



International Covenant on Civil and Political Rights

Distr.: General
3 December 2019

Original: English
English, French and Spanish only

Human Rights Committee

List of issues in relation to the eighth periodic report of Ukraine*

Constitutional and legal framework in which the Covenant is implemented (art. 2)

1. Please report on measures taken to ensure the Covenant rights of all persons residing in the territory controlled by the self-proclaimed “Donetsk people’s republic” and the “Luhansk people’s republic” and in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, temporarily occupied by the Russian Federation.

2. With reference to the previous concluding observations (para. 6),¹ the Committee’s evaluation of the State party’s follow-up information (see CCPR/C/121/2) and the State party’s eighth periodic report (CCPR/C/UKR/8, para. 25), please report on measures taken:

(a) To establish effective mechanisms and procedures for victims to seek the full implementation, in law and in practice, of the Views adopted by the Committee under the Optional Protocol, including information on the status of draft law No. 2907 of 19 May 2015 on amendments to certain legislative acts on the enforcement of decisions of international organizations relating to the protection of human rights, as well as information on the nature of the review of national judicial decisions by the Supreme Court on the basis of the Committee’s Views, as envisaged in the draft law, and on the possible outcomes of such review;

(b) To ensure full compliance with all the Views adopted in relation to the State party.

States of emergency and security measures (arts. 2, 4, 9, 12, 14 and 17)

3. Please report on the implementation of the measures derogating from the provisions of the Covenant in effect since 2015 and on their compliance with article 4 of the Covenant. In addition, please explain how the derogation measures are limited to the extent strictly required by the exigencies of the situation as concerns their duration and their geographical and material scope; outline any regular review of the necessity and proportionality of derogation measures based on an objective assessment of the actual situation; and clarify whether the State party plans to lift those derogation measures that raise issues of compatibility with article 4, including those related to the rights to an effective remedy and freedom of movement and those related to the detention of suspects in terrorism-related cases for up to 30 days without judicial review.

* Adopted by the Committee at its 127th session (14 October–8 November 2019).

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the Committee’s previous concluding observations.



Non-discrimination and prohibition of advocacy of national, racial or religious hatred (arts. 2, 3, 20 and 26)

4. With reference to the previous concluding observations (para. 8) and the State party's eighth periodic report (CCPR/C/UKR/8, paras. 5–7 and 11), please report on measures taken to prevent and combat all forms of discrimination on all the grounds prohibited under the Covenant. In this respect, please also indicate the extent to which the law on principles for preventing and combating discrimination and any other relevant draft legislative amendments under consideration: (a) explicitly include sexual orientation and gender identity among the protected grounds; (b) set out clearly the sharing (or shifting) of burden of proof in discrimination cases; and (c) provide for accessible and effective remedies in judicial and administrative proceedings for victims of discrimination.

5. With reference to the previous concluding observations (para. 11), please: (a) respond to reports of hate speech, manifestations of racism, hatred and intolerance, threats and racially motivated violence, often perpetrated with the involvement of extreme right-wing groups and targeting individuals belonging to minority groups, in particular the Roma minority; and (b) report on measures taken to effectively investigate and prosecute such crimes under article 161 of the Criminal Code (provide relevant statistics on hate crimes since 2014), including on the progress made in investigating and bringing to justice the perpetrators of the attacks on Roma settlements in Kyiv, Ternopil and Lviv in 2018. Please outline the efforts made to prevent and combat the activities of extreme right-wing organizations and groups and clarify whether the following are prohibited by law: organizations that promote hate propaganda that is racist or otherwise incites to discrimination, hostility or violence; and the public denial, trivialization, justification or condoning of crimes of genocide, crimes against humanity or war crimes.

6. In connection with the previous concluding observations (para. 10) and the Committee's evaluation of the State party's follow-up information (see CCPR/C/121/2), please comment on reports of discrimination, hate speech and calls to violence against lesbian, gay, bisexual and transgender individuals on social media and of attacks motivated by a person's sexual orientation or gender identity, such as that perpetrated on 19 June 2019 in Kyiv, and respond to concerns about the lack of effective investigation and sanctioning of such conduct, particularly of homophobic and transphobic violence owing, *inter alia*, to the inaction of the police or failure to properly classify such incidents as hate crimes. Please provide relevant statistics on homophobic and transphobic hate speech and violence since 2014. Please also clarify whether the State party plans to include sexual orientation and gender identity among the prohibited grounds for the hate-motivated offences set out in article 161 of the Criminal Code and to recognize hate motives on the basis of sexual orientation and gender identity as aggravating circumstances for all offences.

Equality between men and women (arts. 2, 3 and 25)

7. In connection with the previous concluding observations (para. 9), please report on measures taken, including through the implementation of the State programme for ensuring the equality of rights and opportunities of men and women up to 2021, to achieve the equitable representation of women in political and public life, particularly in legislative and executive bodies at the national and local levels and especially in decision-making positions, and any progress made. Please also outline steps taken to enforce effectively the existing gender quota of 30 per cent in electoral lists and clarify whether there are plans to introduce an enforcement mechanism for the quota of 40 per cent provided for under the Electoral Code expected to enter into force in 2023.

Violence against women (arts. 2, 3, 7 and 26)

8. With reference to the previous concluding observations (para. 14), please report on the impact of the new legislation on domestic violence and of other related measures on the prevention and eradication of violence against women, including domestic and sexual violence and violence in the context of the ongoing conflict in the eastern part of the State party. In addition, please provide information on the measures taken: (a) to address social norms and attitudes condoning gender-based violence and combat the stigmatization of victims; (b) to encourage reporting of incidents of such violence; (c) to strengthen the

victim referral mechanism; (d) to increase the operational capacity of law enforcement and the criminal justice system to implement urgent protective orders and restraining orders effectively and to investigate and sanction perpetrators adequately (provide relevant statistics since 2015); and (e) to provide timely, sufficient and adequate support services for all victims throughout the country, including emergency psychological support and shelters.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and liberty and security of person (arts. 2, 6, 7, 9 and 14)

9. Please report on: (a) progress made in identifying, prosecuting and punishing perpetrators of human rights violations, including killings and violent deaths, committed during the 2013–2014 Maidan protests and in Odessa on 2 May 2014, and in providing full reparation to victims or their families; and (b) measures taken to address the reported systemic impediments to the investigation of crimes perpetrated during the Maidan protests outlined in the analytical paper of the Special Investigations Department of the Prosecutor General’s Office, and any other obstacles towards ensuring accountability for all crimes committed during the Maidan protests and in Odessa.

10. Please outline the measures taken to prevent civilian casualties, to enhance the protection of the civilian population in the conflict zone against the risks to life and health caused, inter alia, by shelling, mines and explosive remnants of war, and to ensure accountability for conflict-related civilian deaths and injuries. Please report on any comprehensive policy on granting remedy and reparation to victims or their families, and on its implementation in practice.

11. Please report on measures taken to bring to justice perpetrators of alleged conflict-related human rights violations such as summary executions (reportedly committed mainly in 2014 but also between 2015 and 2017), killings, sexual violence, abductions, enforced disappearances, unlawful or arbitrary detention, and torture and ill-treatment, including for the alleged arbitrary and incommunicado detention, torture and ill-treatment in the Kharkiv regional department of the Security Service of Ukraine in 2014–2016. Please comment on continued reports of arbitrary and incommunicado detention, torture and ill-treatment, including in unofficial places of detention, committed by officers of the Security Service against individuals allegedly linked to armed groups or separatist activities.

12. Please report on measures taken to ensure the effective functioning of the Commission on Persons Missing due to Special Circumstances and on the progress achieved in clarifying the fate and whereabouts of individuals who went missing in the context of the conflict in the eastern regions, some of whom may have been victims of enforced disappearance.

13. In connection with the previous concluding observations (para. 15) and the Committee’s evaluation of the State party’s follow-up information (see CCPR/C/121/2), please respond to persistent allegations of torture and ill-treatment by the police, mainly at the time of apprehension and interrogation, as a means of intimidation or for the purpose of extracting confessions, and report on measures taken to ensure that all acts of torture and ill-treatment are promptly, thoroughly and independently investigated, that perpetrators are prosecuted under the appropriate criminal provisions (article 127 of the Criminal Code) and are sanctioned in a manner commensurate with the gravity of the offence, and that victims are provided with full reparation (please provide relevant statistics). Please report on any progress made in abolishing the statute of limitations for the crime of torture.

14. Please respond to reports of prolonged pretrial detention, including in conflict-related cases, and of arbitrary detention in the context of conscription into the Ukrainian armed forces in Kharkiv. Please report on measures taken to facilitate the voluntary transfer of pre-conflict prisoners from territory controlled by the self-proclaimed “Donetsk people’s republic” and the “Luhansk people’s republic” to the territory controlled by the State party. Please clarify whether any regulations have been developed to enable the judiciary to take into account periods of detention served in territory controlled by the “Donetsk people’s republic” and the “Luhansk people’s republic” or to conduct criminal proceedings involving pre-conflict prisoners.

Freedom of movement (art. 12)

15. Please provide information on measures taken to ensure the free and safe movement of civilians across the contact line through checkpoints, including on steps taken to further improve the precarious crossing conditions.

Treatment of aliens, including refugees and asylum seekers (arts. 7 and 13)

16. In connection with the previous concluding observations (para. 18), please report on measures taken:

(a) To ensure effective protection against refoulement, in particular of potential asylum seekers denied access to the territory at the border crossing points, including airport transit zones, and access to an effective appeal procedure, legal assistance and interpretation services for such persons;

(b) To ensure that asylum seekers are not penalized for irregular entry and stay, and that access to the asylum procedure is not contingent upon the payment of a fine for irregular entry or stay;

(c) To facilitate family reunification for refugees and beneficiaries of complementary protection.

Right to privacy (art. 17)

17. Please report on the legal framework governing surveillance, interception of communications and access to data, retention of communications data (metadata) and other surveillance activities by law enforcement and intelligence agencies, and outline the legal safeguards in place against arbitrary interference with the privacy of individuals, clarifying in particular whether all types of surveillance activities and interference with privacy are conducted subject to judicial authorization and to effective and independent oversight mechanisms, and whether the persons affected have proper access to effective remedies in cases of abuse. Please report on measures taken to investigate and sanction the disclosure by the nationalist website *Myrotvorets* of personal data of thousands of Ukrainian and foreign journalists it branded as supporters of terrorist groups, and the continued publication on that website of personal data of individuals allegedly linked to armed groups and/or labelled as “terrorists”.

Right to a fair trial and independence of the judiciary (art. 14)

18. With reference to the previous concluding observations (para. 17), the Committee’s evaluation of the State party’s follow-up information (see CCPR/C/121/2) and the reforms of the judiciary outlined by the State party (CCPR/C/UKR/8, paras. 141–150), please:

(a) Report on progress made in completing the qualification assessment; respond to allegations of corruption in the qualification assessment process and report on the outcome of any investigations, including into the corruption at the District Administrative Court of Kyiv; and comment on information that the High Qualifications Commission of Judges overruled the negative conclusions of the Public Integrity Council in many cases, which prompted the Council to suspend its participation in the qualification assessment of judges in March 2019;

(b) Report on measures taken to secure the independence of judges from any outside interference in their activities, to ensure their safety and to address effectively the reported incidents of such interference, particularly in conflict-related and other high-profile cases, including pressure on judges by parliamentarians, resorting to criminal law provisions, such as article 375 of the Criminal Code (knowing adoption of an unfair sentence, judgment, ruling or order by a judge), interference by individuals and associations and attacks against judges working on conflict-related criminal cases. Please also provide information about the status of draft legislation aimed at amending article 375 of the Criminal Code;

(c) Report on progress made towards strengthening the independence and impartiality of prosecutors, including with regard to: (i) the work of the joint working group

tasked with improving relevant regulations, including the procedure for the appointment and dismissal of the Prosecutor General; (ii) the introduction of random allocation of cases to prosecutors based on strict and objective criteria; (iii) the extension of the statutory limitation for bringing disciplinary sanctions against prosecutors; and (iv) the adequate remuneration of prosecutors.

19. Please respond to reports of violations of the right to a fair trial in conflict-related criminal cases, including violations of the principle of the presumption of innocence and of the rights to be heard by an impartial tribunal, to counsel and to be tried without undue delay. Specifically, such violations reportedly include: (a) planting of incriminating evidence in suspects' homes during pretrial investigations in conflict-related criminal cases; (b) violation of defendants' rights owing to a broad and inconsistent qualification of conflict-related crimes and interpretation of provisions criminalizing, inter alia, support to the creation or activity of a terrorist group or terrorist organization, and financing terrorism; (c) use of information provided on the website *Myrotvorets*, on which the personal data of individuals allegedly linked to armed groups and/or labelled as "terrorists" have been published, as evidence by law enforcement officers and the courts; and (d) convictions based on guilty pleas and confessions, without material evidence. Please also comment on reports of harassment, physical attacks and other forms of pressure on lawyers, in particular against those involved in conflict-related criminal cases, such as Valentyn Rybin, Oleksandr Shadrin, Oleh Povaliaiev and Andrii Hozhyi, and also report on the investigation into the killing of lawyer Olexandr Ivanov on 22 August 2019.

Freedom of conscience and religious belief (art. 18)

20. Please comment on reports of violence, intimidation and threats against clergy and parishioners, and acts of vandalism of religious buildings committed in connection with the process of transitioning churches and religious communities from the Ukrainian Orthodox Church to the newly established Orthodox Church of Ukraine, of police inaction during such incidents and of lack of progress in investigating church-related violence.

Freedom of expression and peaceful assembly (arts. 19 and 21)

21. With reference to the previous concluding observations (para. 20), please respond to continued reports of harassment, intimidation and assaults by various actors, including extreme right-wing groups, against journalists and other media professionals in connection with their professional activities, as well as against human rights defenders, particularly anti-corruption, lesbian, gay, bisexual and transgender and gender activists. Please report on measures taken to ensure their effective protection against such acts, to accurately classify attacks against journalists under article 345-1 (threats or violence against journalists) of the Criminal Code, and to investigate all acts of harassment, intimidation and assault and bring perpetrators to justice. Please provide information on the status of investigations and trials in cases of killings of journalists and media professionals, in particular regarding the cases of Oles Buzina (2015), Pavlo Sheremet (2016) and Vadym Komarov (2019).

22. Please respond to concerns that the National Public Broadcasting Company of Ukraine remains underfunded and that the National Council of Television and Radio Broadcasting is not sufficiently independent and impartial. Please also respond to the following reported restrictions on freedom of expression in law and in practice, and explain their compatibility with the Covenant:

(a) Broad restrictions on freedom of expression online on national security grounds leading to the blocking of, inter alia, Russian websites, email services and Russian social media networks; and prosecutions of online expression that allegedly calls for extremism or separatism or otherwise threatens the State's territorial integrity;

(b) Violation of the confidentiality of journalistic sources in practice, particularly with respect to journalists reporting on high-profile cases of corruption, and inadequate protection of whistle-blowers.

23. In connection with the previous concluding observations (para. 21), please report on the progress made in adopting a law regulating peaceful assemblies that is compliant with the Covenant. Please also respond to alleged violations of the right to peaceful assembly,

including violations perpetrated by extreme right-wing groups or individuals allegedly affiliated with them, and report on measures taken to investigate them and bring perpetrators to justice, including for: (a) attacks on women's marches in Kyiv, Lviv and Uzhhorod on 8 March 2018; (b) attacks against political figures and activists and property degradation, including by extreme right-wing groups, committed in 2018 and ahead of the 2019 elections; and (c) frequent attacks against participants in, or violent disruption of, peaceful assemblies organized by Roma and lesbian, gay, bisexual and transgender persons.

Freedom of association and participation in public affairs (arts. 22, 25 and 27)

24. Please respond to concerns that authorities have wide discretionary powers to deny registration and to deregister political parties on the grounds of threats to national security and public order, and report on the application of such powers in practice. Please explain the compatibility of the ban on communist and national-socialist parties and candidates nominated by such parties, introduced in 2015 and 2016, with the Covenant.

25. Please report on measures taken to: (a) review the undue restrictions on the right to stand for elections based on length of residence and non-expunged criminal record for an intentional crime regardless of its severity and the undue restrictions on the right to vote owing to the blanket denial of the right to vote to persons declared "incompetent" by a court on the grounds of intellectual disability; (b) ensure, in law and in practice, the effective exercise of the right to vote for internally displaced persons in all upcoming elections, including in the 2020 local elections; and (c) promote and enhance the representation of national minorities in Parliament. Please respond to concerns that the substantial financial deposit required from presidential candidates constitutes a restriction on candidacy and that the required vetting of campaign platforms unduly restricts candidates' freedom of political expression.

26. Please report on measures taken to address the following irregularities, among others, that allegedly occurred during the presidential and parliamentary elections of 2019 and to prevent them from occurring in future elections: misuse of incumbency and State resources by candidates, inadequate oversight over campaign funding and spending, the practice of "clone" parliamentary candidates, vote buying and instances of pressure on public and private sector employees and students to vote in a certain manner.

Rights of minorities (arts. 26–27)

27. Please report on any progress achieved in addressing the legislative gap relating to the protection and realization of the language rights of minorities, and respond to concerns that some provisions of the law on the use of Ukrainian as the State language of 25 April 2019, in particular those relating to the use of the State language in governance and public services, undermine the right of minorities to use their own language. Please also clarify how the differential treatment of minority languages that are official languages of the European Union and those that are not, including in the field of education (as provided for under the law on education of 5 September 2017), is compatible with the principle of non-discrimination.
