



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Summary record of the 2105th meeting

Held at the Palais Wilson, Geneva, on Thursday, 18 August 2011, at 10 a.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 10.10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Nineteenth to twenty-first periodic reports of Ukraine (continued)
(CERD/C/UKR/19-21; CERD/C/UKR/Q/19-21)

1. *At the invitation of the Chairperson, the delegation of Ukraine took places at the Committee table.*
2. **Mr. Yur'ev** (Ukraine), replying to questions raised at the previous meeting, said that a lack of clarity in the mandates of the central executive bodies responsible for combating racial discrimination had resulted in some duplication of functions. The President had therefore launched an administrative reform which had begun in December 2010 and was currently ongoing. Under the new structure, responsibility for ensuring the rights of religious minorities had shifted from the State Committee on Nationalities and Religions to the Ministry of Culture and Tourism. Protection of refugees' and asylum-seekers' rights had transferred to the State Department for Citizenship, Immigration and Registration of Natural Persons. The first stage of the reform had been completed with the restructuring of the central executive bodies. The second phase, focusing on the local authorities, was now under way.
3. Until December 2010, the activities of the Interdepartmental Working Group on combating xenophobia and ethnic and racial intolerance had been conducted by the State Committee on Nationalities and Religions. The Working Group's mandate had been extended until 2012 and there had been proposals for the Group to continue under the auspices of the Ministry of Culture and Tourism. Alternatively, a separate body might be established; it was possible that the Anti-Discrimination Bill would specify which body would take over from the Working Group. The Group had achieved positive results, ensuring the effective coordination of the efforts of State entities and non-governmental organizations (NGOs) to combat xenophobia and ethnic and racial intolerance.
4. Paragraphs 49–55 of the periodic report (CERD/C/UKR/19-21) provided information on the legislative measures in place to eradicate incitement to racial discrimination or acts of racial discrimination, particularly article 24 of the Constitution and article 161 of the Criminal Code. Paragraph 9 of the report listed other instruments of domestic legislation that prohibited racial discrimination, as did the Local Government Act, the Print Media (Press) in Ukraine Act, the Television and Radio Broadcasting Act, the Information Act and the Freedom of Conscience and Religious Organizations Act. In May 2011, the President had entrusted the Ministry of Justice with drawing up a strategy to combat racial discrimination. It had become clear during the preparation of the strategy that legislative amendments were necessary, including the adoption of the Anti-Discrimination Bill. Once the President had approved the strategy to combat racial discrimination, the Ministry of Justice would be in a position to finalize the Anti-Discrimination Bill.
5. **Ms. Shpyniak** (Ukraine), also replying to questions raised at the previous meeting, said that the State Migration Service had been set up in December 2010 in order to establish a mechanism to manage migration flows. The Migration Service was responsible for implementing policy on emigration and immigration, including combating illegal immigration and all activities related to citizenship, registration, refugees and other migrants. To date, the Service had focused on developing legislation and setting up the relevant institutions. In May 2011, the State Migration Policy Concept had been adopted for the effective management of migration processes. The Office of the United Nations High Commissioner for Refugees (UNHCR) had run seminars to train the Migration Service staff and help them prepare recommendations and instructions for internal use. Many of the staff

who had previously worked for the refugee service under the State Committee on Nationalities and Religions had also attended training courses, such as those conducted by the International Centre for Migration Policy Development. The State Migration Service was also involved in the Twinning Project, supported by the European Union, on developing migration institutions. As part of the project, the staff of the Service would be given the opportunity to update and improve their qualifications.

6. The procedure for granting refugee status had been established in 1996. Since then, policy had focused on creating conditions for asylum-seekers and refugees that were in line with Ukraine's international obligations. A major achievement to that end had been the adoption in July 2011 of legislation on refugees and persons in need of complementary or temporary protection in Ukraine. The State Migration Service worked closely with the State Border Service and the entities of the Ministry of Internal Affairs that directed persons seeking protection in Ukraine to the relevant migration bodies. Joint guidelines had been issued to law enforcement officials and Border Service staff on how to deal with asylum-seekers and applicants for refugee status. In 2010, over a nine-month period, the Border Service had forwarded 76 applications for refugee status to the regional bodies of the Migration Service, while 104 such applications had been forwarded by law enforcement officials.

7. A two-step procedure for determining refugee status had been in place since 2001. First, the regional bodies of the Migration Service had three months in which to consider applications, including interviewing the applicants and investigating the situation in their countries of origin. The regional bodies then sent their recommendations to the central office of the Migration Service, which took a final decision on refugee status. The procedure had proved to be a balanced way of assessing applications. Applicants who were refused refugee status had the right to appeal to their local administrative court. Applicants were given documents granting them legal residence in Ukraine during the process.

8. Some 2,000 applications for refugee status were considered every year, and that number was expected to rise with the introduction of additional forms of protection. While free food, lodging and health care were available in two temporary refugee centres to people who were awaiting a decision or who had been granted refugee status, the centres only had 340 places. Priority was therefore given to those who were in the most vulnerable situations. A new centre in Kiev oblast was nearing completion and would provide about 200 additional places. Owing to the pressure of the financial and economic crisis, progress on that centre had been slow, but the budget for the other two centres had not been cut. Given that, at 1 April 2011, there had been some 2,435 registered refugees in Ukraine, there was a clear need for additional housing. Local government bodies and NGOs had set up a database of available housing in Odessa oblast, and several refugee families had agreed to be rehoused in rural areas in the region. The Government planned to apply for financial assistance from the international community for additional housing for refugees and asylum-seekers.

9. Legislation provided that, three years after being granted refugee status, individuals had the right to apply for Ukrainian citizenship. The Government was therefore keen to promote the integration of refugees in society, in the hope that they would play a full part in public life as citizens in the future. The UNHCR regional office provided considerable support for integration programmes, particularly language courses. Refugee children could study Ukrainian, English and information technology in the refugee social centres that were run by NGOs. Most refugee children attended mainstream Ukrainian schools; if necessary, educational psychologists and social workers helped them to integrate. The newly adopted legislation on refugees and persons in need of complementary or temporary protection in Ukraine guaranteed that children were granted refugee status at the same time as their parents.

10. Increasing numbers of unaccompanied minors were arriving in Ukraine. Since 2010, the Migration Service had been working with the Danish Refugee Council on a project to ensure the legal and social protection of child asylum-seekers and refugees in Ukraine. A 30-place temporary refugee accommodation centre for unaccompanied minors seeking asylum has been set up in Zakarpattia. It was staffed by qualified psychologists and social workers. The Migration Service was currently drawing up interdepartmental guidelines for those working with children seeking asylum in order to improve coordination between the relevant authorities. Under the Ukrainian Chairmanship of the Council of Europe's Committee of Ministers, a conference on standards of protection for unaccompanied asylum-seeking minors would be held in Kiev in the autumn.

11. Responding to questions raised by members of the Committee about the Roma people in Ukraine, she said that the only official statistics on Ukraine's national minorities came from its national census of 2001. According to that census, there were 47,600 Roma in Ukraine, equivalent to 0.1 per cent of the population as a whole, who largely resided in Zakarpattia, Donetsk and Odessa oblasts.

12. To promote the Roma language and Roma culture, the Ministry of Education had published educational guidelines for elementary and secondary school teachers that, inter alia, provided for lessons of Roma language. Roma children also studied the Roma language at three weekend schools in Donetsk and Odessa oblasts, and Roma cultural and educational associations held classes for Roma children in Roma language and culture. Certain State schools in Zakarpattia oblast also chose to teach courses on the history, culture and customs of the Roma people. The educational authorities had also developed school curricula that provided for lessons on the history of the Roma minority, in order to promote understanding and tolerance. School materials on the Roma holocaust were also provided.

13. Roma children and children from other ethnic groups studied together in the same classes. Roma children, however, often missed school and their parents frequently seemed disinterested in their children's education. In particular, teachers noted that often Roma parents did not prepare their children adequately for school and Roma children started school with limited vocabulary or had difficulties expressing themselves. Teachers needed to pay particular attention to such children to ensure that they integrated smoothly into the class environment. Efforts were also under way to involve Roma parents more closely in the education of their children.

14. Furthermore, to provide Roma children with an environment that was conducive to learning, the Ukrainian authorities had opened study centres for such children that were open 24 hours a day and where they could, if necessary, reside.

15. The authorities were working to register all Ukrainian nationals, inter alia, by issuing them passports. Ukrainian passports did not include details of the passport holder's ethnicity. Nonetheless, in consultation with Roma leaders, the Ukrainian authorities had established that there were approximately 2,800 undocumented Roma living in Ukraine, including a large number of children.

16. The State Migration Service was working to strengthen its relations with Ukraine's Roma minority and would, moreover, continue its efforts to end discrimination against them and against other minorities.

17. There were 88 national Roma cultural associations that had been officially recognized and some were working with pan-European Roma institutions with a view to ensuring that the Roma people fully realized their rights and resolved the specific problems facing their communities. Ukraine was, moreover, drawing up a range of measures within the framework of the Council of Europe Action Plan for Ukraine. Those included measures

to counter negative stereotypes of and prejudice against Roma people, promote education for the Roma minority, and facilitate their social integration.

18. The history of the Roma holocaust was taught in Ukrainian schools. Furthermore, Roma holocaust victims were honoured at the State level at the Babi Yar memorial. In addition, since 2011 marked the seventieth anniversary of the tragic events that had occurred at Babi Yar, thematic educational courses that focused on the holocaust would be taught in Ukrainian schools, in accordance with a plan of action approved by the Cabinet of Ministers.

19. **Mr. Tikhonov** (Ukraine), responding to the Committee's questions on attacks against foreign nationals in Ukraine, said that both foreign and Ukrainian nationals were afforded protection under article 161 of the Criminal Code; foreign nationals, including refugees, could therefore be considered the victims of attacks on the basis of their race, nationality or religious preferences.

20. As was the case in other European States, extremist groups and radical organizations had carried out attacks on members of ethnic minorities and foreign students. There were also Internet sites that espoused neo-Nazi ideology.

21. Overall, Ukrainians were very tolerant of others. However, radical groups, including the Ukrainian National Assembly and the Patriots of Ukraine, sought to disseminate extreme right-wing views. The Ministry of the Interior was closely monitoring that phenomenon and had recently set up a unit to combat cybercrime. That unit used modern technology to identify persons advocating ethnic and racial hatred or the rejection of the lifestyle, religion or beliefs of certain communities. Ukraine also cooperated with law enforcement authorities in other countries to track groups when they registered such websites abroad.

22. The National Expert Commission on the Protection of Public Morality issued decisions on whether Internet content was consistent with Ukrainian legislation and its decisions could be used as a basis for criminal proceedings against persons disseminating illegal content. In 2010, the investigative authorities had brought cases relating to over 160 crimes under article 300 of the Criminal Code, which prohibited, inter alia, the distribution of works that advocated violence and cruelty, racial, national or religious intolerance and discrimination.

23. Citizens and non-citizens who were of non-Slavic appearance were at particular risk of being attacked by informal unregistered groups of skinheads. Such groups espoused a range of right-wing ideologies, although all advocated a political ideology based on the concept of racial purity. The emergence of such groups was a recent phenomenon in Ukraine and had been facilitated by access to foreign Internet websites.

24. Skinhead groups had perpetrated violent attacks on persons from Africa and Asia and had been implicated in several murders of foreign nationals. Such groups were particularly prevalent in the Ukrainian capital but also existed in other cities. The law enforcement authorities were extremely alarmed by that development and were taking all possible measures to protect Ukrainian and foreign nationals from attack. Special departments had been established in all regional law enforcement agencies to investigate offences committed against foreign nationals and Ukrainian legislation had been amended to facilitate the timely exchange of information on any attacks that occurred.

25. Furthermore, wide-ranging preventive measures had been implemented, including the creation of a photographic and fingerprint database of persons involved in the skinhead movement. Such persons were regularly summoned for questioning about their activities and, seeking to alter the behaviour of members of skinhead groups, law enforcement authorities talked with their families. Police officers responsible for juvenile offenders also

talked with members of the skinhead movement to try to change their way of thinking. Furthermore, to facilitate swift action by the police if a violent incident occurred, police patrol routes had been changed to pass through areas where high numbers of foreigners lived.

26. In order to facilitate the effective investigation of hate crimes against foreigners, Ukrainian law enforcement authorities also liaised with the embassies of other States to explain the features of the Ukrainian legal system and urged them to impress upon their citizens the importance of promptly reporting any offences perpetrated against them. The police also met with foreign students studying in Ukraine to explain how violent hate crimes were committed and what they should do if they suspected that an attack was being planned against them. A telephone hotline had also been set up so that foreigners could quickly contact the authorities.

27. Together with the Eastern European Development Institute, a set of recommendations for foreign nationals living in Ukraine had been drawn up and Ukraine had also developed guidelines and criteria for the police to help them identify members of extremist organizations. The Ministry of the Interior carried out undercover work to prevent future attacks, in accordance with Ukrainian legislation on investigative activities and combating organized crime. Such measures had been very successful; although attacks by skinhead groups had not ceased, human rights organizations had reported that the number of hate-based attacks had fallen sharply.

28. Turning to the issue of sport, he said there was very little racism in Ukrainian sport and many African players and other foreigners played for the leading teams in the country. However, football hooligans, who committed offences before, during and after football matches, particularly in the cities of Ukraine's premier league teams, were a specific group of radically motivated youth of particular concern to the Ministry of the Interior, which sought to identify such movements and their leaders and implement preventive measures to combat any illegal actions.

29. As Ukraine would be hosting the 2012 European Football Championship, an ongoing permanent working group of relevant stakeholders had been established by the Ministry to identify potential problems and facilitate the prevention and investigation of any attacks against the fans of foreign teams by extremist groups. Large numbers of foreigners were expected to attend the 2012 event, and both Ukrainian and foreign radical fans would be monitored. Ongoing coordination in that regard took place between the Ministry and other law enforcement bodies. Ukraine was also seeking to learn from the experience of other States, including South Africa, which had successfully hosted the 2010 Football World Cup, and was liaising with those States, inter alia, in the framework of the International Criminal Police Organization (INTERPOL) and the European Police Office (Europol), to ensure adequate security at all sports facilities to be used in the championship.

30. **Mr. Avtonomov** commended Ukraine for making a declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination and for ratifying the amendment to article 8, though unfortunately that had not yet entered into force. Ukraine had been consistent in its implementation of the Convention.

31. His reference to neo-fascist and extremist organizations had not meant to imply that they existed only in Ukraine. The problem was more widespread. The most dangerous organizations were perhaps those that did not make direct appeals to violence but, by distorting universal principles such as justice, law and order, family and nation, created an atmosphere conducive to violence.

32. Organizations of that kind in Ukraine shared a common language with similar groups in other countries, such as the Russian Federation.

33. **Mr. Maimeskul** (Ukraine) said that such phenomena were in no way typical of Ukrainian society. The authorities would follow developments and work to prevent any problems.
34. **Mr. Ewomsan** said he had no intention of suggesting that Ukrainian society was less tolerant than others, but wished to draw attention to racism and xenophobia, which were not unique to Ukraine but were on the rise throughout Europe. In order to understand the phenomenon it was important to know its causes and he wondered whether one of those causes was a failure of policy.
35. **Mr. Tikhonov** (Ukraine) said that the instances described were isolated and that no general pattern existed. Ukraine did not ignore hate speech. Persons accused of that offence faced prosecution under article 161 of the Criminal Code. Information had been supplied about five such cases.
36. **Mr. Kut** noted that, according to the report of Ukraine (CERD/C/UKR/19-21), in 2001 there had been 671 Karaites and 204 Krymchaks living in Crimea, with an average age of about 60. Their numbers were too low for them to be considered a minority people. Special treatment and policies had to be devised for them because there was a danger that they would die out and their unique culture and tradition would be lost. At the least, their contribution to human history should be recorded.
37. He enquired about policies being developed to combat racism in sports. Elsewhere in Europe that phenomenon was linked to extreme right-wing movements.
38. **Ms. Shpyniak** (Ukraine) said that the statistics provided about the Karaites and Krymchaks were correct, but that a younger generation existed as well. The State was taking measures to preserve their languages. There were three Karaim and two Krymchak schools with 25 and 24 pupils respectively.
39. The State Committee on Ethnic and Religious Affairs had attempted to amend the law on minority languages to make it cover Karaim and Krymchak. Unfortunately that Committee had now been disbanded but its work would be continued by a new ministerial body responsible for language policy.
40. **Mr. Tikhonov** (Ukraine) said that racism was completely alien to Ukrainian sport. He could recall only one offence committed against a sportsman in the previous four years. It had involved an act of violence against an African basketball player in Kiev, but it had not been racially motivated. If racism in sport did arise, norms would be developed to combat it.
41. **Mr. Diaconu** asked whether agreements on cultural cooperation for minority groups, which Ukraine had concluded with neighbouring States, were operational and whether the commissions established to oversee those agreements met regularly.
42. The Ukrainian judicial system contained no provision for the recognition of administrative or civil responsibility in cases of racial discrimination. They could only be tried as offences under the Criminal Code. However, civil law was much broader and could be used to recognize a wider range of forms of discrimination, as already happened in many other European countries.
43. A report of the European Commission against Racism and Intolerance had referred to a website of the Ministry of Internal Affairs which contained injurious and discriminatory language concerning Roma people. He wondered if the delegation could supply any information on that subject.
44. He enquired whether Ukraine intended to ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. The

Committee might want to make a recommendation to Ukraine to consider ratifying those instruments.

45. **Ms. Shpyniak** (Ukraine) said that the commissions established to oversee the cultural agreements Ukraine had concluded with neighbouring States did meet and were effective in upholding the rights of minorities.

46. **Mr. Yur'ev** (Ukraine) confirmed that the only legal provision currently in place to sanction acts of discrimination was article 161 of the Criminal Code. It was not constitutionally possible to take civil or administrative action against discriminatory acts. If the draft Anti-Discrimination Bill was adopted, it would be possible to change administrative and civil law and allow them to be used against acts of discrimination.

47. **Mr. Tikhonov** (Ukraine) said that hate speech could currently be prosecuted only as a criminal offence. Several such prosecutions had taken place. Until legislation changed, the administrative and civil codes could not be applied to hate speech.

48. **Mr. Maimeskul** (Ukraine) said that Ukraine would include information about its possible ratification of the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness in its next periodic report to the Committee.

49. **Mr. de Gouttes** said that he had listened with great interest to the delegation's comments on the background to the growth of extremism, the spread of racist organizations and the increase in the number of attacks on foreigners, especially foreign students, in Ukraine. They were phenomena encountered in many States parties to the Convention and the Committee had endeavoured to identify the underlying factors. The Internet, for instance, permitted extremist organizations to disseminate their xenophobic ideas. However, the role of politicians and political parties should also be highlighted. Freedom of expression was often unjustifiably invoked to justify hate speech in political contexts. General recommendation No. 15, adopted by the Committee in 1993, made it clear that the principle of freedom of expression was perfectly compatible with the need to prosecute the dissemination of ideas based on racial superiority. He trusted that the Ukrainian Government would take measures to render political figures accountable for statements that fell into that category.

50. Another underlying factor was the lack of legislation against racism. He recommended that the Ukrainian Parliament should enact the draft Anti-Discrimination Bill as soon as possible. The Civil Code should also provide for reparations for victims of racist crimes.

51. **Mr. Maimeskul** (Ukraine) said that the Government was taking vigorous action to thwart manifestations of extremism. He assured the Committee that the next periodic report would contain detailed information on progress in that regard.

52. **The Chairperson** said that the radical change from a centralized regime and a command economy to a decentralized system in which individuals enjoyed freedom of choice had also entailed certain negative trends, such as an economic free-for-all.

53. The anonymity offered by the Internet could be conducive to hate speech, virulent abuse and even cybercrime.

54. Sporting events also led to violent racist conduct in many cases.

55. **Mr. Maimeskul** (Ukraine) said that although Ukraine was a country of deep-rooted traditions, which had existed for thousands of years, it had paradoxically enjoyed only 20 years of independence. Freedom and independence had their pros and cons, but they were certainly preferable to the alternative.

56. **Mr. Thornberry** (Country Rapporteur) said that the Committee's dialogue with the delegation had covered a wide range of issues. With regard to the proposed reforms to strengthen governance and institutional arrangements, he said that the Convention provided no blueprint in that regard. He welcomed the idea of a special body to coordinate action against racial discrimination. Institutional visibility and clarity and a comprehensive legal response were also of key importance.

57. The ratification of international treaties was a sovereign decision to be taken by each State party. However, the Committee attached special importance to certain treaties that dealt with issues relating to the Convention.

58. He hoped that the draft Anti-Discrimination Bill would soon be enacted. As the Committee was interested in keeping track of its progress, the Bill might be listed as a priority for follow-up reporting within one year. A single law was not mandatory, but he agreed that it could be a helpful means of focusing attention on the whole range of issues involved. The Committee's archives and those of other international bodies could offer ample guidance on the requirements of sound anti-discrimination legislation, such as the need for both administrative and civil liability in addition to criminal liability.

59. It was essential to strike a balance between the prohibition of hate speech and the protection of principles of free speech. As article 4 of the Convention was relatively demanding in that regard, he joined Mr. de Gouttes in referring the State party to the Committee's general recommendation No. 15 and drew attention, in addition, to general comment No. 34 on freedom of speech adopted by the Human Rights Committee in July 2011. With regard to hate speech against minorities and other vulnerable groups, he recommended a document entitled "The Camden Principles on Freedom of Expression and Equality" published by an NGO called ARTICLE 19.

60. He agreed with Mr. de Gouttes that statements by political figures could set the tone for society as a whole.

61. He welcomed the establishment of the State Migration Service and the idea of providing support for the integration of migrants as potential future citizens of Ukraine. He also commended the holding of a seminar on unaccompanied minors.

62. When the issue of vulnerable groups such as the Roma was discussed, the issue of language was sometimes underestimated. He commended the Hague Recommendations of the Organization for Security and Cooperation in Europe (OSCE) regarding the education rights of national minorities, the OSCE Oslo Recommendations regarding the linguistic rights of national minorities, and the recommendations of the First United Nations Forum on Minority Issues. The issue of Roma education was particularly complex. It was unclear which type of school was best suited to the community. Regular schools might be perceived by Roma children as an alien environment and they might be discriminated against by their teachers and classmates. He noted with interest the idea of mediators between schools and communities.

63. While there were few extremist organizations in Ukraine, he would welcome some clarification of the procedures for their registration or disbandment.

64. Social networks on the Internet were governed by the same principles of freedom of speech as the other media, but they raised specific concerns. He doubted whether social media such as Facebook and Twitter were covered by the phrase in article 4 (b) of the Convention concerning propaganda organizations. Other references in article 4 to activities involving propaganda might be more applicable. However, the social media could also play an educational role and one could entertain the hope that sound arguments would win the day. He drew attention in that context to the recent troubles in the United Kingdom, where social networks had eventually played a positive role in bringing people together.

65. He noted that the 2012 European Football Championship had considerable potential for generating inter-ethnic tensions, not only among Ukrainian fans.

66. With regard to Mr. Kut's comments on the Karaites and Krymchaks, he suggested that special measures of the type envisaged under general recommendation No. 32 would be appropriate. The potential for groups that were currently in decline to prosper depended ultimately on the will of their members. Support on the part of the State could turn the tide and a rights-based approach could assist the groups in confronting change. Once the tipping-point was reached, however, it might prove extremely difficult to maintain them as living cultures.

67. The statistical base for ethnic relations should be expanded in a manner consistent with the principles of privacy, anonymity and respect for self-identification.

68. In general, the issues facing the State party were conceptually and practically complex. Ukraine faced many new challenges, including population change. When countries with a relatively stable population began to attract large numbers of immigrants, a host of new issues needed to be addressed. Self-evaluation and constructive engagement with the issues in question were a mark of good governance.

69. **Mr. Maimeskul** (Ukraine) said that Ukraine would maintain a constructive relationship with the Committee and continue to make every effort to comply with its international obligations.

The meeting rose at 12.40 p.m.