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UKRAINIAN SOVIET SOCIALIST REPUBLIC 1/

[1-September 1984]

This report supplements the initial report by the Ukrainian SSR on the exercise in the Republic of the rights and freedoms provided for in the International Covenant on Civil and Political Rights (CCPR/C/1/Add.34). The report is submitted pursuant to article 40, paragraph 1 (b), of the Covenant and to the Human Rights Committee's decision on periodicity (CCPR/C/19/Rev.1).

The Committee's guidelines regarding the form and contents of periodic reports (CCPR/C/20) were taken into account in the preparation of this report. They stress that the aim of such reports is to complete and update the information required by the Committee.

As clearly stated in the Constitution of the Ukrainian SSR, "the principal direction in the development of the political system of Soviet society is the extension of socialist democracy, namely ever broader participation of citizens in managing the affairs of society and the State, continuous improvement of the machinery of State, heightening of the activity of public organizations, strengthening of the system of people's control, consolidation of the legal foundations of the functioning of the State and of public life, greater openness and publicity and constant responsiveness to public opinion" (article 9). Under article 37 of the Constitution, "citizens of the Ukrainian SSR enjoy in full the social, economic, political and personal rights and freedoms proclaimed and guaranteed by the Constitution of the Union of Soviet Socialist Republics, the Constitution of the Ukrainian SSR and by Soviet laws. The socialist system ensures the extension of the rights and freedoms of citizens and the continuous improvement of their living standards as social, economic and cultural development programmes are fulfilled".

These provisions of the Constitution are being consistently and unswervingly applied. The period since the Ukrainian SSR submitted its initial report has been

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1/ For the initial report submitted by the Government of the Ukrainian SSR, see CCPR/C/1/Add.34; for the summary records of meetings of the Committee at which that report was considered, see CCPR/C/SR.153-156, SR.159 and SR.160. See also Official Records of the General Assembly, Thirty-fourth session, Supplement No. 40 (A/34/40), paras. 248-285.

marked by continuing development and strengthening of socialist democracy, further consolidation of the legal foundations of the State and public life of the Republic and the implementation of a policy of steadily fuller satisfaction of people's material, cultural and intellectual requirements and comprehensive safeguarding of their rights and freedoms.

The twenty-sixth Congress of the Communist Party of the Ukraine, in February 1981, set the main targets for the economic and social development of the Ukrainian SSR for 1981-85 and the period up to 1990; chief among them is the further improvement of the people's welfare. This wide-ranging social and economic programme also deals with issues of the guarantee and defence of citizens' rights and freedoms, including those protected by the International Covenant on Civil and Political Rights.

During the period under review, work continued on further improving Ukrainian legislation on the model of the 1977 Constitution of the USSR and the 1978 Constitution of the Ukrainian SSR. A number of all-Union and Republican acts (the former being applicable in the Ukrainian SSR as a member of the Federation) were adopted to guarantee still more fully the rights, freedoms and legal interests of Ukrainian citizens.

The acts on the Procurator's Office of the USSR, the Supreme Court of the USSR, People's Control in the USSR, Citizenship of the USSR, the Legal Status of Aliens in the USSR, and on Work Collectives and the Enhancement of their Role in the Management of Enterprises, institutions and organizations are but a few of the many that could be mentioned in this regard.

Other legislation adopted in accordance with the requirements of the Constitutions of the USSR and the Ukrainian SSR included: an act on elections to the Supreme Soviet of the Ukrainian SSR and another on the Council of Ministers of the Ukrainian SSR; the Rules of Procedure of the Supreme Soviet of the Ukrainian SSR, the Regulations governing the Standing Commissions of the Supreme Soviet of the Ukrainian SSR; acts on the Republic's judicial system on elections to urban district people's courts, on the procedure for the withdrawal of the mandates of people's judges and people's assessors, on the Soviets of People's Deputies at the regional (oblast), district, urban, settlement and village levels, and on elections to local Soviets of People's Deputies; the Regulations on the Legal Profession in the Ukrainian SSR and the Regulations on the organization of work with regard to instructions from electors, etc.

In addition, much was done to improve Ukrainian legislation by making changes and additions, in accordance with established constitutional procedures, to the Criminal Code, the Code of Criminal Procedure, the Civil Code, the Code of Civil Procedure, the Corrective-labour Code, the Code on Marriage and the Family, the Labour Code and laws on individual issues.

Brief details on the new legislation passed in the Ukrainian SSR since the submission of the initial report are given below with reference to individual articles of the International Covenant on Civil and Political Rights.

Information with a direct bearing on the issues covered by the Covenant is also contained in a number of reports submitted by the Ukrainian SSR to the United Nations and United Nations bodies in recent years under various international procedures. This applies in particular to the latest reports by the Ukrainian SSR on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/91/Add.20), the International Convention on

the Suppression and Punishment of the Crime of Apartheid (E/CN.4/1983/24/Add.11), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/5/Add.11) and the International Covenant on Economic, Social and Cultural Rights (E/1978/8/Add.22, E/1980/6/Add.24, E/1982/3/Add.3 and E/1984/7/Add.9). The information transmitted by the Ukrainian SSR to the United Nations pursuant to General Assembly resolution 38/17 of 22 November 1983, concerning the right of peoples to self-determination, and included in the relevant report by the Secretary-General also has a direct bearing on the implementation of article 1 of the Covenant.

#### Article 1 (Right of self-determination)

Soviet power freed the peoples of Russia from social and national oppression and guaranteed them equality and the right of self-determination. By embarking on the course of socialist revolution, Ukrainian workers and peasants created, for the first time in history, their own State, the Ukrainian Soviet Socialist Republic. As a result of the free self-determination of its people on a basis of free will and equality, the Ukrainian SSR joined with the other Soviet Socialist Republics to form the Union of Soviet Socialist Republics, a unified, federal, multinational State.

Under its Constitution, the Ukrainian SSR freely ensures its own economic, social and cultural development (article 72). As a sovereign Soviet socialist State, the Ukrainian SSR has the right to enter into relations with other States, to conclude treaties with them, exchange diplomatic and consular representatives and take part in the activities of international organizations (article 74). The Ukrainian SSR retains the right freely to secede from the Union of Soviet Socialist Republics (article 69). The territory of the Ukrainian SSR may not be altered without its consent (article 70). The Republic institutes legislation on the utilization of land, natural resources, water, forests, etc (article 72).

In its foreign policy, the Ukrainian SSR consistently and unswervingly advocates the immediate realization of the right of peoples to self-determination, the complete elimination of colonialism, racism and apartheid, and national and social progress in an atmosphere of international peace and security.

#### Article 2 (Equality of rights and guarantee of legal protection)

The principle embodied in article 32 of the Ukrainian Constitution of the equality of the rights and before the law of all citizens has been further developed and exemplified in a number of acts passed since 1978 (i.e. since the submission of the initial report). In the Act on the Judicial System of the Ukrainian SSR, of 5 June 1981, it is clearly stated that: "justice is administered in the Ukrainian SSR on the basis of the equality before the law and the courts of all citizens without distinction of origin, social or property status, race or nationality, sex, education, language, attitude to religion, type or nature of occupation, domicile or other factors" (article 5). Article 6 states that citizens of the Ukrainian SSR "have the right to legal protection against infringements of their honour and dignity, their lives and health, their personal freedom and their property".

A Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR dated 12 January 1983 changed the wording of a number of articles of the Criminal Code of the Ukrainian SSR. Article 1, which outlines the aims of the Code, now indicates that one of these aims is to defend not only the rights, but also the freedoms of citizens. A similar alteration was made to article 7 of the Code, "citizens' freedoms" having been added to the list of interests which it is a criminal offence to infringe. The same changes have been made in the corresponding articles of the Code of Criminal Procedure and the Code of Civil Procedure.

A number of laws passed in the Ukrainian SSR in recent years have developed the constitutional principle that the defence of citizens' rights and freedoms must be guaranteed by all State bodies. For example, under the Act on the Council of Ministers of the Ukrainian SSR, of 19 December 1978, the defence of citizens' rights and freedoms and the creation of favourable conditions for the all-round development of the personality are among the main areas of activity of the Council (article 2). The obligation of the relevant State bodies to defend citizens' rights and legal interests is also embodied in the Act on Village Soviets of People's Deputies (articles 4 and 25), the Act on Soviets of People's Deputies at the Settlement Level (articles 4 and 25), the Act on Soviets of People's Deputies at the Urban and Urban District Levels (articles 4 and 30) and the Act on District Soviets of People's Deputies (articles 4 and 30), all of which are dated 13 December 1979, and the Act on Soviets of People's Deputies at the Regional (oblast) Level (articles 5 and 30), which is dated 31 October 1980.

The Regulations in the Legal Profession of the Ukrainian SSR, adopted on 31 October 1980, states that the legal profession "shall further the defence of the rights and legal interests of citizens and organizations, the administration of justice, compliance with and the strengthening of socialist legality, and the education of citizens in a spirit of strict and unswerving application of Soviet laws, concern for the common good, and respect for labour discipline, the rights, honour and dignity of other persons and the rules of socialist community life" (article 1). In accordance with the humanitarian and democratic principles of Soviet law, these Regulations require the colleges of advocates to give free legal assistance in relation to: applications for alimony; employment problems; compensation for serious injury or adverse effects on the health connected with work, and compensation in connection with the death of a breadwinner; the drawing up of applications for pensions and allowances; legislative questions (the assistance taking the form of consultations with deputies of Soviets of People's Deputies and representatives of some public organizations). Legal counsel is also free in some other cases provided for in law. In addition, citizens may be fully or partly exempted from legal fees because of their financial position.

Under article 2 of the All-Union Act of 30 November 1979 on the Procurator's Office of the USSR, one of the main tasks of the Soviet Procurator's Office is to defend citizens against infringement of their social, economic, political and personal rights and freedoms, as proclaimed and guaranteed by the USSR Constitution and Soviet law. In order to fulfil this task, the Procurator's Office has the necessary powers both as regards general supervision of the application of the law by State management bodies, enterprises, institutions, organizations, officials and private citizens and as regards monitoring of compliance with the law by organs of inquiry and preliminary investigation, in court proceedings, in places where detainees and those awaiting trial are held, in the execution of sentences, etc.



Article 10 states that procurators are obliged to examine proposals, applications and complaints from citizens, State organizations and public organizations and to take action to restore rights which have been infringed and to defend the legal interests of citizens and organizations.

Detailed regulations concerning the principle laid down in article 56 of the Constitution of the right of citizens to lodge complaints about the actions of officials and State or public bodies are to be found in the revised version (approved on 4 March 1980) of the Decree by the Presidium of the Supreme Soviet of the USSR on the procedure for examining proposals, applications and complaints from citizens. The Decree establishes the procedures for submitting and investigating complaints, and evaluating the circumstances, together with the procedure and time schedule for decisions on complaints and the procedure for appealing against such decisions. It also provides that contravention of the procedure for examining appeals, adoption of an excessively bureaucratic attitude to them or persecution of citizens for submitting appeals or expressing criticism in them will entail, in the manner prescribed by law, the legal liability of the officials responsible (article 15). The new form of the Decree is designed to strengthen even further the democratic foundations of Soviet society and to ensure more sympathy and attention to the needs and wishes of the workers.

Another important factor in guaranteeing citizens' rights and freedoms is the system of people's control, which combines State control with public control over enterprises, collective farms, institutions and organizations. Under the Act on People's Control in the USSR, adopted on 30 November 1979, this control is exercised by organs of people's control which are set up by the Soviets of People's Deputies or elected by work collectives. In article 4 of that Act, it is clearly stated that "the activities of the organs of people's control shall be based on strict observance of socialist law and further the preservation of law and order and of the interests of society and the rights and freedoms of citizens". The organs of people's control have wide-ranging powers to ensure that they are able effectively to participate in the defence of citizens' rights.

As already noted in the initial report, the existing legislation provides for the defence of citizens' rights not only in the courts, but also in administrative matters. These rights are also defended by "comrades' courts", trade unions and other social organizations and work collectives.

### Article 3 (Equal rights of men and women)

Detailed information concerning article 3 of the Covenant and all issues relating to the status of women in the Ukrainian SSR is contained in the first national report of the Ukrainian SSR on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/5/Add.11). That report was considered by the Committee on the Elimination of Discrimination against Women at its second session, in August 1983.

As for changes in the relevant laws of the Ukrainian SSR since the submission of the initial report, it should be noted that the provisions of the Constitution on universal, equal and direct suffrage (articles 84-8 and 150 of the Constitution), have been further developed in a number of Acts which state explicitly that women and men have equal voting rights. This is made particularly clear in the Act on

Elections to the Supreme Soviet of the Ukrainian SSR (article 3), of 19 December 1978, the Act on Elections to Local Soviets of People's Deputies in the Ukrainian SSR (article 3), of 27 June 1979, and the Act on Elections to Urban District People's Courts in the Ukrainian SSR (article 3), of 5 June 1981.

Women play an active part in the political life of the Republic and the management of State affairs. Two hundred and thirty-four women have been elected deputies of the Supreme Soviet of the Ukrainian SSR; they constitute 35.9 per cent of the total number of deputies. A woman is a vice-chairman of the Presidium of the Supreme Soviet of the Ukrainian SSR and another is a vice-chairman of the Council of Ministers. The Ministry for Social Security and the State Committee for the Protection of the Environment are headed by women. More than 30 per cent of the people's judges in the Republic are women.

There are always women delegates in Ukrainian delegations to the United Nations General Assembly and other international forums, and women often lead delegations at international conferences and represent the Ukrainian SSR in United Nations bodies.

As indicated in the initial report, the Constitution of the Ukrainian SSR not only confirms that women and men have equal rights, but also gives women equal opportunities with men for work and social, political, cultural and other activities. In order to ensure equality not only in law, but also in fact, the laws of the Republic provide for special measures (i.e. measures applicable only to women) to protect their work and their health and to create conditions enabling women to combine work and other socially useful functions with having children. Such measures are laid down in chapter XII of the Labour Code of the Ukrainian SSR and in a number of separate decisions and ordinances made by State and public bodies.

In a Decision dated 29 April 1980, the State Labour and Social Affairs Committee of the USSR and the All-Union Central Council of Trade Unions endorsed the Regulations concerning the procedure and conditions for the part-time employment of women who have children. In accordance with these Regulations, the working day for such women may be reduced to four hours and the working week to 20-24 hours.

Another set of important measures to create more favourable conditions for mothers to look after their children is outlined in the Decision dated 22 January 1981, of the Central Committee of the Communist Party of the Soviet Union and the USSR Council of Ministers, on measures to strengthen State aid to families with children and in the corresponding Decisions of the Central Committee of the Communist Party of the Ukraine and the Council of Ministers of the Ukrainian SSR of 14 April 1981. These Decisions extend the period of paid maternity leave, provide for additional leave and increase the allowances paid on the birth of a child and the allowances for single mothers. The corresponding changes in the Labour Code of the Ukrainian SSR were made by a Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR dated 24 January 1983.

#### Article 6 (Right to life)

The Ukrainian SSR considers that the whole range of human rights covered by the International Covenants will be pointless unless everyone on Earth is guaranteed

the chance to live in peace and security, free of the threat of war and unless the paramount right of every human being - the right to life - is secured. Any violation of this right, whether it be the planning, preparation or starting of a war, constitutes a serious crime against humanity.

The Ukrainian SSR considers that the United Nations activities in the field of human rights cannot be viewed in isolation from the efforts being made by peace-loving States to achieve the primary aim of the Organization, the maintenance of international peace and security. This consideration is particularly urgent at the present time, in view of the noticeable increase in international tension and the accompanying escalation of the arms race and heightening of the danger of war. In these circumstances, the greater the joint efforts to reinforce peace, curb the arms race and avert the threat of nuclear war, the more favourable the conditions will be for the extension of international co-operation in the realization of human rights and fundamental freedoms.

Motivated by this basic belief, the Ukrainian SSR has supported all main decisions by the United Nations and its organs aimed at ensuring peace, avoiding nuclear disaster and guaranteeing everyone's right to life.

As regards Ukrainian law on liability for crimes against life and the application in exceptional cases of capital punishment, a sufficiently detailed account is contained in the initial report. There have been no changes in this area of law since 1978.

#### Article 7 (Torture or cruel, inhuman or degrading treatment or punishment)

As indicated in the initial report, Ukrainian legislation forbids all forms of cruel treatment. It should be noted in addition that, in a Decree dated 16 April 1984, the Presidium of the Supreme Soviet of the Ukrainian SSR approved a new version of article 22 of the Code of Criminal Procedure of the Ukrainian SSR, which reads: "It is forbidden to elicit evidence from an accused person or other persons involved in a case by means of violence, threats or other unlawful measures".

#### Article 8 (Prohibition of slavery, the slave-trade and forced labour)

As indicated in the initial report, there is no slavery, nor any slavery-like practice, in the Ukrainian SSR.

The issue of the role of labour in socialist society is covered in article 14 of the Constitution of the Ukrainian SSR, where it is stated that the unexploited labour of Soviet people is the source of the growth of social wealth and of the well-being of the people as a whole and of each individual and that it is socially useful labour and its results which determine a person's status in society.

The provisions of the Constitution on the right of every citizen freely to choose a profession (article 38) have been amplified in the new version of article 2 of the Labour Code, which states: "The right of citizens of the Ukrainian SSR to work (i.e. to guaranteed employment and pay in accordance with the quantity and quality of their work and not below the State-established minimum) includes the

right to choose their trade or profession, type of job and work in accordance with their inclinations, abilities, training and education, taking due account of the needs of society. This right is ensured by the socialist economic system and the steady growth of the productive forces, by free vocational and professional training, improvement of skills and training in new trades or professions, and by development of the systems of vocational guidance and job placement.

Manual and non-manual workers exercise their right to employment by signing a contract of employment at an enterprise, establishment, institution or organization. They have the right to rest and leisure in accordance with the laws on the working day and working week and annual paid leave, the right to healthy and safe working conditions, the right to join trade unions and take part in the management of production and the right to material assistance from the State in the form of State social insurance for old age, illness or complete or partial disability.

More detailed information on all questions concerning the realization of the right to work in the Ukrainian SSR is contained in the second periodic report of the Ukrainian SSR on the implementation of articles 6-9 of the International Covenant on Economic, Social and Cultural Rights (E/1984/7/Add.9). That report was considered by an Economic and Social Council sessional working group in April 1984.

#### Article 9 (Right to liberty and security of person)

As indicated in the initial report, the provisions of the Constitution relating to freedom from arbitrary arrest and the inviolability of the person (article 52) are widely backed up in Ukrainian legislation and steadfastly applied in practice.

Organs of the Procurator's Office are responsible for supervision of the implementation of this constitutional regulation. The all-Union Act on the Procurator's Office of the USSR, adopted on 30 November 1979, introduced improvements to the previous legislation (cf. also the comments above on article 2 of the Covenant). Under article 28 of the Act, the Procurator's Office is required to ensure, in particular that:

The holding of citizens on suspicion of having committed offences complies with the procedure and principles laid down by law;

No one is required to answer unlawful or unfounded criminal charges or suffer any other unlawful restriction of his or her rights;

No one is arrested without a court order or a procurator's warrant;

The procedures laid down by law for the initiation of criminal proceedings and for the conduct of criminal investigations, the time-limits for such investigations and the rights of participants in the proceedings and of other citizens are respected.



In the investigation of offences, the legal requirements for a thorough, full and objective investigation of all the circumstances of the case are complied with and evidence both for and against the accused, as well as aggravating and mitigating circumstances, are examined.

In article 30 of the Act, it is stated that the procurators shall authorize the arrest of a suspected or accused person only on presentation of the evidence required by law. The same article contains a precise list of the officials of the Procurator's Office who are empowered to authorize arrest. The Act requires procurators to order the immediate release of any person unlawfully held in detention, unlawfully detained pending the bringing of charges or unlawfully remanded in pre-trial custody, etc. (article 43).

The right to compensation of those subjected to unlawful arrest or detention, as laid down in article 9, paragraph 5, of the Covenant, is not only upheld in the Constitution (article 56) but has been further developed in law. On 18 May 1981, the Presidium of the Supreme Soviet of the USSR adopted a Decree on compensation for damage caused to citizens by the unlawful actions of State and public organizations and of officials in the performance of their duties. This Decree also ratified the Regulations on the procedure for compensation for damage caused to citizens by the unlawful actions of organs of enquiry or preliminary investigation, the Procurator's Office or the court.

Pursuant to these legislative acts, damage caused to a citizen as a result of unlawful conviction, unlawful indictment in criminal proceedings or unlawful arrest or detention in custody must be fully compensated by the State irrespective of the culpability or otherwise of officials of the organs of inquiry or preliminary investigation, the Procurator's Office or the courts. Citizens are compensated (through the payment of earnings, pensions or allowances, the return of or compensation for seized or confiscated property, compensation for fines imposed, court costs, legal fees, etc.) for material damage and (through return to the same or equivalent work or functions, housing, military rank or civilian position, the restoration of orders and medals and the voiding of defamatory information or published material) for the loss of employment, pension, housing and other rights. Other damage is also compensated.

In the event of acquittal, withdrawal of criminal or administrative proceedings, the organ of enquiry or preliminary investigation, the Procurator's Office or the court is obliged to explain to the citizen who was under investigation the procedure for obtaining restoration of his or her rights and compensation for any other damage. The same bodies must, within one month of the citizen's request, define the amount of compensation due.

If a request for the restoration of employment, pension or housing rights is not complied with or the citizen concerned disagrees with a decision, he or she has the right to apply to the courts by bringing an action. In such cases, the citizen is exempted from court costs.

Article 10 (Right of persons deprived of their liberty to humane treatment and respect for human dignity)

In article 3 of the Act of 5 June 1981 on the judicial system of the Ukrainian SSR it is emphasized that a court's aim in imposing criminal penalties is not merely to punish criminals, but also to reform and re-educate them. Under article 1 of the corrective Labour Code of the Ukrainian SSR, punishment "is not intended to inflict physical suffering or degrade human dignity".

Further to the information given in the initial report, mention may be made of a number of changes in Ukrainian law that provide for more widespread use of criminal penalties not involving deprivation of liberty. Such changes were, in particular, made in the Criminal Code by a Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR dated 12 January 1983. In accordance with the new version of article 46 of the Code, a court may, when sentencing a first offender to imprisonment for a period not exceeding three years and depending on the nature and degree of the threat to society involved in the offence, the personality of the convicted person and other circumstances of the case, suspend execution of the sentence for between one and two years. It is then required, when the period of suspension is over, to take into account the behaviour of the convicted person and his or her attitude to work or training during that period and to decide either to waive or to enforce the sentence.

The changes which have been made in Ukrainian criminal law provide for a more varied approach to offenders according to their personality and the threat to society involved in their crimes. Hence, the system of suspended sentences, which allows for the reform and re-education of offenders without isolating them from society, has been further developed. Offenders given suspended sentences must now satisfy two basic requirements throughout their periods of probation: they must refrain from new crimes of any kind (not merely from premeditated crimes, as used to be the case) and they must be of exemplary behaviour and work hard. If these requirements are not met, the court may lift the suspension and direct the offender to serve the original sentence (article 45). In addition, corrective labour or fines have been introduced as alternatives to deprivation of liberty for many criminal offences.

In a Decree dated 22 June 1984, the Presidium of the Supreme Soviet of the Ukrainian SSR ratified the Regulations on procedure and conditions for the execution of criminal sentences that do not involve corrective labour. The Regulations govern the enforcement of penalties such as deprivation of the right to occupy certain positions or perform certain activities, fines, public censure, confiscation of property, removal from military or special rank and removal of parental rights. The basis for the execution of such penalties is a court judgement which has become enforceable (article 2); responsibility for supervising the execution lies with the procurator concerned (article 4).

Pursuant to a Decree of 13 August 1981 of the Presidium of the Supreme Soviet of the USSR on amendments and additions to the Fundamental Principles of Corrective-Labour legislation of the USSR and the Union Republics, corrective-labour institutions must organize compulsory general secondary education for young offenders and compulsory eight-year general education for convicted persons under the age of 40.

Article 11 (Prohibition of imprisonment on the ground of inability to fulfil a contractual obligation)

As indicated in the initial report, the legislation of the Ukrainian SSR makes no provision for imprisonment on the ground of inability to fulfil any contractual obligation, and no such cases have ever been brought before the courts.

Article 12 (Freedom of movement and choice of residence; right to leave any country)

As indicated in the initial report, citizens of the Ukrainian SSR enjoy freedom of movement, free choice of residence and other rights meeting the requirements of article 12 of the Covenant.

Article 13 (Expulsion of aliens)

In addition to the information provided in the initial report, it should be noted that the Act on the Legal Status of Aliens in the USSR, of 24 June 1981, specifies the circumstances in which aliens may be expelled (deported) from the USSR. Under article 31 of the Act, aliens may be expelled if their activities jeopardize State security or public order; if expulsion is necessary to protect the health and morals of the population or to safeguard the rights and legitimate interests of USSR citizens and other persons; if they have grossly violated legislation concerning the legal status of aliens in the USSR or Customs, currency or other Soviet legislation.

Article 14 (Equality of all citizens before the courts; right to a fair hearing)

The provisions of the Constitution on the equality of citizens before the law and the courts (article 154) have been further developed and exemplified in Ukrainian legislation.

Article 5 of the Act on the Judicial System of the Ukrainian SSR, of 5 June 1981, states that: "Justice in the Ukrainian SSR is administered on the basis of the equality of citizens before the law and the courts, irrespective of origin, social or property status, race or nationality, sex, education, language, attitude to religion, type or nature of occupation, domicile or other factors". Similar principles are contained in the new version of article 6 of the Code of Civil Procedure of the Ukrainian SSR ratified by a Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR dated 23 January 1981, and in the new version of article 16 of the Code of Criminal Procedure of the Ukrainian SSR ratified by a Decree dated 16 April 1984.

The Decree of 16 April 1984 also brought articles 15 and 21 of the Code of Criminal Procedure of the Ukrainian SSR into line with the constitutional principle that "no one may be found guilty of a crime and subjected to punishment under criminal law except by the sentence of a court and in conformity with the law". In the new version of article 21, the words "a defendant has the right to legal defence" have been replaced by "a defendant is guaranteed the right to legal defence". The obligation to provide such defence is incumbent on the court, the procurator, the investigator or the person carrying out the inquiry.

Also of relevance to the realization of defendants' right to legal defence are the Regulations on the Legal Profession in the Ukrainian SSR, adopted on 31 October 1980 (see comments above on article 2 of the Covenant).

It should also be noted that a Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR of 16 April 1984 added to the provisions of article 20 of the Code of Criminal Procedure on public hearings in court. This Decree formally established a principle long observed in practice, that hearings in camera should be conducted in accordance with all the usual rules of legal procedure.

An important factor in the safeguarding of the right to a fair hearing by a competent, independent and impartial tribunal (article 14, paragraph 1, of the Covenant) is the Act of 5 June 1981 on the procedure for the withdrawal of the mandates of people's judges and people's assessors of urban district people's courts of the Ukrainian SSR. This Act reflects the constitutional principle that judges and people's assessors, as elected officials, are answerable to the electors or electing bodies, must report back to them and may be relieved of their duties by them. Under the Act, judges and assessors may be relieved of their duties by a majority decision of the electors if they have not justified the trust placed in them or have acted in a way unworthy of the high office of people's judge or people's assessor.

The Fundamental Principles of Legislation of the USSR and the Union Republics concerning Breaches of Administrative Law were adopted on 23 October 1980. As emphasized in article 1, one of the main aims of this piece of legislation is to protect the social, economic, political and personal rights and freedoms of citizens. Under article 5, "no one may be subjected to any penalty in connection with breaches of administrative law except on grounds and in the manner established by law. Proceedings in connection with such violations shall be conducted in strict accordance with the rules of socialist law". Article 35 of the Principles states that a person being investigated in connection with a breach of administrative law has the right to study the materials of the case, give explanations and submit evidence and petitions; when the case is heard, he has the right to the services of legal counsel, the right to speak in his native language and the right to the services of an interpreter if he does not know the language in which the case is conducted; he also has the right to appeal against the decision. Cases are heard in public (article 36). Appeals against decisions in such cases may be lodged by the persons against whom the decisions are made or by the Procurator's Office (article 39).

Article 17 (Freedom from arbitrary interference with privacy,  
inviolability of the home and correspondence)

The provisions of the Constitution on the inviolability of the home (article 53) and the protection of citizens' private life (article 54) have been further developed in Ukrainian legislation. A Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR of 16 April 1984 added to the Code of Criminal Procedure of the Ukrainian SSR a new article reading:

"Citizens are guaranteed inviolability of the home. No one may, without lawful ground therefor, enter any dwelling against the will of those living in it.

The private life of citizens and secrecy of correspondence, telephone conversations and telegraphic communications are protected by law.

Searches, confiscation or inspection of correspondence in citizens' homes, seizure of mail and its confiscation from post-office premises are permissible only on the grounds and according to the procedure established by this Code".

Article 131 of the Criminal Code of the Ukrainian SSR now recognizes as a criminal offence violation of the secrecy of telephone conversations or of telegraphic communications; it previously recognized only violations of the secrecy of correspondence (Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR dated 12 January 1983). The same Decree established a new version of article 125 of the Criminal Code, whereby defamation, i.e. the spreading of deliberate and damaging fabrications, is made a criminal offence. The article contains a separate paragraph dealing with the offence of defamation in print or by other means of reproduction.



A Decree of the Supreme Soviet of the Ukrainian SSR dated 23 January 1981 established a new version of article 187 of the Code of Civil Procedure. A provision concerning the secrecy of telegraphic communications was added to the article; it provides that, in order to preserve the secrecy of correspondence and telegraphic communications, citizens' personal correspondence and telegraphic communications of citizens may not be read out in open court except by agreement of the senders and recipients. If such agreement is not forthcoming, the correspondence or communications shall be heard and considered in camera.

In a Decree dated 18 May 1981, the Presidium of the Supreme Soviet of the Ukrainian SSR ratified the Regulations on the procedure for compensation for damage caused to citizens by the unlawful actions of organs of inquiry or preliminary investigation, the Procurator's Office or the court (cf. comments above on article 9 of the Covenant). Under article 10 of the Regulations, these bodies must, on application by a citizen who has been rehabilitated, give written notice of the rehabilitation to the citizen's work collective or the social organization at the citizen's place of residence within a period of one month. If information has been published in the press concerning such a citizen's conviction, prosecution, detention in custody as a preventive measure or subjection to an administrative penalty, the journals concerned must, at the request of the citizen or his or her relatives, publish an appropriate rehabilitatory notice within a period of one month.

Article 18 of the Act on the Legal Status of Aliens in the USSR, of 24 June 1981, provides that aliens shall be guaranteed inviolability of the person and home and of other personal rights in accordance with Soviet legislation.

#### Article 18 (Right to freedom of thought, conscience and religion)

There have been no changes in Ukrainian legislation on this issue. All Ukrainian citizens are guaranteed freedom of conscience, i.e. "the right to profess or not to profess any religion, and to conduct religious worship or atheistic propaganda. Incitement of hostility or hatred on religious grounds is prohibited. The Church is separated from the State and the school from the Church" (Constitution of the Ukrainian SSR, article 50). The constitutional guarantee of freedom of conscience in the Ukrainian SSR is spelt out in the Regulations on religious associations in the Ukrainian SSR, which were ratified by a Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR on 1 November 1976.

The Act on the legal status of aliens in the USSR, of 24 June 1981, provides that "aliens in the USSR, like citizens of the USSR, shall be guaranteed freedom of conscience" (article 16). The same article expressly prohibits "incitement of hostility and hatred in connection with religious beliefs",

#### Article 19 (Right to hold and express opinions without interference)

There have been no changes in Ukrainian legislation on this issue. The following principle of the Constitution is being consistently applied in practice:

"In accordance with the interests of the people and in order to strengthen and develop the socialist system, citizens are guaranteed freedom of speech, the press, assemblies, meetings, street processions and demonstrations. Exercise of these political freedoms is ensured by putting public buildings, streets and squares at the disposal of the working people and their organizations, by broad dissemination of information and by the opportunity to use the press, television and radio" (article 48).

Article 20 (Prohibition of propaganda for war and racial hatred)

In addition to the information contained in the initial report, it should be noted that article 28 of the Constitution of the Ukrainian SSR expressly states that "in the Ukrainian SSR, war propaganda is banned".

In connection with article 20, paragraph 2, of the Covenant, it is appropriate to cite article 62 of the Constitution, which states that "it is the duty of every citizen of the Ukrainian SSR to respect the national dignity of other citizens and to strengthen the friendship of the nations and nationalities of the multinational Soviet State" and article 67, which states that "it is the internationalist duty of citizens of the Ukrainian SSR to promote friendship and co-operation with peoples of other lands and to help maintain and strengthen world peace".

Article 21 (Right of peaceful assembly)

As already indicated in the comments above on article 19 of the Covenant, citizens of the Ukrainian SSR are guaranteed freedom of assembly, meetings, street processions and demonstrations (article 48 of the Constitution). In addition to the guarantees expressly given in the article, these freedoms are ensured by measures provided for in other articles of the Constitution. The following provisions of the Constitution are, for example, directly relevant to the right of peaceful assembly: those proclaiming the right of work collectives to take part in discussing and deciding State and public affairs (article 8), the extension of openness and constant responsiveness to public opinion (article 9), the right of citizens to participate in the management of State and public affairs (article 46), the right to submit proposals for improving the activities of State and public bodies and to criticize shortcomings in their work (article 47), the right to associate in public organizations (article 49), the right to campaign at election time (article 89), etc.

It should also be noted that the wide-ranging powers invested, in accordance with the Act on Work Collectives and the Enhancement of their Role in the Management of Enterprises, Institutions and Organizations, of 17 June 1983, in all work collectives, are directly realized by public meetings of the collectives in enterprises, institutions and organizations.

Article 22 (Freedom of association)

The constitutional right of Ukrainian citizens to freedom of association, including the right to form trade unions and join them, was examined in detail in the initial report. It should be noted in addition that more detailed information on the rights and activities of trade unions in the Ukrainian SSR is to be found in the second periodic report on the implementation of articles 6-9 of the International Covenant on Economic, Social and Cultural Rights (E/1984/7/Add.9), which was considered by an Economic and Social Council sessional working group in April 1984.

Article 15 of the Act on the Legal Status of Aliens in the USSR, of 24 June 1981, grants to aliens permanently resident in the USSR the right to join trade unions, co-operative organizations, scientific, cultural and sporting associations and other public organizations on the same basis as citizens of the USSR, provided that this is not contrary to the statutes of those organizations.

Articles 23 and 24 (Protection of the family and the child)

All questions relating to State protection of the family and the child are fully covered in the initial report. A Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR dated 1 September 1980 established new versions of various articles of the Code on Marriage and the Family in the Ukrainian SSR. Article 4, for example, now states that "all citizens have equal rights in their family relations. There shall be neither any direct or indirect limitation of these rights, nor any direct or indirect creation of privileges upon marriage or in family relations on the grounds of origin, social or property status, race or nationality, sex, education, language, attitude to religion, type or nature of occupation, domicile or other factors".

Under Article 6 of the Code, "the family enjoys the protection of the State. The State helps the family by providing and developing an extensive system of maternity homes, nurseries and kindergartens, organizations, boarding-schools and other institutions for children, organizing and improving communal services and public catering, paying birth grants and providing children's allowances and benefits for single mothers and large families and other forms of family allowances and assistance.

Motherhood is held in universal esteem and respect and is protected and encouraged by the State. The interests of mothers and children are protected by special measures to protect women's work and health and to create conditions enabling women to combine work and motherhood. The State further provides legal protection and material and moral support for mothers and children, including paid pregnancy and maternity leave and other benefits for pregnant women and women with children".

Detailed information on many questions relating to the protection of mothers and children can also be found in the Ukrainian report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW/C/5/Add.11), which was considered by the Committee on the Elimination of Discrimination against Women at its second session in August 1983.

The question of the acquisition of citizenship by children is covered in detail in the Act on Citizenship of the USSR, of 1 December 1978 (articles 11-14 and 20-25). The Act states in particular that a child born in Soviet territory to stateless persons permanently resident in the USSR shall be a citizen of the USSR (article 13). Under article 14, a child of unknown parents who is resident in USSR territory shall be a citizen of the USSR. If, however, one of a child's parents is a citizen of the USSR and the other a stateless person or unknown, that child shall be a citizen of the USSR irrespective of its place of birth (article 12).

Article 25 (The right to take part in the conduct of public affairs)

Article 46 of the Constitution lays down the right of citizens to take part in the management of State and public affairs and in the discussion and adoption of laws and measures of all-Union and local significance, and this right has been further developed elsewhere. It is ensured by the opportunity to elect and to be elected to Soviets of People's Deputies and other elective State bodies, to take part in nationwide discussions and referenda, in the system of people's control, in the work of State bodies, public organizations and local community groups and in meetings at places of work or residence.

The Act of the Supreme Soviet of the Ukrainian SSR of 31 October 1980 on Soviets of People's Deputies at the regional (oblast) level (article 4), like the Acts of 13 December 1979 on district Soviets of People's Deputies (article 4), urban and urban district Soviets of People's Deputies (article 4), Soviets of People's Deputies at the settlement level (article 6) and village Soviets of People's Deputies (article 6), states that the activities of these bodies are based on collective, free and constructive discussion and resolution of issues, openness, systematic reporting by their officials and the extensive involvement of citizens in their work.

Article 2 of the statutes of the Supreme Soviet of the Ukrainian SSR, which were adopted on 25 March 1980, also states that the activities of this, the supreme organ of State power in the Republic, are based on "extensive involvement of citizens in the management of State and public affairs and constant responsiveness to public opinion".

One important way in which democracy is exercised, the will and interests of the people are reflected and citizens take a direct part in the management of State and public affairs is the system of electors' instructions, i.e. socially valuable instructions approved by pre-election meetings and given by electors to their People's Deputies. These instructions are intended to improve the work of the Soviets of People's Deputies in directing State, economic, social and cultural development, ensuring comprehensive economic and social progress in the areas under their jurisdiction and satisfying the growing material and intellectual needs of the people. On 30 September 1981, a Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR ratified the Regulations on the organization of work with regard to instructions from electors; these Regulations state that such instructions must be taken into account at all levels of management in the establishment of draft economic and social development plans (article 19). When reporting back to the electors who nominated him, a deputy must tell them how the instructions are being carried out (article 32). Work on carrying out electors' instructions is effected with great openness and publicized in the press, on radio and television, etc.

On 27 June 1979, the Supreme Soviet of the Ukrainian SSR adopted new versions of the Act on the procedure for withdrawing the mandates of deputies of the Supreme Soviet of the Ukrainian SSR and the Act on the procedure for withdrawing the mandates of deputies of the Soviets of People's Deputies at the regional (oblast), district, urban, urban district, settlement and village levels. Since the right to withdraw a deputy's mandate is an expression of the sovereignty of the people and guarantees that deputies are truly accountable to their electors, these Acts provide that a deputy may be dismissed from office at any moment by the decision of a majority of the electors in the constituency concerned if he or she has not justified the electors' trust or has acted in a way incompatible with the exalted title of deputy.

Another important constitutional way of exercising socialist democracy and an effective method of involving the people in the management of State and public affairs is the system of people's control. The Act on People's Control in the USSR, adopted on 30 November 1979, provides that, in the Soviet State, which expresses the will and interests of the entire people, the right of control belongs to the people itself. People's control extends to economic life and social and cultural growth, to production and distribution and to the activities of the State apparatus; it plays an important part in realizing the tasks and functions of the Soviet State, which is a State of all the people. The



activities of the organs of people's control are based on the initiatives and socialist conscience of the Soviet people. The existence of such organs is intended to develop in citizens a feeling of responsibility for the affairs of society as a whole. The Act lays down the basic tasks and lines of action of the organs of people's control and the principles behind their work. It states in particular that the activities of organs of people's control shall be based on strict observance of socialist legality and contribute to the preservation of law and order, the interests of society and citizens' rights and freedoms (article 4).

One important aspect of people's control is the monitoring of officials' compliance with Soviet law when examining proposals, applications and complaints by citizens (article 3).

People's control committees enjoy a number of rights of the kind recognized to the State: they are entitled to punish culpable officials, impose fines and dismiss from their functions persons who have committed gross contraventions of State discipline or legislation, are responsible for bureaucracy and red tape or have caused serious damage to the interests of the State, organizations or citizens (article 22).

People's control committees consider proposals, applications and complaints by citizens, take steps to resolve the issues raised therein and interview citizens (article 19).

The Act on Work Collectives and the Enhancement of their Role in the Management of Enterprises, Institutions and Organizations was adopted on 17 June 1983. It recognizes to work collectives the right to take part in the discussion of and decision-making on State and public affairs and in the management of enterprises, institutions and organizations. Under article 5 of the Act, work collectives are entitled to examine proposed laws, nominate candidates as deputies of State organs and People's Judges, elect the people's assessors of urban district people's courts and recall them if they have not justified the trust of the electors. They may also raise the question of recalling deputies of the Soviets of People's Deputies and discuss other questions relating to State and public life. Work collectives have wide-ranging powers as regards economic and social development planning, the conclusion of collective agreements concerning conditions of employment, the maintenance of working discipline, the organization, standardization and remuneration of labour, the training and placement of personnel, the improvement and safety of working conditions, the improvement of workers' social, cultural and living conditions, etc.

#### Article 26 (Protection against discrimination)

As indicated in the initial report, social, economic and all other prerequisites and conditions for the existence of any type of discrimination or oppression have been eliminated in the Ukrainian SSR.

Article 32 of the Constitution states that "citizens of the Ukrainian SSR are equal before the law without distinction of origin, social or property status, race or nationality, sex, education, language, attitude to religion, type or nature of occupation, domicile or other factors.

The equal rights of citizens of the Ukrainian SSR are guaranteed in all fields of economic, political, social and cultural life.

Article 34 of the Constitution provides that "citizens of the Ukrainian SSR of different races and nationalities have equal rights.

Exercise of these rights is ensured by a policy of all-round development and rapprochement of all the nations and nationalities of the USSR, by educating citizens in the spirit of Soviet patriotism and socialist internationalism and by giving them the opportunity to use their native language and the languages of other peoples of the USSR.

Any direct or indirect limitation of the rights of citizens or any establishment of direct or indirect privileges on grounds of race or nationality, and any advocacy of racial or national exclusiveness, hostility or contempt, are punishable by law".

These provisions of the Constitution have been reflected and extended in all areas of Ukrainian legislation and are consistently applied in practice. Detailed information on legislative and other measures being taken in the Ukrainian SSR to prohibit and prevent all forms of racial or other discrimination or inequality is given in the country's periodic reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, the seventh and latest of which (CERD/C/91/Add.20) was considered by the Committee on the Elimination of Racial Discrimination at its twenty-seventh session, in March 1983. Information on the same subject is also contained in the periodic reports of the Ukrainian SSR relating to the International Convention on the Suppression and Punishment of the Crime of Apartheid, the third and latest of which (E/CN.4/1983/24/Add.11) was considered by the Group of Three of the Commission on Human Rights in January 1983.

The principle of equality and non-discrimination is also dealt with in the comments above on articles 2 and 14 of the Covenant.

#### Article 27 (Rights of minorities)

Questions relating to the guarantee of the equality of national and other minorities were considered in detail in the initial report (cf. also the comments above on article 26 of the Covenant).