Information of the Ukrainian Parliament Commissioner for Human Rights to the United Nations Human Rights Committee within the framework of consideration of the 7th periodic report of Ukraine on the observance of the International Covenant on Civil and Political Rights

The institution of the Ombudsman of Ukraine was established in 1998 and since 2009 has been accredited with an “A” status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (full compliance with Paris Principles). The Ombudsman is elected by the Parliament of Ukraine by a secret ballot vote for a 5-year term and is independent from all branches of power. The Ombudsman’s mandate covers all categories of human rights and freedoms, envisages broad authorities. For 15 years the Ombudsman of Ukraine has received more than 1,3 million petitions from people asking to protect their human rights and freedoms.

On 27 April 2012 the Parliament elected Ms. Valeriya Lutkovska to take the office of the Ukrainian Parliament Commissioner for Human Rights. For the last year a number of serious steps have been undertaken to improve the work of the institution, namely:

– the institute of representatives of the Ombudsman upon specific directions was introduced: for realization of the national preventive mechanism, for observance of social-economic and humanitarian rights, for observance of rights of a child, nondiscrimination and gender equality, for observance of rights in the field of information law, for communications policy and public relations.

– Strategic Plan of Action of the Ukrainian Parliament Commissioner for Human Rights for 2013-2017 was elaborated and approved with the aim of more effective realization of institution’s capacity, defining the ways of its development, planning its work and achieving the set goals.

– The policy of openness and transparent communications with civil society and NGOs is being effectively implemented. On 10 July 2012 for the first time was created and is operating the Advisory Council under the Ukrainian Parliament Commissioner for Human Rights. Among the members of the Advisory Council are 28 representatives of civil society, human rights NGOs and international organizations. There are also 6 expert groups that function within the framework of the Advisory Council. The system of advisory bodies was also established under the representatives of the Ombudsman.

At the end of March 2013 the Expert Group on monitoring of the activity of the Ombudsman of Ukraine, established by a decision of the abovementioned Advisory Council, published its report on the results of the activity of the Secretariat of the Ukrainian Parliament
Commissioner for Human Rights in 2012 (evaluation covers the period from 27 April to 31 December).

Besides that, as of 4 November 2012 the Ombudsman of Ukraine officially fulfills the functions of national preventive mechanism (“Ombudsman +” model), that foresees visiting a broad range of places of deprivation of liberty either on the regular basis or ad hoc. A separate Department for the realization of national preventive mechanism is established within the structure of the Ombudsman’s Office. In 2012 the department officials carried out 168 such visits to the places of deprivation of liberty. Activities aimed at overcoming such disgraceful phenomenon as torture and other cruel and degrading treatment and punishment is a priority for the Ombudsman of Ukraine.

In accordance with the Law of Ukraine “On the basis of prevention and combating discrimination in Ukraine” the Ombudsman of Ukraine has the mandate of a national institution to prevent and combat discrimination.

Pursuant to the amendments to the Law of Ukraine “On Personal Data Protection” adopted by the Parliament on 14 May 2013, as of 1 January 2014 the control over the observance of legislation on personal data protection shall be carried out by the Ombudsman of Ukraine.

For the effective realization of these new important functions it is not only the financing of the institution of the Ombudsman that needs to be increased (including the expenses for business trips to regions of Ukraine) but also its staff.

Results of monitoring of the observance of human rights and freedoms in Ukraine as well as of the implementation of the International Covenant on Civil and Political Rights and concluding observations and recommendations of the UN Human Rights Committee, that is being constantly carried out by the Ukrainian Parliament Commissioner for Human Rights, show certain positive changes along with a range of problems, particularly systematic, in this sphere.

In 2012 the Ombudsman of Ukraine received 92 743 petitions (from Ukrainian citizens, People’s Deputies, foreigners, stateless persons and legal entities) through different communication channels (written petitions, via phone and during personal receptions). Among the complainants were 2133 pensioners, 1948 convicts, 1512 disabled persons, 802 accused persons, 632 crime victims, 519 persons on remand, 314 families with many children, 248 children etc.

More than half of all petitions to the Ombudsman (54,7%) were about the violations of citizens’ rights. 14,4% of petitions were about the violation of economic rights, 13% - social rights, 12,6% - personal rights, 5% - political rights and 0,24% - cultural rights.
Most of the petitions included complaints on the activity of Ukrainian courts (4566), Ministry of Internal Affairs of Ukraine and its units (3632), Verkhovna Rada (Parliament) of Ukraine (2326), prosecution bodies of Ukraine (2255), State Penitentiary Service of Ukraine (1372), local authorities (1116), Ministry of Justice of Ukraine (827), Pension Fund of Ukraine (794) etc.

**Right to liberty and security of person (Art. 9 of the Covenant)**

Article 29 of the Constitution of Ukraine stipulates that none shall be subjected to arrest or detention except in accordance with motivated court decision and only on the grounds and in accordance with such procedure as are established by law; every detained has the right to appeal against his or her detention in court at any time.

However, before the new Code of Criminal Procedure was adopted in Ukraine, there was a problem of a long-term detention of persons whose cases were pending in courts. Due to this fact and also to the abuse of the use of detention as a preventive measure or illegal detention, the Commissioner for Human Rights only in 2012 received around 750 petitions from citizens, foreigners and stateless persons. After the Commissioner has submitted recommendations that were based on the practice of the European Court of Human Rights in similar cases, some courts started making decisions to change the measure of restraint in the form of detention for another preventive measure not involving deprivation of liberty.

It is worth mentioning that according to the provisions of articles 176, 177, 183 of the new Code of Criminal Procedure of Ukraine, detention shall be an exceptional measure, which shall be applied only in the case if the prosecutor can prove that the circumstances revealed when considering the request on the application of preventive measures are sufficient to convince the court that none of the softer measures of restraint provided by part one of Article 176 of the Code can prevent the risk or risks proven to exist during case consideration. The investigator, the prosecutor does not have the right to initiate application of a preventive measure without having any grounds for that provided by this Code.

The need to justify the request for detention with a proof of impossibility to use any of the softer measures of restraint foreseen by the new Code of Criminal Procedure, is a significant factor in preventing an illegal and arbitrary detention of the suspect or accused. Implementation of these standards promotes the realization of the right of citizens to liberty and security of person.
Freedom from torture and cruel treatment (Article 7 of the Covenant)

According to the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” with the amendments that came into force on 4 November 2012, the Commissioner for Human Rights has the right to interrogate persons kept in places of deprivation of liberty without the presence of a third party. The main goal of the national preventive mechanism is the monitoring of the observance of rights of citizens of Ukraine, foreigners and stateless persons in places of deprivation of liberty, including institutions which are specially equipped for keeping detained and arrested persons. Such institutions are:

- 1303 rooms for detained and delivered persons at duty stations of the internal affairs bodies of the Ministry of Internal Affairs of Ukraine where there were 17 000 people kept in 2012.
- 462 temporary detention centers where there were 21 000 people kept during 2012.
- 27 special reception centers for persons subjected to administrative detention where there were around 5 000 people kept during the year.
- 18 reception centers for children where there were 233 children kept in 2012.
- 587 special rooms in medical institutions where there were 868 people, including 339 TB patients, kept in 2012.

In 2006-2013 there were changes in the activity of other types of special institutions. Thus, elimination of reception centers for persons suspected in vagrancy can be pointed out as a positive example. It was done based on the Decision of the Constitutional Court of Ukraine to recognize the provisions of article 11 of the Law of Ukraine “On Police”, which gave police officers the right to detain and keep persons suspected in vagrancy for up to 30 days in specially designated for this purpose places based on the decision of the court, as unconstitutional. This provision of the Law of Ukraine “On Police” contradicted with the Constitution of Ukraine and the international obligations of our state. Having recognized this provision as unconstitutional most of the above mentioned institutions were transferred into special reception centers for persons subjected to administrative detention.

The number of reception centers for children during the recent 5 years stayed the same. The Ombudsman of Ukraine believes these institutions need to be reorganized.

Most of the people are kept in such special institutions of the Ministry of Internal Affairs of Ukraine as temporary detention centers. However, as of 2010 there is a positive tendency of reduction of the
number of persons kept in them (from 269 000 persons in 2010 to 209 000 in 2012) which subsequently led to reduction of the overall quantity of such centers (from 480 in 2010 to 462 in 2012).

Unfortunately, the problem of cruel treatment applied by police officers to persons kept in places of deprivation of liberty stays a topical issue for Ukraine. Petitions to the Ombudsman of Ukraine and results of inspections of institutions of the Ministry of Internal Affairs of Ukraine carried out by the officers of the NPM Department of the Office of the Ombudsman, as well as the respective decisions of the European Court of Human Rights against Ukraine prove that fact. Minimization of the number of human rights violations in the activity of police authorities can be possible only with a legislative prohibition to conduct interrogations, other investigative actions and questioning of citizens by operative officers in rooms not equipped by systems of video surveillance with data archive.

It should be pointed out, that functioning of “Help lines” in bodies and units of internal affairs which can be used by persons, detained on suspicion of committing a crime and on administrative basis, to inform on the state of observance of human rights and legal interests of citizens kept in special police institutions and rooms for detained and delivered persons at duty stations of internal affairs bodies.

The escorting conditions of detained, arrested and convicted in special vehicles also need to be brought in correspondence with international standards.

**Observance of rights of persons deprived of liberty (Art.10 of the Covenant).**

In 2012 there were around 31 thousand people kept in pre-trial detention centers (PTDCs) and more than 147 000 convicts in penitentiary institutions. As of 2011 there is a stable positive tendency towards reduction of number of people kept in PTDCs which shows that applying such a preventive measure as arrest has been restricted and that the alternative measures of restrain are being applied more widely.

Minors and adults in PTDCs are kept separately. Children under 18 years old serve their sentences in juvenile colonies separately from adults with their quantity annually reducing (from 1606 people in 2008 to 1264 people in 2013). However the number of children serving sentence in juvenile colonies for minor crimes should be brought to minimum taking into account the international tendencies of humanization of process of re-education of children who are in conflict with law. The Ombudsman of Ukraine believes that the Criminal Code of Ukraine should be amended which will give the possibility to apply
compulsory educational measures in case of recidivism of little and average gravity crimes with mandatory proper rehabilitation. This is important because it is for the repeated and recurrent offences, if we speak about little and average gravity crimes, that a criminal penalty of imprisonment is applied to minors.

Unfortunately, there are violations of rights of persons deprived of their liberty to safe conditions of detention, effective investigation of cases of human rights and freedoms violations, proper conditions for pregnant women and women with newly born children who are kept in PTDCs etc.

The Commissioner for Human Rights believes that the introduction of a compulsory written notice of remands and convicts about their rights and freedoms, particularly about the order of filing a complaint will promote the observance of right to humane treatment and respect of dignity of a person kept in places of deprivation of liberty.

It is also necessary to ensure proper conditions of detention for them by solving a range of the following problems:

- prolonged detention of persons in PTDCs found not triable by court on the results of the forensic psychiatric examinations prior to a court decision on the application of compulsory medical measures;
- lack of enforcement of the regulations on regulatory area of not less than 4m\(^2\) per one convict, uneven placement of prisoners in PTDCs cells which results into the situation when there is a possibility to provide 2.5 m\(^2\) per prisoner, and in reality there are only 1.5-2 m\(^2\) per prisoner in some of the cells;

- Lack of compulsory venting systems in cells, semi-automatic water drain systems in toilets, canopies for protection from precipitation in walking yards;
- A legislative ban on visits for those serving a sentence of arrest, on their receiving parcels and packages, etc.

**Protection of rights of women with children kept in places of deprivation of liberty**

One of the most vulnerable in social context groups of convicted women are mothers with children.

Women sentenced to imprisonment in Ukraine are kept in 12 penal institutions for adult women and in one juvenile correctional facility for underage girls. At the beginning of 2013 there were 7 pregnant women and 9 women with children under 3 years old kept in PTDCs of the State Penitentiary Service of Ukraine.
With the aim of preserving a mother and child connection and forming principles of responsible motherhood among convicted women with children kept in places of deprivation of liberty there are correctional colonies (Chernihiv correctional colony №44 and Chernomorska correctional colony № 74) with houses for children. As of 1 January 2013 there are 94 children under 3 years old kept in them.

Women who are kept in penal institutions and PTDCs together with their children are deprived of the possibility to realize their right to receive state aid for families with children, alimony, pension for the loss of family provider, etc because of the fact that acting regulations on children social protection do not provide for the mechanism of receiving social payments for such category of persons.

Besides that, the issue of medical treatment of such children, sanitary conditions of detention of women with children, etc. stays unregulated.

According to the Ombudsman of Ukraine, as of today the following issues have to be solved first:

- Regulatory and legal settlement of the operation of children's houses in correctional facilities, as well as amendment of other legislation related to the detention of pregnant women and women with children in penal institutions and PTDCs;
- Legal settlement of the issue of the receipt of social aid for child birth by a woman kept in PTDC or a penal institution;
- medical care for pregnant women and children who are with their mothers in PTDCs.

In view of this, matter of providing for adequate living conditions of women and children in places of deprivation of liberty is identified as one of the priorities in the activities of the Ukrainian Parliament Commissioner for Human Rights for 2013.

The prohibition of discrimination (Paragraph 1 of Art.2 of the Covenant). Right of persons deprived of their liberty to social security (Art. 10)

The Commissioner for Human Rights receives a lot of petitions concerning the violations of rights of person serving their sentence in places of deprivation of liberty to proper pension. Pursuant to Art. 47 of the Law of Ukraine “On Compulsory State Pension Insurance” pensions shall be paid to pensioners kept in places of deprivation of liberty according to general procedure and legislation.

Part 1 of Art. 122 of the Criminal Executive Code of Ukraine also foresees that convicts have the right to state old-age, disability, loss of family provider pension as well as other pensions foreseen by the law on the general basis. However, part 2 of this article states that state pension on the general basis can be given to persons having received it
before being deprived of liberty. According to part 3 of the mentioned article, time of work of convicts while serving their sentence of imprisonment shall be included into the record of service for pension after release, provided that all insurance payments to the Pension Fund of Ukraine were paid in amounts foreseen by the legislation.

In case of absence of record of service foreseen by article 32 of the Law of Ukraine “On Compulsory State Pension Insurance”, disabled people with a low income have the right to state social aid according to the Law of Ukraine “On state social aid for persons not having the right to pension and for disabled” the amount of which is set according to living wage for people who have lost their ability to work.

At the same time Item 36 of the Procedure for paying state social aid to persons not having the right to pension and to disabled as well as state social care assistance, adopted by a Decree of the Cabinet of Ministers of Ukraine of 02.04.2005 № 261, foresees that in case the recipient of such state social aid and state social care assistance is sentenced to imprisonment, payment of allowance shall be ceased from the date a judgment of conviction enters into force and resumed after the end of their sentence.

Therefore, the most important constitutional principle of the inadmissibility of restrictions on human rights regardless of any circumstances is being violated.

With the aim of solving the problem of pension for persons reaching pension age in places of deprivation of liberty and having the necessary record of service and on the basis of the article 17 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” relevant acts of reaction of the Commissioner were submitted to the leadership of the Pension Fund of Ukraine and the Ministry of Social Policy of Ukraine.

However, the mentioned petitions have not been properly reacted to: the legislation of Ukraine on pension includes, as before, the discrimination provisions regarding persons in places of deprivation of liberty.

**Gender equality. Combating domestic violence (Art. 3, 7 of the Covenant)**

Equality of rights and opportunities for men and women in Ukraine is enshrined in article 24 of the Constitution of Ukraine saying there should be no privileges and restraints on the basis of race, skin color, political, religious or other beliefs, sex, ethnic and social background, wealth, place of residence, language or other reasons.

As it was mentioned in the Periodic report of the Government of Ukraine, based on the mentioned article of the Constitution of Ukraine the Law of Ukraine “On ensuring equal rights and opportunities of
women and men” of 08.09.2005 № 2866-IV (hereinafter referred to as “the Law”) was adopted with aim of achieving the equal status of women and men in all spheres of societal activity by way of legal provision for the equal rights and opportunities of women and men, elimination of discrimination on grounds of sex and applying special interim measures directed at the elimination of imbalance between the opportunities of women and men in realization of equal rights provided for by the Constitution.

According to the Ukrainian Parliament Commissioner for Human Rights, 8 years after the law came into force it has not become a sufficiently effective remedy in achieving equal status of women and men in all sphere of societal activity. Thus, the Law of Ukraine “On ensuring equal rights and opportunities of women and men” has quite a weak part concerning the sanctions for its violation. There is a lack of definition of direct and indirect discrimination, though in order to effectively implement international standards and the legislation of Ukraine in practice it would make sense to introduce such definitions into this Law.

Besides that, the Law does not foresee the procedures and mechanisms aimed at really securing equal rights of men and women anchored in it as well as overcoming gender gap in the Ukrainian Parliament and other state authorities.

Today the main problems in the sphere of equality of women and men are quite a challenge for the Ukrainian society and state and require relevant action. Such actions, according to the Ombudsman, should be:

- bringing the Ukrainian legislation in accordance with the constitutional principles of equality as well as with the international standards and the legislation of the European Union;
- learning international experience of quotas in order to create the conditions and opportunities for equal participation of women and men in political decision making process, appointments to state positions;
- taking measures to increase women’s leadership skills in order for them to take part in management decision making;
- adoption of State Program for guaranteeing equal rights and opportunities of women and men;
- strengthen societal control over the implementation of international obligations and declared principles of equality of rights and opportunities of women and men.

To the item 18 of the concluding observations and recommendations of the Committee
The Ukrainian legislation does not have discriminatory restraints on grounds of sex. As of 01.01.2013 the Law of Ukraine “On employment of population” came into force. Article 11 of this Law foresees prohibition for placement in advertising restrictions based on gender, with the exception of works which can be executed only by persons of a particular sex. At this time it is extremely important to ensure proper execution of this legislative provision in practice.

**Domestic violence**

The Commissioner for Human Rights acknowledges relation between ensuring gender equality, elimination of domestic violence and achieving long-term security for all citizens. When domestic violence occurs it creates conditions for discrimination.

As of now it is hard to evaluate the extent of violence prevalence. Official statistics shows the increase in the number of documented cases of violence during 2011 and 2012. In 2011 there were 762 out of 126 514 petitions with information regarding violence in the family filed by children, 113 872 filed by women and 11 861 by men. In 2012 there were 708 out of 110 thousand and 2 petitions with information regarding violence in the family filed by children, 93 402 filed by women and 15 902 by men. However it is impossible to determine how many people do not turn to law enforcement authorities keeping the problem within the family.

Ukraine was one of the first states in Eastern European Region which elaborated and adopted the Law “On prevention of domestic violence”. At the same time the Commissioner for Human Rights believes that combating domestic violence has to become more effective since during 10 years of the implementation of the Law of Ukraine “On prevention of domestic violence”, unfortunately, it has not become an effective remedy in combating this issue.

The imperfectness of the law and the lack of action from bodies and institutions empowered to take measures for prevention of violence in the family lead to the fact that victims very often don’t get necessary help and offenders are not being hold responsible. At the same time the Ombudsman of Ukraine has to say that there is a lack of systematic work in Ukraine with regard to early identification of domestic violence or a real threat of it as well as there is a lack of cooperation of all bodies and institutions empowered with functions of prevention and combating cases of domestic violence.

The Ukrainian Parliament Commissioner for Human Rights considers it necessary to legally regulate such issues like:

- Elaboration and implementation of correctional programs for persons who became victims of domestic violence;
- Implementation of programs for children-victims of domestic violence;
- Implementation of the unified social standards of provision of social services to persons who suffered from domestic violence;
- To provide for the training and constant increase of professional level of specialists working in the sphere of prevention of domestic violence, particularly the specialists implementing correctional programs;
- To provide for early identification of families where domestic violence occurs or there is a real threat of it as well as organization of social monitoring of such families by social workers;
- Creation of so called “points of security”, shelters and houses of interim placement for persons suffering domestic violence;
- Ratification by Ukraine of the CoE Convention on preventing and combating violence against women and domestic violence as well as combating these issues.

The Ukrainian Parliament Commissioner for Human Rights in her turn and within the mandate promotes the protection of human rights and freedoms of persons particularly of those who suffered domestic violence and helps to renew their violated rights. On 1 March 2013 the Memorandum of Cooperation between the Ukrainian Parliament Commissioner for Human Rights and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe was signed. This Memorandum is about the cooperation and joining efforts with the aim of promotion and protection of rights of women and gender equality, combating gender violence.

**Prohibition of discrimination on any grounds (Paragraph 1 of Article 2, Articles 26, 19, 20, 27 of the Covenant)**

Monitoring of the Ombudsman of Ukraine shows that today there is a lack of adequate statistical records of crimes on grounds of intolerance. A separate report form of such crimes № 1-РО, introduced by the joint decree of the Prosecutor General’s Office of Ukraine and the Ministry of Interior of 06 February 2009 №11/128, was used only until January 2011.

The Law of Ukraine “On the basis of prevention and combating discrimination in Ukraine” (came into force on 04 October 2012) in order to be implemented in practice needs to be amended. In particular, amended should be a number of basic definitions anchored in article 1
of this Law. The provisions on positive actions (articles 1, 6), actions considered to be non-discriminative (art. 6), procedural aspects of bringing to responsibility for discrimination (Chapter III, articles 14-16), etc. need to be concretized.

The draft law of Ukraine “On amendment of some legal acts of Ukraine concerning prevention and combating discrimination in Ukraine” (№ 2342), introduced by the Government for consideration of the Verkhovna Rada of Ukraine on 19 February 2013, foresees changes aimed at amending some of the mentioned flaws, particularly a new standard of proving discrimination in civil process, namely the principle of reversal of the burden of proof in cases relating to discrimination was proposed.

A special attention of the Commissioner is turned to the fact that today the responsibility for discrimination is foreseen only by article 161 of the Criminal Code of Ukraine part of which disposition is practically identical to the definition of discrimination given by the Law of Ukraine “On the basis of prevention and combating discrimination in Ukraine”. Therefore, taking into account provisions of articles 61 and 62 of the Constitution of Ukraine, persons who committed discrimination on any grounds can be hold responsible only within the framework of a criminal case.

In contrast to the position of a state, laid down in the 7th periodic report of Ukraine, the Commissioner believes that such a situation deprives the right to appeal against discriminatory decision in court within the framework of civil and administrative process, right to renew violated as a result of discrimination rights and receive compensation for material and moral damage of a legal meaning.

In this context it should also be mentioned that article 10 of the Law of Ukraine “On the basis of prevention and combating discrimination in Ukraine” empowers the Ukrainian Parliament Commissioner for Human Rights with the functions of the national institution for prevention and combating discrimination. However, setting the responsibility for discrimination only within the criminal process brings the possibility of the Commissioner to effectively fulfill her functions in this sphere and to help renew the rights of victims of discrimination to nothing.

In the sphere of combating crimes on grounds of intolerance the Commissioner for Human Rights points out, that in addition to the amendments introduced in 2009 to seven articles of the Criminal Code of Ukraine it is also necessary to introduce similar amendments to other articles which set the responsibility for such crimes as bringing to suicide, intentional slight bodily harm, burglary, robbery, extortion, intentional destruction of or damage to property, the threat of destruction of property, vandalism, etc.
The Ombudsman of Ukraine also considers it necessary to turn the attention to the necessity of bringing the provisions of the Criminal Code of Ukraine setting the responsibility for inciting racial, national and religious hatred in accordance to the International Covenant on Civil and Political Rights. Acting provision to prove the direct intention of the person who committed action aimed at inciting hatred and defamation, in fact contradicts to the positive obligations of state to combat all forms of discrimination disregard whether the discrimination occurred as a result of a conscious intention of a person to commit it or as a consequence of actions the consequences of which were neither realized nor specially planned.

**Right to fair trial (Art. 14 of the Covenant) with regard to non-execution of decisions of the national court (Constitutional Court of Ukraine), prohibition of discrimination on any grounds (Par. 1 of Art. 2, Art. 26 of the Covenant)**

The problem of observance of the constitutional right to proper pension of the citizens of Ukraine who moved for permanent residence to the countries Ukraine hasn’t concluded relevant state bilateral agreement with (thousands of citizens of Ukraine are concerned) is very topical.

It was in October 2009 when by the decision of the Constitutional Court of Ukraine №25-prn/2009 the provisions of the Law of Ukraine “On Compulsory State Pension Insurance” of 9 July 2003 № 1058-IV, regarding which payment of pension to citizens of Ukraine shall be stopped for the period of their permanent residence abroad, were declared unconstitutional. The Constitutional Court of Ukraine also turned the attention of the Verkhovna Rada of Ukraine to the necessity of bringing the provisions of other laws regulating issues of pension payment to pensioners permanently living abroad in countries, Ukraine hasn’t concluded a relevant state bilateral agreement with, in accordance with the Constitution of Ukraine. The Court also considered it necessary to adopt the law on reimbursement of material and moral damage to individuals and legal entities caused by acts and actions that were declared as unconstitutional.

However, the Verkhovna Rada of Ukraine has not yet regulated the order of pension payment to persons who moved to permanent residence out of Ukraine. As before the adoption of the mentioned decision by the Constitutional Court of Ukraine, the constitutional principle of equality of rights of citizens of Ukraine to receive pension disregard of their place of living is being violated.

With the aim to renew the mentioned constitutional right of citizens, the Commissioner for Human Rights has submitted numerous acts of reaction to relevant officials and state authorities of Ukraine.
However, the decision of the Constitutional Court of 2009 stays unexecuted till now.

Taking this into account, proceedings of the Commissioner for Human Rights in this case continue.

**Right to life (Art. 6 of the Covenant). To the item 13 of the concluding observations and recommendations of the UN Human Rights Committee: Ukraine**

Monitoring of the Commissioner for Human Rights proves that there were no sufficient changes made in creation of proper conditions for contract and conscript military staff. The lack of targeted learning of social and psychological processes in military groups, indifferent attitude to a person and the needs of this category of military officers, their problems cause crime, humiliate and demean military men.

Disregard the fact that according to the official statistics in 2011-2012 none of the conscript soldiers died as a result of military hazing and that the recently adopted organizational measures and perspectives of transfer to contract army give hope that the problem of hazing will be overcome, in 2011-2012 111 soldiers died in the Armed Forces of Ukraine. The Commissioner for Human Rights has many times turned the attention to the fact that every third person of the overall quantity has committed suicide.

This shows, from one point of view, how hard the social conditions are in military groups, and from another point of view, how weak is the mental health of military personnel. It should be mentioned, that 75% of military personnel die in the off-duty time, every third is an officer, the fourth part of them – conscripts.

The Ombudsman of Ukraine hopes that a transfer of the Armed Forces of Ukraine to a contract basis would improve quality of staff selection and exclude such negative phenomena among military personnel as suicides.

**Right to privacy (Art. 17 of the Covenant). Personal data protection**

Right to privacy is enshrined in the article 17 of the International Covenant on Civil and Political Rights and guaranteed by the Constitution of Ukraine.

To implement the provisions of articles 3, 32, 34 of the Constitution of Ukraine and to regulate the human rights protection, on 01.06.2010 the Law of Ukraine “On personal data protection” was adopted, and on 06.07.2010 the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data together with the Additional Protocol to this Convention regarding supervisory authorities and transborder data flows were ratified.
Article 1 of this Law says that the Law regulates legal relations concerning the protection and processing of personal data and is aimed at protection of fundamental rights and freedoms of a person, particularly the right to personal life. The law does not cover the activity done by the individual only for personal and household needs or done by a creative or literary worker provided that the balance between the right to personal life and the right to creative realization is being observed, which correlates with rights and obligations declared in the article 19 of the International Covenant on Civil and Political Rights.

The urgency and the need to protect the rights and freedoms of Ukrainian citizens in this sphere are also defined by such factors as strengthening of social, economic, scientific and technical international cooperation, development of informational networks, the growth of transborder flows of personal data on one hand, and the efforts of the state to develop democratic processes on the other.

As of today, one of the problems with the implementation of the legislation on personal data protection is the misinterpretation of its provisions as well as low legal awareness of society which leads to the systematic violations of constitutional rights of a person, particularly those, which are connected with receiving education, medical help provision and social security of people.

With the aim of harmonization of the legislation of Ukraine and bringing the personal data protection in Ukraine in accordance with the European standards on 14 May 2013 the Law of Ukraine “On amendments to some legal acts of Ukraine concerning the improvement of the institutional system of personal data protection” was adopted by the Parliament of Ukraine. The amendments which enter into effect on 1 January 2014 defines the Ombudsman of Ukraine as the authority empowered to fulfill control functions over the observance of the legislation in the sphere of personal data protection. Such an empowerment of the Ombudsman of Ukraine is connected with the fact that the Commissioner acts independently from other state authorities and officials, the level of independence meets the standards of the European Union and the requirements of the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data regarding supervisory authorities and transborder data flows as well as the provisions of the Directive № 95/46/EC of the European Parliament and of the Council of 24.10.1995.

In accordance with the mandate and within competence, with the aim of carrying out parliamentary control over the observance of the constitutional human rights and freedoms there are necessary measures being taken aimed at the renewal of the violated rights as well as at
promotion of understanding among citizens, state authorities and other organizations disregard their form of ownership, of the importance of observance of right to privacy in the democratic society.