harmonized guidelines on reporting to the international human rights treaty monitoring bodies (HRI/GEN/2/Rev.4, Chapter I).
63. Finally, the Committee requests the State party to submit its sixth periodic report by 30 June 2011.
