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**Human Rights Committee**  
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Consideration of reports submitted by States  
parties under article 40 of the Covenant

**Replies of Ukraine to the list of issues in relation to its eighth  
periodic report<sup>\*</sup>, <sup>\*\*</sup>**

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\* The present document is being issued without formal editing.

\*\* The annex to the present report may be accessed from the web page of the Committee.

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**Reply to paragraph 1 of the list of issues (CCPR/C/UKR/Q/8)**

1. Action Plan on Implementation of Certain Principles of the State Internal Policy on Certain Areas of Donetsk and Luhansk Regions Where State Authorities Temporarily Don't Execute their Powers (Governmental Order of 11.01.2017 No.8) envisages, *inter alia*, providing psychological, social, medical, legal, informational, administrative, employment and educational services to citizens. Main goal of that Action Plan is reintegration of these territories and population into the single constitutional space of Ukraine.
2. To address the problems of citizens of the temporarily occupied territories (hereinafter TOT) of the Autonomous Republic of Crimea and the city of Sevastopol (hereinafter Crimea) and internally displaced persons (hereinafter IDPs) the Action Plan on Implementation of Certain Principles of the State Internal Policy on TOT of Crimea was approved (Governmental Order No.218 of 28.03.2018). This action plan provides for ensuring the rights of persons residing on the TOT to education and healthcare, preservation of culture of indigenous people, national minorities, protection of persons suffering from infringement of their rights by the Russia. According to the international law and the Ukrainian legislation, Russia as an occupying state bears responsibility for violation of human rights and freedoms on the TOT of Crimea.
3. The Government approved the Procedure and Conditions for Giving Subvention from the State Budget to Local Budgets to Execute Measures for Maintaining Territories Suffered from the Armed Conflict in the East of Ukraine (Decree No.769 of 04.10.2017). In 2017–2019 UAH 85mln were allocated to give such subventions that, in particular, are used to purchase equipment, software to improve provision of administrative services to population in 12 cities of Donetsk and Luhansk regions and facilitate access to such services for people living on the TOT of these regions.
4. In order to create conditions for assignment and continuous payment of all types of social support and compensations, pensions, state scholarships as well as provision of social services for persons moving from the TOT and anti-terrorist operation (hereinafter ATO) areas, the Government adopted Decree No.637 of 05.11.2014 “On Exercising of Social Payments for IDPs”.
5. Restoration of pension payments for IDPs is carried out under application filed to the authority where individual is registered according to his/her *actual* living/residing regardless of the fact of registration of a place of living/residence; in certain circumstances defined by legislation an application shall be filed by legal representative. Payment of pensions to such persons shall be carried out for the entire period after verification of concrete obstacles of each pensioner is made.
6. Citizens of Ukraine living on the TOT of occupied Crimea, who refused to obtain Russian citizenship and don't receive Russian social services, are entitled to receive pensions and social payments under the Law “On General Compulsory State Pension Insurance” under procedure defined by the Government. Governmental Decree of 02.07.2014 No.234 “On Approval Procedure of Payment of Pensions and Provision of Social Services to Citizens of Ukraine Living in Crimea and the city of Sevastopol” defines that persons shall submit application about enjoyment of pension to territorial authority indicating place of living (registration) and passport of the citizen of Ukraine. In order to ensure the right to pension under Ukrainian legislation of persons permanently living on the TOT of Crimea, Pension Fund of Ukraine on the basis of submitted documents requests Russian authorities about receipt of pension file. Payment of pension to such persons is restored from the day of its termination by the previous place of living.
7. Civil Procedural Code of Ukraine introduced *judicial procedure of establishing a fact of birth or death of a person within the TOT*, under Art.317 of which in 2018 were registered 5854 facts of birth and 18902 facts of death, in 2019 – 10537 facts of birth and 22201 facts of death. Additional information is in the annex. Application about establishing *a fact of birth* may be filed by parents, relatives, representatives of a child to any court of Ukraine regardless of place of living of an applicant, as well as *the facts of death*. Copy of judgment within such cases shall be immediately issued to case participants after announcement of that judgment or urgently sent by the court to office of the state registration of a civil status act for state registration of birth or death. Applicants within

cases about establishing such facts are exempted from paying a court's fees. Introduction of an *administrative procedure* of the state registration of birth and death on the TOT is under consideration.

8. Since 2017 IDPs became entitled to free secondary legal aid. From 05.01.2017 until 31.03.2020, 20976 decisions were adopted to provide free secondary legal aid under applications from IDPs. In the majority of cases IDPs requested legal aid to address various disputes within civil legislation as well as about family, administrative, pension, labour and inheritance law.

9. To provide free legal aid to persons crossing contact line *within Donetsk region* remote offices were created near entry/exit check-points (hereinafter EECF). From 01.10.2017 until 31.03.2020 remote offices near EECF areas of Donetsk region provided legal aid to 23865 persons and 41000 informational materials were disseminated. *Within Luhansk region* persons crossing contact line obtain legal aid at the Stanychno-Luhanskyi Legal Aid Bureau situated near EECF "Stanytsia Luhanska".

10. Students who left the TOT may continue studying at the place of new living or temporary residence (order of the Ministry of Education and Science of Ukraine (hereinafter MESU) of 16.04.2018 No.367 "On the Procedure for Matriculation, Expulsion and Transferring of Students to the State and Municipal Education Institutions for Obtaining Full General Secondary Education"). For students within *general secondary education institutions* conditions were created to complete an educational year under shortened program; pass state exams; obtain certificates about basic and full general secondary education; register and undergo external independent evaluation (ZNO); enter high and technical and vocational education institutions.

11. 40 educational centres "Donbass-Ukraine" operated *in Donetsk and Luhansk regions* in 2016–2019 to organize matriculation and studying for obtaining *high education* of persons living on the TOT. To organize matriculation for obtaining high education of persons living on the TOT of occupied Crimea, in 2016–2019 35 educational centres "Crimea-Ukraine" operated. Over 4 years number of entrants through educational centre "Donbass-Ukraine" increased twice. Entrants who lived in occupied Crimea were entitled to enter certain high education institutions through 20% of state quotas of free of charge education. Over 4 years number of entrants through educational centre "Donbass-Ukraine" grown one and a half times. Conditions for entering such educational centres are provided in annex.

#### **Reply to paragraph 2 of the list of issues**

12. According to obligations under Optional Protocol to the International Covenant on Civil and Political Rights governmental authorities of Ukraine thoroughly examine Committee's views adopted after consideration of such communications and take measures to fully implement them within national legislation of Ukraine. Each view is translated into Ukrainian language and transmitted among interested authorities. Authorities take all possible measures to avoid in the future similar violations to those indicated in a view.

13. Under the Criminal Procedure Code of Ukraine (hereinafter CPCU), the Code of Administrative Judiciary of Ukraine, the Civil Procedure Code of Ukraine judgments which have taken legal effect may be reviewed upon discovery of newly-revealed or exceptional circumstances, in particular, *judgment of international court, whose jurisdiction was recognized by Ukraine, about violation of Ukraine's international obligations while considering the case by a court.*

14. The draft law No.2907 of 19.05.2015 was withdrawn from consideration of the Parliament on 18.09.2018.

#### **Reply to paragraph 3 of the list of issues**

15. On 26.11.2019 the UN Secretary-General was notified about the new scope, territory, reasons and compatibility of measures of Ukraine's derogation from the Covenant. All the relevant information is available on the UN's web-site at the link <https://treaties.un.org/doc/Publication/CN/2019/CN.618.2019-Eng.pdf>.

**Reply to paragraph 4 of the list of issues**

16. The Law “On Principles of Prevention and Fighting Discrimination” contains an open-ended list of prohibited grounds in Art.1(2), with the following grounds receiving explicit protection, *inter alia*, all forms of beliefs; sex; age; marital status, any other signs. The Law prohibits direct discrimination, indirect discrimination, incitement to discrimination, aiding in discrimination and oppression (harassment) by legal entities of public and private law and individuals. It envisages that the person who considers that there was a discrimination against him\her, has the right to complain to the state authorities and their officials, the Ombudsman and/or to the court. The exercise of this right cannot be the basis for prejudice, and may not cause any negative consequences for the person who took advantage of such right, and other persons. The Law provides for conduct of anti-discriminatory expertise in the process of law-making.

17. Draft law No.0931 of 29.08.2019 about harmonization of legislation in the field of preventing and counteracting discrimination with the appropriate EU’s proposes, *inter alia*, to define the terms “discrimination by association”, “multiple discrimination” and “victimization”, clarify the competence of the Ombudsman for preventing and combating discrimination. The draft is waiting for consideration in the second reading.

18. Art.21 of the Labour Code of Ukraine prohibits any discrimination in the sphere of labour, particularly violation of the principle of equal rights and opportunities, direct or indirect restriction of employees` rights based on race, skin colour, political views or religious beliefs, sex, *gender identity, sexual orientation, etc.* Art.47 of the Election Code of Ukraine (hereinafter ECU) provides for that election commissions, media outlets, state authorities are obliged to, *inter alia*, avoid discrimination and *sexism*. Art.161 of the Criminal Code of Ukraine (hereinafter CCU) provides for criminal liability for violation of equal rights of citizens based on their race, national identity, religious beliefs, disability or other grounds. According to Art.67(1) of the CCU when imposing a punishment one of the circumstances that aggravates it shall be the commission of an offense based on racial, national or religious hostility or sexual identity. CCU does not criminalize same-sex relations or expression of opinion about gender identity.

19. As of 28.01.2020 persons who suffered discrimination gained more than 574 legal consultations and clarifications, in 365 cases decisions to provide free secondary legal aid were adopted. In the majority of cases persons applied for legal aid after facing discrimination based on the place of living, disability, gender identity and marital status.

**Reply to paragraph 5 of the list of issues**

20. In order to avoid any confrontation between law enforcement agencies and extremely radical organizations police carry out necessary preventive measures.

21. In 2018 the Security Service of Ukraine (hereinafter SSU) prevented more than 240 attempts to destabilize social-political situation in Ukraine localized illegal activity of more than 140 groups and individuals suspected in association with radical, extremist, public (political) organizations and involved in creation of unlawful armed formations. **In 2019** more than 160 attempts were prevented to destabilize social-political situation in Ukraine using ethnic factor. Illegal activity was localized of more than 120 groups and individuals suspected in association with radical, extremist, public (political) organizations and involved in creation of unlawful armed formations.

22. In 2014–2019 SSU investigated 57 criminal proceedings of crimes committed under Art.161 of the CCU, of which within 13 proceedings indictments were filed to courts, 5 proceedings were suspended due to search of suspected, 5 proceedings were closed, 29 proceedings were forwarded, under rules of jurisdiction, to other law enforcement agencies and 5 ones are still being investigated.

23. *Hate crimes.* Committing a crime based on racial, national, religious intolerance or sexual orientation is identified as aggravating circumstance under Art.67 of the CCU. Also, motives of racial, national or religious intolerance impose penalties for the commitment of particularly grave crimes against life and health of the person, such as homicide, severe and moderate bodily harm, torture, etc.

24. During 2018–2020 police initiated pre-trial investigation in 303 criminal proceedings of crimes under Art.161 of the CCU. The results of such proceedings are the following: 11 cases along with indictment were sent to the court, 1 on admission of guilty, 2 conciliation cases, 1 on application for compulsory medical measures, 1 was transferred to a competent authority of a foreign country for criminal prosecution, 1 proceeding was suspend, 159 proceedings were closed under Art.284 of the CPCU and 127 cases are proceeding in the pre-trial phase. Information on additional organizational and administrative activities in this area is provided in the annex.

25. The police entered information to the Unified Register of Pre-trial Investigations (hereinafter the URPI) on the facts of *attacks* on irregular *settlements of Roma* during 2018 (3 cases in Kyiv, 2 in Lviv and 1 in Ternopil region). Perpetrators responsible for three attacks (Kyiv city – «Lysa Gora» events, Lviv – events of June 23, 2018 and Berezovetz town of Ternopil region) were identified and indictments sent to the courts for consideration. The criminal proceedings in respect of two other events in Kyiv and Lviv were closed under Art.284 of the CPCU. One criminal proceeding is ongoing (Kyiv city – events of June 11, 2018). Some practical examples are given in the annex.

26. Police is carrying out preventive measures amongst Roma communities to prevent child labour, children neglect and their homelessness. Particular attention is paid to the issue of inappropriate behaviour of parents or persons acting in their stead, in relation to children as well as prohibition of their use as beggars. Within international technical assistance projects law enforcement officials and civil society representatives participate in training programs on Roma protection and their non-discrimination.

27. *Prohibition of organizations promoting hate.* According to Art.4(1) of the Law “On Public Associations” it is prohibited to organize public associations, the purpose or actions of which, *inter alia*, are aimed at promoting war, violence, inciting ethnic, racial, religious hatred, infringement on human rights and freedoms, public health, propaganda of communist and/or national-socialist (Nazi) totalitarian regimes and their symbolism. Public association may be prohibited by the court in case of violation the requirements of Art.36, 37 of the Constitution of Ukraine, Art.4 of this Law.

#### **Reply to paragraph 6 of the list of issues**

28. In 2018 police investigated 14 criminal offenses committed against members of the LGBTI community. Out of the total number of criminal offences there was done the following: indictments related to 3 criminal offences were sent to the court (the case of the homicide of a citizen Sh. and the theft of his/her property; the case of hooliganism during a “flash mob” for the gender equality of the LGBTI community on 16.05.2018 in Zaporizhzhya); 6 criminal proceedings were closed; within 5 proceedings pre-trial investigation is ongoing. In 2019 criminal investigations of 15 criminal offenses committed against the LGBTI community were initiated. Brief background and results within certain cases are given in the annex. *See also paragraph 28 above.*

#### **Reply to paragraph 7 of the list of issues**

29. Within implementation of the Law “On Ensuring Equal Rights and Opportunities for Women and Men” 75 authorized persons (coordinators) for ensuring equal rights and opportunities for women and men, prevention and counteraction gender-based violence were appointed at central and local governance levels. Since 2019 Leadership Schools for women candidates for deputies of local councils has been operating in 15 regions of Ukraine. Information about other social projects to overcome stereotypes about the role of women and men in politics is provided in the annex.

30. With the adoption of the Law “On Civil Service” in 2015, the number of women elected to the positions of the senior civil service has increased annually. The representation of women in the Government has also increased. Thus, in 2018, the proportion of women was therefore 22%, in 2019 – 33% respectively. The Law of Ukraine «On Political Parties in Ukraine» defines that the minimum level of representation of women and men in the electoral list of candidates for Members of the Parliament from a political party in a

nationwide multi-member constituency should be at least 30% out of the total number of candidates in the electoral list.

31. During 2007 parliamentary election campaign the number of women included in the electoral lists of political parties was 19,23%, in 2012 – 19,97% and in 2014, after the introduction of the quota, – 25,47% correspondingly. Within 2019 Parliamentary elections 2,746 candidates were included in the electoral lists of political parties, 30.37% of whom are women. Nowadays, the Parliament consisting of 424 members includes 88 women which is the best indicator of the presence of women in Parliament since Ukraine's independence. Other positive dynamics are highlighted in the annex.

#### **Reply to paragraph 8 of the list of issues**

32. The new Law «On Preventing and Combating Domestic Violence», inter alia, expanded the number of persons covered by the legislation; empowered police and other subjects involved in preventing and combating domestic violence; introduced criminal liability for domestic violence (Art.126-1 of the CCU), non-performance of restrictive measures, restrictive prescriptions or failure to pass a program for offenders (Art.391-1 of the CCU), established of a Unified Register of Domestic and Gender-Based Violence Cases, etc. Further, special regulations were adopted to standardize the prevention and counteraction to domestic and gender-based violence.

33. During 2018–2020 339 mobile teams for provision social and psychological assistance were established and are operating nowadays. 23 shelters for persons affected by domestic and gender-based violence are operating in Ukraine. Victims here receive medical, social and psychological help. As of January 01, 2020 temporary shelter for persons who are in difficult life circumstances, in particular as a result of committing domestic and gender-based violence against them, is also provided by: 21 centers for provision social and psychological assistance; 7 centers for provision medical and social rehabilitation of the victims; 13 day care centers for victims; 142 local (regional) hotlines. Domestic Violence Hotline was also established; as of 25.02.2020 the Hotline received 1732 calls.

34. From 01.01.2018 until 31.03.2020 victims of domestic or gender violence filed 1294 requests on free legal aid. As of 01.03.2020, 203 mobile free legal aid consulting offices were functioning on the basis of general support services for victims of domestic violence (i.e. social centres for family, children and youth; social and psychological support centres; social servicing centres, etc.). In general, 23688 travels of mobile consulting offices were performed as of March 2020.

35. The number of complaints to law enforcement agencies concerning domestic violence has increased (in 2017 – there were 96 245 complaints, in 2018 – 110 687 and in 2019 – 130,514 accordingly). Out of the total number the following number of complaints was submitted by children: in 2017 – 900, in 2018 –1005, in 2019 – 1055. 242 complaints on domestic violence against persons with disabilities were registered. Detailed information on measures to protect children and their families is in the annex.

36. National Police created 45 mobile groups to respond domestic violence. Some results of 2019: •141814 complaints on violence and other incidents connected with domestic violence were received; • 106721 administrative reports on administrative violations were drawn up (envisaged by Art.173-2 of the Code of Administrative Offences of Ukraine (hereinafter CAOU)); •30 760 persons were fined, 1041 persons were placed under administrative detention, 7578 persons were released from responsibility under Art.21, 22 of the CAOU. Additionally it was identified the following: • 1762 offenses on gender-based violence; • 436 offenses for failure to comply with the urgent restraining order; • 31 offences for failure to report of the place for temporary residence; • 45385 families were found to be abused by family members; • 15878 urgent restraining orders were issued; • 72834 offenders were put on prophylactic record; • 217 persons were denied permission to purchase, store, carry weapons and ammunition; • investigation into the facts of 2016 cases of domestic violence was completed (of which – 619 under Art.126-1 of the CCU and 7 under Art.319-1 of the CCU). *(For comparison: 110,932 complaints of domestic violence were received in 2018; 115473 administrative reports on administrative*

*offenses envisaged by Art.173-2 of the CAOU were drawn up; investigation of 1,029 cases of domestic violence was completed).* Key directions in this area are given in the annex.

37. *On counteraction to sexual violence.* The government has been implementing the National Action Plan on the implementation of UN Security Council Resolution 1325 «Women, peace, security» for the period up to 2020 since 2016. Measures to improve the infrastructure and logistics for women's services and to combat sexual violence related to conflict are being taken; special courses and teaching materials on gender issues of education in emergency situations are being developed. Law enforcement and military personnel are being trained in combating conflict-related sexual violence, arrangements for protection and rehabilitation women affected by conflict and crisis, and spread of HIV/AIDS are taking place as well. The Armed Forces of Ukraine organized a hotline to provide psychological, social and legal assistance (consultations) to female military personnel and to respond to gender discrimination and gender-based violence in military units. The new draft edition of the Charter of the Armed Forces of Ukraine will provide for rules on non-discrimination on the grounds of sex and sexual violence taking into account the European experience of joint military service on equal terms for servicemen of both sexes.

#### **Reply to paragraph 9 of the list of issues**

38. *Events of the Revolution of Dignity.* Investigation of crimes committed during the events of the Revolution of Dignity is carried out by the State Bureau of Investigation (hereinafter the SBI) where a special Investigation Department was created for that purpose. To date, this Department is actively investigating 65 proceedings (out of them, 31 proceedings are suspended due to search of suspects). Within these ongoing proceedings a suspicion was notified to 11 individuals, 3 indictments were sent to the court and within 1 case the process of fulfilling the requirements of Art.290 of the CPCU (disclosure of material to the defense) is continuing after which the indictment will be sent to court.

39. *Events in Odessa city of 02.05.2014.* Police investigators in Odessa region are investigating criminal proceedings on the facts of mass riots which took place on 02.05.2014 in Odessa. *Results of investigation:*

- Illichivsk City Court of Odessa region passed the acquittal verdict of 18.09.2017 in 1 case against 19 persons (the same day the Prosecutor's Office of Odessa region filed an appeal on the said decision of the court, its consideration is ongoing);
- Indictments in 4 proceedings are under consideration of Odessa district courts (1 proceeding under Art.294 of the CCU was closed by the court due to death of the accused);
- The Prosecutor General's Office separated primary criminal proceedings into an independent matter against one person related to whom an indictment under Art. 294(2), 115(2), 348 of the CCU was made and sent to court on 23.04.2015, its consideration is ongoing;
- Out of 29 persons who were brought to criminal responsibility, 3 were sentenced;
- In 2015 the materials of the proceedings concerning suspected of hooliganism who were wanted were separated into independent matters (14 persons in 5 proceedings are wanted);
- 3 persons were reported on suspicion of hooliganism in 2016, one of which is wanted, a case in relation to another person was dismissed due to death of the accused and a third person was sentenced;
- 4 persons out of the number declared wanted were additionally informed about the suspicion of committing a criminal offense under Art.260(2) of the CCU in 2017.

40. *Concerning the investigation of the fire at the Trade Unions House on 02.05.2014 in Odessa city.* It is established that on 02.05.2014 officials of the State Emergency Service of Ukraine in Odessa region left without assistance persons, which led to the death of 42 people. 5 officials of the Service were notified of suspicion of committing a criminal offense under Art.135(3) of the CCU. The pre-trial investigation in connection of 4 persons

has been completed, the indictments have been sent to Primorsky District Court of Odessa for consideration. In connection of suspected B., the materials of the case were separated into an independent matter (he was declared as internationally wanted).

#### **Reply to paragraph 10 of the list of issues**

41. State Targeted Program for Peacebuilding in the Eastern Regions of Ukraine (approved by Governmental Resolution No.1071 of 13.12.2017) provides for, inter alia, resumption of critical infrastructure and social services in the fields of education, health care, social protection, energy, heat and gas supplies, transport, water and sanitation, ecology and environmental protection, physical culture and sports; implementation of mine action measures in the territories of Donetsk and Luhansk regions.

42. On 06.10.2018 the Law «On Mine Action Measures in Ukraine» was adopted. The Government, inter alia, introduced a unified approach to clear warnings on mine-related and explosive hazards to civilians that are the effects of war, as well as forms of warning signs within hazardous areas. In order to take care and warn children who study in schools near contact line in Donetsk and Luhansk oblast the Government produced tens of thousands of printed materials and 500 warning signs connected with mine-related danger.

43. Within Memorandum of Understanding between the General Staff of the Armed Forces of Ukraine and the Center for Civilians in Conflict (CIVIC) 1 training was conducted for instructors on protection of civilian population and 4 ones for officers of civil-military cooperation with regard to collecting and summarizing information on cases of injuries and deaths of civilians. A working group was also established to collect information about injuries and deaths of civilians in the JFO area.

44. The draft Decree of the President of Ukraine «On the National Strategy for the Protection of Civilians in Armed Conflicts for the Period up to 2030» was developed aimed at introducing a systematic approach of prevention and minimization of harm to civilians during armed conflicts and protection of human rights during armed conflict.

45. The Law «On the State Budget of Ukraine for 2020» provides for the budget program «Financial Compensation for Victims Whose Houses Are Destroyed Due to Armed Aggression of Russia». Mechanism for using the budgetary allocations according to the abovementioned program is already developed and relevant draft resolution needs to be approved with state authorities and then considered by the Government.

46. Russia shall be held responsible for the damage caused to Ukraine and its citizens as a result of the armed aggression according to the rules of national legislation and international law. The amount of money spent on financial compensation to the victims will be included in the total amount of losses in the context of implementation of the international legal responsibility of Russia for armed aggression against Ukraine.

47. The SSU counteracts the illicit trafficking of weapons and ammunitions, does not allow their use for terrorist purposes, reveals the channels of their import from the JFO area, as well as suspends terrorist and sabotage activities of groups and individuals. 18 firearms, 119386 bullets, 5681 ammunitions, 95 explosive devices, 7.2 kg of explosive substances were taken in 2019.

48. According to police data, 457 civilians have been killed as a result of shelling, accidents caused by explosive substances, and other accidents since the ATO/JFO in Donbass. 3 criminal proceedings on the facts of harming civilians in the course of an armed conflict are pending before SBI.

#### **Reply to paragraph 11 of the list of issues**

49. SSU doesn't have any informal places of detention. Temporary detention facility within the SSU Office in Kharkiv region was abolished since 12.04.2013 according to the Order of the SSU Head.

50. Detainees are only kept in Kyiv temporary detention facility of the SSU. Proper sanitary, material and living conditions and medical care for detainees and persons taken into custody are provided therein. The rights of persons to date alone with the defender,



without limiting the number of visits and their duration during the time out of their duties are exercised. Temporary detention facility of the SSU, bodies and units within SSU are open to cooperation with international organizations and public human rights organizations. Temporary detention facility of the SSU has been repeatedly inspected by the CPT, the SPT, the delegation of the ICRC in Ukraine, the OSCE representatives. There were no complaints of torture or ill-treatment by SSU staff during the inspections.

51. In criminal proceedings investigated by SSU investigators, cases of violation of procedural rights of persons detained on suspicion of committing crimes against state security, public security, terrorist acts were not allowed. Unauthorized methods, torture and ill-treatment of detainees during investigation by SBU officials were not used. Nowadays, SBI investigators are investigating 3 criminal proceedings on the facts of unlawful actions of SBU officers in the course of an armed conflict. The investigation is ongoing.

52. On 12.12.2019 the Law «On Pre-trial Detention» was amended and afforded the ICRC representatives the right to date with detainees with the permission of the administration of pre-trial facility without any limitation of their number or duration.

53. *Bringing to justice for human rights violation.* 12468 criminal proceedings related to crimes against national security of Ukraine, peace, human security and international order, as well as other serious and particularly grave crimes committed in the context of armed conflict are being investigated. Numerous facts of large-scale and systematic violations of laws and customs of war on the territory of Donetsk and Lugansk regions by participants of «DNR/LNR» terrorist organizations were established in the criminal proceeding registered upon the fact of initiating and waging aggressive war against Ukraine and assisting in committing these actions. 160 places of illegal detention of Ukrainian military servicemen and civilians and over 3500 persons (1600 civilians, other servicemen) were illegally detained and tortured. It was established at TOT of Donetsk and Lugansk regions. More than 1,800 victims out of the number of those who were directly detained by members of the “DNR/LNR” terrorist organizations have already been interviewed. The criminal investigation is ongoing.

#### **Reply to paragraph 12 of the list of issues**

54. The Law “On the Legal Status of Missing Persons” adopted on 12.07.2018 regulates the mechanisms for identifying, registering and searching of missing persons and protecting their relatives. The Government set up a Commission on Missing Persons in Special Circumstances. In May 2019 the first meeting of the members of the Commission took place, at which the organizational actions for the start of the work of the Commission were agreed. Particularly, the Government approved the Procedure for maintaining a Unified Register of Missing Persons in Special Circumstances (*Resolution No.726 of 14.08.2019*) and the Procedure for the Establishment and Activities of Search Groups (*Resolution No.802 of 21.08.2019*).

55. Police units are investigating cases of disappearance, unlawful detention and capture on the TOT. Since 2014 working groups have been set up to receive applications on the disappearance and abduction of persons in the ATO/JFO area and on the TOT. Depending on the description and circumstances of case police qualifies such events under Art.155 “Homicide” (with additional mark “missing person”) or Art.146 “Unlawful detention or Abduction” or Art.146-1 “Enforced disappearance” of the CCU. During investigation, biological specimens from the relatives of missing persons are selected to establish their genetic characteristics and to compare them with the DNA profiles of unrecognized corpses. In the presence of coincidences, forensic molecular genetic examinations shall be assigned to identify the deceased. When identified, the facts are reported to the families of victim. For instance, the number of missing persons in the Armed Forces of Ukraine as of today is 69 persons, of which 27 coincided with the genotypes of representatives of families of missing persons in accordance to DNA test results.

56. Police launched more than 6900 criminal proceedings of *disappearance* of more than 7300 persons (including 874 military personnel) and 3700 proceedings of *unlawful detention, capture and enforced disappearance* of more than 4200 persons (including 1100 military personnel). The results of these and other investigations of enforced

disappearances in the JFO area are presented in the annex. As of 01.01.2020 more than 3000 unlawfully detained persons were released from captivity and more than 4500 missing persons were found alive.

#### **Reply to paragraph 13 of the list of issues**

57. In total, there were 6056 proceedings under Art. 127 “*Torture*” and Art.365 (2,3) “*Excess of power or official authority by a law enforcement officer*” of the CCU. As of early 2020, 30 indictments were sent to court; 105 proceedings were suspended; 756 closed; 1949 merged; 3216 proceedings are investigating where 63 suspicions were presented. The most experienced SBI investigators have been identified as responsible for investigating torture by law enforcement officers.

58. A total of 73 trials of *torture* crimes were pending before the courts in 2018. 21 cases were considered against 37 persons, in 18 cases the sentences were rendered. Among these 37 persons, 8 *were convicted* (2 people were imprisoned, 6 people were released on probation). A total of 74 *torture* crimes proceedings were pending before the courts in 2019. 19 cases were considered against 29 persons, in 17 cases the sentences were rendered. Among these 29 in 2019, 9 *were convicted* (4 persons were imprisoned, 2 persons were released on probation, 1 person was released due to amnesty).

59. In 2018 the courts were pending 221 proceedings for the crime of *abuse of power or authority by law enforcement officials*. 37 cases were considered against 53 persons, in 14 cases the sentences were rendered. Among these 53 persons, 4 *persons were convicted* (2 persons were imprisoned, 1 person was fined, 1 person was released on probation). In 2019 the courts were pending 247 proceedings for the crime of *abuse of power or authority by law enforcement officials*. 35 cases were considered against 52 persons, in 21 cases the sentences were rendered. Among these 52 persons, 5 *persons were convicted* (3 persons were released on probation, 2 persons were released on other grounds). Among these 5 convicts, 2 people were denied the title, 3 people were denied the right to hold positions/engage in certain activities. Any criminal proceeding of the crime of *coercion to testify* (Art.373 of the CCU) has been sent to the court neither in 2018, nor in 2019.

#### **Reply to paragraph 14 of the list of issues**

60. The Law No.1689 “On Amendments to the Criminal and Criminal Procedural Codes of Ukraine on the inevitability of punishment for individual crimes against the bases of national security, public security and corruption crimes” amended, in particular, Art.176 of the CPCU, under which preventive measures in the form of personal obligation, personal security, house arrest, bail cannot be applied to persons suspected or accused of committing crimes against national security, public security provided for in Art.109-114-1, 258-258-5, 260, 261 of the CCU. These norms of Art.176 of the CPCU were declared unconstitutional and abolished by the Constitutional Court of Ukraine (Decision No.7/2019 of 25.06.2019).

61. Since 2014, thanks to political and diplomatic actions of Ukrainian authorities, 608 detainees have been transferred from the TOT of occupied Crimea and Donetsk and Luhansk regions (specifically during 2018–2019 406 detainees were transferred). After a prisoner is transferred from the TOT, the Prison Administration of Ukraine takes into account years spent in imprisonment on TOT and counts them to the duration of imposed punishment.

#### **Reply to paragraph 15 of the list of issues**

62. Governmental Resolution No.815 of 17.07.2019 approved the procedure of entry/exit of persons and vehicles, transportation of goods to TOT in Donetsk and Luhansk regions and from such territories. In order to improve that procedure the Government adopted Resolution No. 953 of 20.11.2019 which simplified procedure for crossing the demarcation line by persons under 16 years of age on the basis of the birth certificate and procedure for moving goods by individuals through the demarcation line.

63. Ministry of Veterans Order No.92 of 18.11.2019 “On Approval of the List and Volumes Restricted or Prohibited to Move Through the Demarcation Line in Donetsk and Luhansk regions and back, to/from Humanitarian and Logistics Centers of Goods, as well

as Foods Attributed to Personal Property” lifted restrictions on individuals to move goods to the TOT (except for prohibited goods) and harmonized the transportation of cash by individuals through the demarcation line.

64. The procedure for transfer of civilians through the EECF to the Crimea, approved by the Government Resolution No.367 of 04.06.2015, was also improved. In June 2019 amendments to this Procedure simplified the entry/exit from the TOT of occupied Crimea for civilians, including for children up to 16 years of age who leave the TOT for registration of identity documents and confirmation of Ukrainian citizenship. Same amendments regulated the actions of border guard staff exercising state control at the administrative border with the Crimea in case of detection of unaccompanied minor in order to ensure social protection of such a child on the territory of Ukraine. On 24.12.2019 the Governmental Resolution No.1157 simplified the procedure of entry/exit from/to occupied Crimea for children between the ages of 14 and 16 who receive education in the territory controlled by the Government of Ukraine.

### **Reply to paragraph 16 of the list of issues**

#### *Reply to paragraph 16 (a)*

65. The legal status of foreigners and stateless persons, the reasons for their stay in Ukraine, the order of their entry/departure are defined in the Law “On the Legal Status of Foreigners and Stateless Persons”. In order to provide effective protection against expulsion, legal assistance and translation services to foreigners and stateless persons, information stands in English and Ukrainian languages are installed at 13 aviation and 36 road check-points with information on the procedure for seeking protection in Ukraine, rights and obligations of foreigners seeking protection. When asylum seekers legally cross the border or illegally attempt to cross the state border they are provided with a leaflet with information on the procedure for providing protection in Ukraine. The leaflets are issued in English/Arabic/Russian/French/Persian language.

66. According to Art.203(3), Art.204-1 of the CAO administrative liability of persons for illegal crossing of the state border of Ukraine, violation of rules of stay in Ukraine and transit passage through the territory of Ukraine in case of their arrival with intent to obtain asylum or to be recognized as refugees or persons in need of additional protection in Ukraine does not apply, if they have applied for asylum or for recognition as refugees or persons in need of additional protection.

67. Within the implementation of the Strategy on the State Migration Policy of Ukraine for the period up to 2025, a draft law “On granting protection to foreigners and stateless persons” was developed. It stipulates that persons who are denied access to the territory of Ukraine at the points of intersection of the state border of Ukraine and who have indicated their intention to obtain protection in Ukraine are granted permission to cross the state border of Ukraine for filing an application for protection. From the moment such an application is filed, the person may not be expelled (voluntarily or involuntarily), extradited, transferred or otherwise forcibly displaced outside Ukraine. *That draft law is passing through inter-ministerial approvals.*

68. Foreigners, stateless persons, refugees and asylum seekers are entitled to free secondary legal aid services according to Art.14 (1, p.8) of the Law “On Free Legal Aid”. Such a right comes from the moment the person submits application for recognition as a refugee or a person in need of additional protection in Ukraine and until the final decision on the application is made. Foreigners and stateless persons detained for the purpose of identification and enforced expulsion are entitled to receive the said legal services from the moment of detention. As of March 31, 2020 foreigners and stateless persons filed 1307 requests for secondary legal aid (342 applications in 2019). 15 free legal aid remote access points are operating within the territorial bodies of the State Migration Service of Ukraine, including in the places of temporary accommodation of refugees and the places of temporary stay of foreigners and stateless persons.

*Reply to paragraph 16 (b)*

69. Article 5 of the Law “On Refugees and Persons in Need of Additional or Temporary Protection” provides for the duty of a person who intends to be recognized as a refugee in Ukraine or a person in need of additional protection crossed the state border of Ukraine, to apply for a recognition as refugee or a person in need of additional protection. Foreigners and stateless persons who have violated the rules of stay in Ukraine are subject to administrative liability under Art.203 of the CAO. Failure to pay a fine due to the lack of funds is not an obstacle for asylum seeker to comply with his/her obligations to access the protection procedure in Ukraine.

*Reply to paragraph 16 (c)*

70. Under Article 4 of the Law “On Refugees and Persons in Need of Additional or Temporary Protection” family members of individuals granted refugee status or temporary protection in Ukraine have the right to enter Ukraine for the purpose of family reunification and to be granted refugee status or temporary protection in the absence of the conditions provided for in paragraphs 2–4 of Art.6(1) of that Law. In 2015–2019 for family reunification purposes 15 people were recognized as refugees and 12 granted protection.

**Reply to paragraph 17 of the list of issues**

71. According to Article 8(3) of the Law “On Operational Investigation Activities” covert examination of publicly inaccessible places, premises or other possession of a person, audio/video control of a person, audio/video control of a place, surveillance over a person, removal of information from transport telecommunication networks, electronic information networks, arresting correspondence, carrying out its inspection and seizure, the determination of the location of the electronic means shall be carried out on the basis of a decision of the investigating judge, at the request of the head of the respective operational unit or his deputy, agreed by prosecutor. These measures are solely for the purpose of preventing the commission of a grave or particularly grave crime, the prevention and termination of terrorist acts and other attacks by special services of foreign states and organizations, if otherwise impossible to obtain information. The procedure and peculiarities of application of covert investigative (search) actions are regulated by Chapter 21 of the CPCU.

72. Art.9 of the abovementioned Law establishes the obligation of bodies carrying out investigative activities, to immediately restore the violated rights and to compensate the material and moral damages caused in cases of violation of human rights and freedoms of persons or legal entities in the course of the operational search activity, and also if the involvement in the offense of the person subjected to the search operations was not confirmed. Citizens of Ukraine and other persons have the right to receive from the bodies carrying out operative-search activity, written explanation about the restriction of their rights and freedoms and to appeal against these actions.

73. Police investigates dissemination of confidential information about individuals and individual journalists on the Internet site “Myrotvorets”. Criminal proceeding is launched under Articles 171(1), 182 (1) of the CCU, the procedural guidance is carried out by the Kyiv Local Prosecutor’s Office No.7. Nowadays, the pre-trial investigation is ongoing.

**Reply to paragraph 18 of the list of issues***Reply to paragraph 18 (a)*

74. The Law No.1402-VIII “On Judiciary and the Status of Judges” stipulates that the High Qualifications Commission of Judges (hereinafter HQCJ) conducts competitions for the vacancy of judges and submits to the High Council of Justice (hereinafter HCJ) recommendations on the appointment of a candidate for the post of judge, and conducts a qualification evaluation. Art.79, 81 of this Law stipulate that the competition for the position of Judge of the Court of Appeal, the Higher Specialized Court and the Supreme Court is conducted by a special procedure, which consists in passing of Qualification Assessment by candidates for the position of a Judge.

75. Pursuant to Art.84(6) of the Law, if during qualification evaluation of a judge, HQCJ finds out that the judge has violated the legislation in the field of corruption prevention, it shall immediately inform relevant authorities. Thus, qualification evaluation of 46 judges was suspended due to the identification of circumstances that may indicate a breach of anti-corruption legislation.

76. The HQCJ also conducts a qualification assessment to evaluate judge`s correspondence with his/her position. To date, such procedure was applied concerning 5180 judges of local and appellate courts. Results are the following: 120 judges did not pass exams (did not manage to earn minimum mark); applications concerning 24 judges were filed to the HCJ because of their refusal to pass assessment; 259 judges were recognized as ones who correspond to their position; 77 judges were recognized as ones who do not correspond to their positions based on interview with HQCJ; due to the dismissal of the judge the HQCJ suspended the evaluation of 400 judges.

77. The HCJ received 171 submissions with the recommendations of the HQCJ for the dismissal of judges, who, in accordance to the results of evaluation, were found to be ineligible for their positions. 127 submissions were considered against 127 judges. As a result, it was decided to dismiss 41 judges; leave without considering the submission regarding 59 judges; refuse to grant a motion to 25 judges. Currently, there are 44 submissions on the consideration of the HCJ. Information on participation of the Public Integrity Council within the qualification evaluations and achieved results is in the annex.

*Reply to paragraph 18 (b)*

78. According to Art.48 of the Law “On Judiciary and Status of Judges” the independence of judges is ensured through, *inter alia*, inviolability and immunity of judges; prohibition of interference with the administration of justice; liability for disrespect of court or a judge; a separate procedure for funding and organizational support of functioning of courts stipulated by law; adequate financial and social support of judges; means to ensure personal safety of a judge and members of his/her family, property and other means of legal protection. Same article also states that the independence of the judge is, in particular, in the obligation to report interference with his/her work in the administration of justice to the HCJ and Prosecutor General. In case of non-notification, a judge may be brought to disciplinary liability.

79. Article 49 of this Law provides, *inter alia*, that a judge shall be inviolable, may not be detained or arrested without the consent of the HCJ until a verdict of guilty is rendered except for detention of a judge during or immediately after committing a grave or especially grave crime; a judge may be notified of suspicion of having committed a criminal offense only by the Prosecutor General.

80. The HCJ maintains a register of judges’ allegations of interference with the activities of a judge, administers such reports, publishes the results and makes appropriate decisions. As of 31.03.2020, the HCJ conducted a review of 1170 reports (*out of total number of 1326 submitted reports*) from judges regarding such interference, which resulted in 256 decisions on measures to ensure the independence and the authority of justice. Additional information is provided in the annex.

81. Court Protection Service was established executing tasks of maintaining public order in the court; termination of disrespect for the court; the protection of the courts, bodies and institutions of the justice system; the performance of functions of state security for the personal security of judges and their families, court staff, and ensuring the safety of court participants in court. Judges, their family members and their property are all under the special protection of the state.

82. Draft laws directed on amending Art.375 of the CCU are under consideration of the Parliament. Additional information regarding them is provided in the annex.

*Reply to paragraph 18 (c)*

83. On 19.09.2019 Law No.113-IX “On Amendments to Certain Legislative Acts of Ukraine on Priority Measures for the Reform of the Prosecutor’s Office” was adopted.

After retesting of the staff a new Office of the Prosecutor General became operational. In order to consider complaints about disciplinary misconduct by the prosecutor relevant staff commissions are set up at each regional prosecutor's office. The law provides for the performance of attestation by staff committees to evaluate the compliance of existing prosecutors with the criteria of professional competence, integrity and professional ethics. The law raises the salaries of prosecutors (the salary of the prosecutor of a district prosecutor's office increased to 15 subsistence minimums) with its further increase to 20 and 25 in 2021–2022 accordingly. The salaries of other prosecutors are set in proportion to the salary of the prosecutor of the district prosecutor's office with the respective coefficients.

#### **Reply to paragraph 19 of the list of issues**

84. Pursuant to Art.89 of the CPCU the court exclusively decides the admissibility of evidence during its assessment in the conference room during the process of adjudication. If inadmissibility of evidence is established during the trial, the court finds this evidence inadmissible, which entails the impossibility of examining such evidence or terminating its examination in court if such an investigation was initiated. In criminal proceedings concerning crimes committed in the context of armed conflict, the violation of the right to a fair trial and the right to protection were not allowed.

85. On 01.06.2017 police in Odessa region was reported about the clash between unknown persons during which one of the unknowns used a stun gun and the other – tear gas. After the fight a medical care was provided to *Mr. Valentyn Rybin*. On 01.06.2017 criminal proceeding of criminal offense under Art.294(4) of the CCU was initiated. The pre-trial investigation in this proceeding is currently ongoing. Within another case, on 27.07.2018 police in Kyiv city received an application from *Mr. Rybin* about causing him bodily harm and initiated a criminal proceeding under Art.126(1) of the CCU. On July 19, 2019 a decision to close that criminal proceeding was made in the absence of the composition of a criminal offense (the decision was not challenged).

86. On 07.08.2018 during the trial, an unidentified person inflicted bodily injuries to lawyer *Mr. Oleh Povaliaiev*. The next day criminal proceeding under Art.398(1) of the CCU was initiated. On 19.07.2019 following investigation a decision to close that criminal proceeding was made in the absence of the composition of a criminal offense (the decision was not challenged).

87. Police investigates criminal proceeding No.12019120020006470 of the homicide of lawyer *Mr. Oleksandr Ivanov*. Within the proceeding 26 forensic examinations were conducted, all possible witnesses were interrogated, mobile numbers of possible perpetrators were analysed, etc. Pre-trial investigation continues with investigative measures are being taken to identify perpetrators.

88. Police is investigating criminal proceeding No.12019110040001202 of the theft of personal belongings of the lawyer *Mr. Oleksandr Shadrin*. Pre-trial investigation is ongoing, relevant investigative actions are being conducted.

89. No criminal offences committed against *Mr. Andriy Khozhiy* are recorded within law enforcement databases.

90. Art.222 of the CPC provides that pre-trial investigation information may only be disclosed with the written permission of the investigator or prosecutor and to the extent they deem it possible. Art.387 of the CCU provides for criminal liability for disclosure of pre-trial investigation data. Thus, more detailed information on these criminal proceedings cannot be provided.

91. *19(c)*. Art.99 (2, p.1) of the CPCU provides for that photography, audio/video-recording and other data storage devices (including electronic ones) shall belong to documents. Admissibility of specific electronic evidences within specific case shall be determined by the court. For instance, the Supreme Court within the case No.477/233/16-k recognized evidences as admissible and justifying collected by the prosecution from open Internet resources and documented in the respective procedural protocol.

**Reply to paragraph 20 of the list of issues**

92. Transition of local religious communities from the Ukrainian Orthodox Church (in unity with Moscow Patriarchy) to the newly established Orthodox Church of Ukraine is a consequence of a deep inner crisis of the Ukrainian Orthodox Church (Moscow Patriarchy) in times of continuous armed aggression of Russian against Ukraine. Change of subordination of religious communities is carried out under Ukrainian legislation that recognizes the right of religious community to its subordination in canonical and organizational issues to any Ukrainian and foreign religious centres (administrations) and free change of such subordination. Generally, the process of transition of subordination of religious communities goes quite calm and without any confrontations. The majority of information on various conflicts is disseminated by Russian-controlled structures in order to destabilize situation in Ukraine.

93. According to allegations in connection with the process of transition of religious communities from the Ukrainian Orthodox Church to the newly established Orthodox Church of Ukraine, numerous criminal proceedings have been registered. Information about them is given in the annex.

**Reply to paragraph 21 of the list of issues**

94. In 2018 police initiated 82 criminal proceedings of offenses committed *against public activists*: within 14 proceedings indictments were sent to court, 22 proceedings were closed, 7 were transferred under the jurisdiction of the SSU and the Prosecutor's Office, and 1 was suspended. In 2019, 75 criminal proceedings were commenced on the same grounds: in 14 cases indictments were sent to court, 16 cases were closed. 43 criminal proceedings are still under investigation.

95. In 2018 police investigated 258 criminal proceedings of crimes committed *against media professionals*. Out of these 26 indictments were sent to the court. In 2019, police investigated 222 criminal proceedings of this category. Out of these 11 indictments were sent to the court. During 2020 police investigated 17 proceedings with 2 indictments being sent to the court at the moment.

96. Among the most resonant crimes in this category are homicide of *Mr. Pavlo Sheremet* on 20.07.2016 in Kyiv and homicide of *Mr. Vitaliy Komarov* on 04.05.2019 in Cherkasy:

- Mr.Sheremet's homicide is qualified as homicide committed in a manner dangerous to the lives of many persons (Art.115(2) of the CCU). The Prosecutor-General's Office is conducting procedural guidance. On 12.12.2019 3 persons were notified a suspicion of that crime, the pre-trial investigation is ongoing;
- Mr.Komarov's homicide is qualified as homicide (Art.115(1) of the CCU). A considerable number of investigative measures were conducted to identify the perpetrators of the crime. The pre-trial investigation is ongoing.

**Reply to paragraph 22 of the list of issues**

97. According to the Law "On the State Budget of Ukraine for 2020" the financing of the National Public Broadcasting Company of Ukraine is 1.7 billion UAH. (in 2019, the funding amounted to 1 billion UAH). Under par.28 of the Company's Statute this Company independently defines its organizational structure, staff rates and accountant policy. Supervisory Board of the Company shall supervise over activity of the Company (par.42 of the Statute). Management of the Company, *inter alia*, administers current activities of the Company, approves its structure and staff rates, establishes or abolishes units within the Company (under par.66 of the Statute). *The National Television and Radio Broadcasting Council is operating independently and impartially as well.*

98. (a) As defined in the Doctrine of Information Security of Ukraine (Decree of the President of Ukraine of 25.02.2017 No.47/2017) one of the priorities of the state informational policy is the legislative regulation of revealing and removing information that threatens life and health of citizens of Ukraine, promotes war, national and religious enmity, change of constitutional order by violent means or violation of territorial integrity of

Ukraine, threatens state sovereignty, promotes communist and/or national-socialist (Nazi) totalitarian regimes. According to this Doctrine the SSU discovers online materials that contain the signs of criminal offenses under Art.109, 110 of the CCU. The application of informational sanctions against Russian media relates to blocking and minimizing of Russian anti-Ukrainian informational policy and avoiding the spread of propaganda of war, dissemination of separatist and terrorist materials.

99. (b) On 17.10.2019 the Law “On Amendments to the Law “On the Prevention of Corruption” was adopted regarding the corruption whistle-blowers, which introduced new ways of reporting possible facts of corruption or corruption-related offenses, other violations of anti-corruption legislation. This Law defines the legal status and rights of whistle-blowers, guarantees and mechanisms for their protection. Detailed information about that law is provided in the annex.

#### **Reply to paragraph 23 of the list of issues**

100. Art.39 of the Constitution of Ukraine stipulates that citizens have the right to assemble peacefully, without weapons and to hold meetings, rallies, marches and demonstrations, which are notified in advance to the executive or local self-government bodies. Restrictions on the exercise of this right may be imposed by a court in accordance with the law and only in the interests of national security and public order – to prevent disturbance or crime, to protect public health or to protect the rights and freedoms of others.

101. The Constitutional Court of Ukraine in its Decision of 04.04.2001 No.4-rp/2001 stated that the provision of Art.39(1) of the Constitution of Ukraine regarding advance notification should be clarified so that the organizers of peaceful meetings should notify the authorities in advance, thus, within acceptable time limits preceding the date of events. Another decision of the Constitutional Court of Ukraine of 06.09.2016 No.6-rp/2016 declared the provisions of Art.21(5) of the Law “On Freedom of Conscience and Religious Organizations” unconstitutional, according to which in some cases public religious ceremonies are conducted with the permission of the respective local authorities, and the application for permission shall be submitted no later than ten days before the appointed date of worship, except urgent cases.

102. Art.280 of the Code of Administrative Judiciary of Ukraine stipulates that the authorities, immediately after receiving the notification of holding meetings, rallies, marches, demonstrations, are entitled to claim before the district administrative court to prohibit such measures or to establish another restriction on the right to freedom of peaceful assembly. The lawsuit shall be sent to the organizers of the peaceful assembly (by e-mail) and made public on the website. An administrative case for the prohibition or restriction of peaceful assembly shall be decided by the court within two days after the opening of the proceedings, and decided immediately – in the case of the opening of the proceedings less than 2 days before the event. Authorities must justify the need to establish a restriction on event and the proportionality of the proposed restriction.

103. During 2012–2020, 20 mass events aimed at protection of LGBT community against discrimination took place in Ukraine. National police ensured law and order during all mass events. In the case of unlawful actions by radical groups, they were held accountable. Most of the activities of the LGBT community took place without gross violations of public security and order.

104. 08.03.2018 during International Women’s Day rally in Uzhgorod, unidentified persons doused its participants with red paint. The police detained 4 persons on the same day. In November 2018 the indictment in this case was sent to the prosecutor’s office for submission to the court. No data has been put into the URPI with regard to 2018 International Women’s Day marches in Kyiv and Lviv.

105. Draft laws regarding freedom of peaceful assemblies (No.3587-1, 5455, 5456) were withdrawn from the Parliament due to its re-election and non-consideration of these drafts in the first reading by the previous convocation of the Parliament.



**Reply to paragraph 24 of the list of issues**

106. According to Art.5 of the Law “On Political Parties in Ukraine” the political party shall be banned if its goals or actions are aimed at elimination of Ukraine’s independence; forcible changing of the constitutional order; violation of the sovereignty and territorial integrity of Ukraine; undermining state security; unlawful seizure of state power; propaganda of war, violence, incitement of interethnic, racial or religious enmity; encroachment on human rights and freedoms; encroachment on public health; propaganda of communist and/or national-socialist (Nazi) totalitarian regimes and their symbolism. The procedure for banning political party activity is described in the annex.

107. 09.04.2015 the Law No.317-VIII “On Condemning Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibiting the Propaganda of Their Symbolism” was adopted (Law No. 317-VIII). Pursuant to Article 3(5) of this Law political parties those activity, name or symbols do not comply with the requirements of this Law shall not participate in election process. Information on the regulatory framework and decision-making on the non-compliance of the activity, name and / or symbolism of the Communist Party of Ukraine with the requirements of Law No. 317-VIII is provided in the annex. *There is no information regarding National Socialist Party in the Unified Register of Public Formations.*

108. For these reasons, the Resolution of the Central Electoral Commission (hereinafter CEC) No.1988 of 02.02.2019 denied registration of the candidate for the President of Ukraine nominated by the Communist Party of Ukraine and the CEC Resolution No.1170 of 22.06.2019 denied registration of candidates for Members of Parliament from the election list of the Communist Party of Ukraine. Both CEC decisions were challenged, but the courts confirmed their validity.

109. Art.2 of Law No.317 condemned the communist and national-socialist totalitarian regimes as carrying out a policy of state terror characterized by numerous human rights abuses in the form of killings, deportations, torture, harassment of ethnic, national, religious, social and other motives, a violation of freedom of conscience, opinion. Numerous states joined the Joint Statements on the occasion of the 70’s, 75’s, 80’s, 85 anniversary of the Holodomor – Great Famine of 1932–1933 in Ukraine, adopted at the 58th session (A/C.3/58/9), the 63rd session (A/63/613), the 68th session (A/68/655) and the 73rd session (A/73/630) of the UN General Assembly. These Joint Statements, *inter alia*, state that “in the former Soviet Union, millions of men, women and children have been victims of the brutal acts and policies of the totalitarian regime”, “condemned the brutal policies pursued by the Stalinist regime, such as the forced collectivization and requisition of food, which resulted in the death of a large part of Ukrainians.” Thus, political parties promoting communist regime are in direct contradiction to the Covenant.

**Reply to paragraph 25 of the list of issues**

110. Pursuant to Art.7 of the ECU a citizen who is declared incompetent by a court is not entitled to vote. A person suffering from a mental disorder cannot be deprived of the right to vote *in the absence of a proper court decision* made on the basis of a psychiatric diagnosis or in connection with a stay in a hospital or a dispensary.

111. The ECU regulates that one of the conditions for candidates to be elected as the President of Ukraine or a Parliament’s Member is a certain period of residence in Ukraine. This requirement seeks to ensure a stable connection between the candidate running for office and the state (society) in order for him/her to understand the major societal issues and how to fix them. In p.56 of the judgment in the case “*Melnichenko v. Ukraine*” (application No.17707/02), the ECtHR stated that for voting purposes the requirement of residence may be justified on the assumption that non-resident citizen is less directly interested and less aware of the day-to-day problems of the state.

112. The ECU regulated that a person convicted for: intentional crime may not be elected to the Parliament; committing a grave or especially grave crime, a crime against the electoral rights of citizens or a corruption crime may not be elected to local authorities (if such convictions are not extinguished or withdrawn under legal procedure).

113. Under Art.101, 156, 225 of the ECU money pledge is a prerequisite for registration of candidates for the post of the President of Ukraine, Member of the Parliament or within local elections (except for candidates to village and town councils or for the post of village, town chairman). The Constitutional Court of Ukraine established the legality of the money pledge requirement. Detailed information is given in the annex.

114. The ECU has also regulated voting rights for IDPs in all future elections, including the 2020 local elections. Transitional provisions of the ECU amended the Law “On the State Register of Voters” regulating that certificate of IDP` registration shall duly justify the change of electoral address. State Register of Voters allows applying for temporary change of voting place in electronic form.

115. According to Art.104 of the ECU the CEC is empowered to evaluate election programs independently of whether there are grounds for refusal to register candidates (*the criteria are: the presence in the election program of provisions aimed at liquidating the independence of Ukraine, change of constitutional order by violent means, violation of the sovereignty and territorial integrity of the state, undermining its security, illegal seizure of state power, promotion of war, violence, incitement of interethnic, racial, religious enmity, encroachment on human rights and freedoms, health of the population*). This conclusion was reached by the Supreme Court on the basis of the examination of the appeal in case No.855/25/19 on cancelling the CEC Resolution of 20.02.2019 No.209 “On refusal to register Mr. K as a candidate for the post of the President of Ukraine at the next presidential election on March 31, 2019” issued by the CEC on the basis of the analysis of the election program of this candidate.

#### **Reply to paragraph 26 of the list of issues**

116. Art. 19 of the ECU establishes criminal (Art.1591 of the CCU), administrative (Art. 212<sup>21</sup> of the CAOU) and other liability for breach of election law and electoral rights of voter, political parties and candidates. *Since the beginning of the presidential election campaign* police initiated 258 criminal proceedings of crimes directly related to violation of the electoral law (under Art. 157–160 of the CCU) and 178 ones of crimes indirectly related to violation of electoral law. *Since the beginning of the Parliamentary election campaign* police initiated 439 proceedings of crimes directly related to violation of the electoral law and 141 proceedings of crimes indirectly related to violation of electoral law. Details of investigation results are in the annex.

117. Art. 97 and 153 of the ECU regulate the mechanisms of control over financing and expenditures during election campaigns. Financial reports on the receipt and use of the costs from the election fund of a candidate for the post of the President of Ukraine, political party or a candidate for the Member of the Parliament shall be submitted to the CEC and to the National Agency for Corruption Prevention (hereinafter – NACP) by an administrator of the cumulative account of the election fund. In a case the CEC or district election commission reveals signs of violation of electoral law during the analysis of the financial documentation they shall inform the NACP and law enforcement agencies.

118. Art. 104, 159 of the ECU doesn't provide such a reason for refusing to register a candidate for the President of Ukraine or Parliament's Member as having completely identical personal data of the candidate (name, surname, year of birth) with another candidate. According to Art. 47 of the ECU voters, including with impaired vision and hearing, shall be given access to diverse, objective and impartial information to make a choice. CEC Resolution No. 909 of 29.05.2019 explained that if a candidate changed his/her first name or surname before being nominated as a candidate for Parliament, then all previous first names, surnames and the date of such changes should be included in the CV.

#### **Reply to paragraph 27 of the list of issues**

119. Art. 7 of the Law “On Education” and Art. 21 of the Law “On Ensuring the Functioning of Ukrainian Language as State Language” guarantee the right of national minorities of Ukraine to study within pre-school and primary education institutions, along with state language, in the language of respective national minority as well as the right of

persons belonging to indigenous people of Ukraine to study, along with state language, in their languages within pre-school and general secondary education institutions.

120. Transitional Provisions of the Law “On Ensuring the Functioning of Ukrainian Language as State Language” regulated that persons belonging to national minorities of Ukraine, whose languages are official languages of the EU and who started to obtain general secondary education before 01.09.2018 on the language of respective national minority shall continue, until 01.09.2023, to obtain such education under the rules that existed before the Law “On Education” came into force with progressive increase of study subjects that shall be learned in Ukrainian language. Other national minorities shall do the same up to 01.09.2020.

121. Art. 5 of the Law No.463 of 16.01.2020 “On General Secondary Education” provides detailed description of the models of application of the language of education within general secondary education institutions taking into account recommendations of the Venice Commission. These models are described in the annex.

122. *Pre-school education institutions* provide education in Ukrainian, Crimean Tatar, Moldovan, German, Polish, Russian, Romanian, Slovak, Hungarian. Information on the number of pre-school institutions with children studying therein as of 01.01.2019 is given in the annex. A total of 319011 students within 1177 *secondary education schools* study in their mother tongue. Information about languages of studying within general secondary education institutions in 2019/2020 and other relevant information is given in the annex.

123. The Government has allocated UAH 46.8mln for the purchase of equipment for Ukrainian language classrooms in general secondary education institutions with studying in national minority languages, incl. for the acquisition of electronic flipcharts and mobile stands for them for schools with studying in Romanian and Hungarian. Most funds are directed to the regions where educational institutions with studying in the language of national minorities traditionally operate: Transcarpathian, Chernivtsi, Odessa. Training of pedagogical staff for general secondary education institutions with teaching in Ukrainian and Russian is carried out all over Ukraine.

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