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SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF
THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1

Ukraine*

The present report is a summary of eleven stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The periodicity of the review for the first cycle being four years, the information reflected in this report mainly relates to events that occurred after 1 January 2004.

* The present document was not edited before being sent to the United Nations translation services.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. Amnesty International (AI) mentioned that Ukraine has yet to ratify the Rome Statute of the International Criminal Court and the Convention for the Protection of All Persons from Enforced Disappearance.²

B. Constitutional and legislative framework

2. The Ukrainian Parliament Commissioner for Human Rights (UPCHR) informed that the Constitution of Ukraine, adopted in 1996, proclaims that all people are free and equal in their dignity and rights, and human rights and freedoms are inalienable and inviolable.³ The UPCHR noted that in 2006, the President approved decrees on the Concept for the improvement of the Judiciary and Ensuring Fair Trial in Ukraine in Line with European Standards and on the Concept of Forming the System of Free Legal Aid in Ukraine, but the provisions of neither have been implemented.⁴

C. Institutional and human rights infrastructure

3. The UPCHR characterized the national institution as a classical example of an ombudsperson, since he/she is elected by the Parliament by secret ballot, thereby ensuring his/her independence from all branches of state power.⁵ The Ukrainian Helsinki Human Rights Union (UHHRU) noted that the Ombudsperson's Secretariat does not have a general register for all complaints received and that there is no effective monitoring over how the substance of these complaints is dealt with. Most of the complaints addressed to the Ombudsperson are automatically sent on to those whom the complaints are about.⁶ According to Donetsk Memorial (DM), the numerous complaints which the Ombudsperson's Secretariat receives alleging unlawful behaviour from employees of the penal service are simply sent on to the very same Department and / or to the Prosecutor's office.⁷ UHHRU observed that for these reasons, the role of the Ombudsperson in defending human rights remains insignificant.⁸ DM highlighted that there is a lack of public control over penal institutions and that the Ombudsperson does not provide effective and real control.⁹ AI indicated that the credibility and effectiveness of the institution were seriously undermined when, in violation of the law on the Ombudsperson, the incumbent was elected as a Member of Parliament for the Party of the Regions in March 2006 while retaining the post of Ombudsperson. She resigned from Parliament when re-elected as Ombudsperson in January 2007.¹⁰

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

4. UHHRU indicated that a considerable number of UN treaty body recommendations to the Government have still not been implemented. There is no single State body ensuring that these recommendations are acted upon, nor has there been any legal act setting out a specific action plan for implementing the recommendations.¹¹ The UPCHR informed that she actively participates in the process of Ukraine's reporting to the treaty bodies and makes her critical observations and proposals on the implementation of the treaty body recommendations.¹²

B. Implementation of international human rights obligations

1. Equality and non discrimination

5. UHHRU informed that no legal act, barring the law “On equal rights and opportunities for men and women”, contains a definition of direct or indirect discrimination, nor a mechanism for protection against discrimination. As a result of this, there are no court rulings which directly punish acts of discrimination.¹³ UHHRU reported that discrimination on various grounds is fairly widespread. People experience discrimination most often on the following grounds: ethnic origin, gender, state of health, sexual orientation and age. UHHRU pointed out that the number of incidents of discrimination is constantly rising as a result of the lack of effective mechanisms of protection and the difficulties of punishing people for such behaviour.¹⁴

6. Human Rights Watch (HRW) pointed out that although Ukraine has adopted legislation designed to ensure gender equality in employment, HRW research has determined that women do not enjoy equal access to employment opportunities as a result of discriminatory attitudes among both public and private employers, including discriminatory recruitment practices. When advertising, employers regularly specify preferences for men and discriminate on the basis of age or physical appearance of potential female candidates during the recruitment process. HRW also reported that men hold a disproportionate number of senior government and managerial positions and receive better pay than women in comparable jobs. Women are very often forced into the low-paying and unregulated informal economy and are disproportionately affected by unemployment.¹⁵

7. AI reported that asylum-seekers and foreigners living in Ukraine often suffer racist attacks from members of the public and are subjected to racist treatment at the hands of the police, including disproportionately frequent document checks. There are no government statistics for the number of racist crimes and most racist attacks are classified by the police as “hooliganism”. AI highlighted that Article 161 of the Criminal Code related to racially motivated crimes is flawed because it applies only to victims who are citizens.¹⁶ UHHRU also noted that reports of acts of violence against people from Africa, Asia and the Caucasus have become more frequent. Members of these groups claim that law enforcement officers constantly ignore, and sometimes even support, acts of violence against them. They are especially discriminated against at work, when renting accommodation, as well as when exercising their right to education.¹⁷ The Council of Europe’s Commissioner for Human Rights (CoE CHR) reported that anti-Semitic trends seem to be a worrying trend in Ukraine, and that there is a true risk of an anti-Semitic epidemic.¹⁸ AI recommended that the Government review legislation relating to racist crimes and ensure that law enforcement officers, prosecutors and judges involved in enforcing the law relating to racist crimes fully understand the nature of such crimes.¹⁹ The CoE CHR recommended that the Government reinforce efforts to forcefully combat racist, xenophobic and anti-Semitic behaviours and provide legal guarantees against discrimination of refugees on grounds of race, religion or country of origin.²⁰

8. HRW highlighted that although Ukrainian law expressly forbids healthcare institutions from refusing medical aid to people living with HIV/AIDS based on their HIV status, healthcare workers often discriminate against people living with and at high risk of HIV/AIDS. HRW research found that intravenous drug users and people living with HIV/AIDS have been denied emergency medical treatment or have been discharged from hospitals once their HIV status became known or have been provided with inadequate

treatment because doctors refused to treat them. Discrimination and stigma also keeps many people living with HIV/AIDS from accessing health care and other HIV/AIDS related services at all.²¹ HRW also reported that police regularly interfere with the delivery of HIV prevention information and services, including drug users' access to legal needle exchange services, in direct contradiction to Ukrainian policy. Police needing to fulfill arrest quotas find drug users especially easy targets for arrest or ill-treatment, according to HRW.²²

9. UHHRU maintained that public attitudes to Roma remain negative, prejudice against them being more widespread than in relation to any other national minority. Roma face regular systemic discrimination in virtually all sectors, including access to personal documents, education, housing, health care, employment and social services. According to UHHRU, in comparison to other ethnic groups, the level of unemployment among Roma is, on average, the highest and their living conditions are the worst. School attendance figures for Roma children remain low.²³ The CoE CHR recommended Ukraine develop programmes to ensure the social integration of Roma, notably through support of small-scale businesses, access to education and access to infrastructures.²⁴

10. Nash Mir (Our World) Gay and Lesbian Center (NMGLC) stated that the results of a March 2007 survey have shown that for the last five years homophobia has increased in Ukrainian society.²⁵ Often homosexuals face problems in the work place and during contacts with law enforcement bodies. In the latter context, they often face prejudiced attitudes and psychological pressure and undergo threats and blackmail on the part of police officers.²⁶ The CoE CHR recommended Ukraine to ensure that anti-discrimination legislation clearly includes the Lesbian, Gay, Bisexual, and Transgender/Transsexual (LGBT) community; to promote tolerance and awareness of individual rights; to introduce a state-level programme of social support to the LGBT community and increase education of public servants in this field.²⁷

2. Right to life, liberty and security of the person

11. The Kharkiv Human Rights Group (KHRG) highlighted that the definition of "torture" contained in article 127 of the Criminal Code does not fully reflect all elements contained in Article 1 of the Convention Against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), notably with respect to discrimination. Provisions of section 127 paras. 3 and 4 cover only a "law-enforcement officer", excluding other state agents. Further, in that section, "torture" is defined as a "violent act" narrowing from the definition of Article 1 of CAT, which defines torture as "any act by which severe pain or suffering... is intentionally inflicted".²⁸

12. AI reported that it continues to receive reports of torture and ill-treatment of individuals in police custody.²⁹ The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CoE CPT) reported that in the course of its 2005 visit, the delegation received a significant number of allegations of deliberate physical ill-treatment of detainees (including juveniles) inflicted by operational officers, in particular during initial questioning in district police stations with a view to securing confessions in respect of the criminal offence for which the persons in question were detained or additional confessions relating to unsolved crimes. The CoE CPT reported that the alleged forms of ill-treatment mainly consisted of punches, kicks and baton blows. Allegations were also made about slaps on the ears with open hands, painful handcuffing, belt or baseball bat blows.³⁰ The State provided a response to the CoE CPT on these allegations.³¹

13. KHRG reported that among the existing problems in preventing torture and ill treatment are the lack of a unified and consistent state policy, weak coordination between various state agencies, insufficient expert knowledge and practical skills. Official information about the scale of ill treatment is unavailable.³² The UPCHR mentioned that a national preventive mechanism (an independent state body with special status) is still under discussion.³³ AI recommended that steps be taken to set up an independent body to monitor place of detention in accordance with Ukraine's obligations under the Optional Protocol to CAT (OP-CAT).³⁴ The CoE CPT recommended that a clear message of "zero tolerance" of torture and other forms of ill-treatment be delivered at the highest level and at regular intervals to all Ministry of Internal Affairs staff.³⁵ The State provided a response to this recommendation.³⁶ The CoE CHR recommended police violence be addressed through a comprehensive policy to counter torture and ill-treatment, including appropriate training and control measures.³⁷

14. KHRG noted that legislation in the field of extradition and deportation remains underdeveloped and does not provide for examination of any circumstances which the State should take into account according to Article 3 of CAT. Decisions regarding extradition are within the exclusive jurisdiction of the Prosecutor General who takes such decisions secretly and without any procedure. The law does not stipulate the duty to inform the individual, whose extradition is demanded by another State, of the decision taken and the grounds for the decision.³⁸

15. According to KHRG, detention without a court warrant remains the rule, detention on the basis of a court order the exception. KHRG reported that law enforcement officers consider 72 hours to be the period during which they have entirely unlimited authority to hold a person in custody; judges do not require law enforcement officers to provide proof that the person could not have been brought before them within a shorter period; and police detention may be extended, increasing the torture and ill-treatment. KHRG added that until a formal decision concerning detention has been taken, a suspect is not considered detained. Their status in custody remains unclear until an official has compiled a protocol for detention. KHRG also mentioned that legislation establishes a maximum period of detention only for pre-trial investigation.³⁹

16. Regarding prison conditions, DM reported that the conditions in which convicted prisoners are held have been gradually improving over recent years.⁴⁰ However, according to KHRG, conditions in investigatory wards and prisons remain poor. The problem of overcrowding is only in part related to the funding of the system of facilities for remand in custody. KHRG put forward bail as one of the effective measures which could reduce the recourse to pre-trial detention.⁴¹ DM noted that the use of remand in custody as a preventive measure remains unwarrantedly high in Ukraine. Quite often the measure is used against people who are accused of not particularly serious crimes, and they are sent to SIZO (remand prisons) for the convenience of the investigator.⁴² According to KHRG, Ukrainian legislation does not provide for such an important guarantee for detainees as the right to periodic review of the grounds for their detention.⁴³ DM reported that remand and convicted prisoners are increasingly approaching the European Court of Human Rights with complaints about conditions and ill-treatment in the institutions of the Department for the Execution of Sentences.⁴⁴

17. AI highlighted that in a country with a very high rate of tuberculosis, overcrowding and poor conditions in pre-trial detention have led to a high rate of infection among detainees. AI recalled the concerns expressed by the Ombudsperson in November 2007 about the

number of deaths in custody in the 20 SIZO facilities in Ukraine. AI also quoted statistics gathered by the Ombudsperson's office stating that between 2004 and 2007 130-135 people died annually in detention in SIZOs. Most deaths were due to inadequate medical care, including failure to diagnose pre-existing medical conditions, such as tuberculosis.⁴⁵ The CoE CHR recommended that steps be taken to reduce the prison population; provide alternative forms of punishment; improve conditions of detention for juveniles and ensure that they are kept in separate centres; and ensure tuberculosis and HIV/AIDS testing and proper medical care for all inmates.⁴⁶

18. AI reported that the Law on the Prevention of Violence in the Family came into effect in 2002, yet expressed concern that the law is flawed and has not proved effective in combating domestic violence. The Law contains the concept of "victim behaviour" defined as "the behaviour of a victim of domestic violence that provokes domestic violence", which has been used to blame women for provoking violence, and contributed to impunity by allowing perpetrators to avoid prosecution. A draft bill to amend this law was presented to Parliament in February 2007, but has not yet been passed. While the draft law omits the concept of "victim behaviour", AI remained concerned that its provisions do not go far enough to ensure that adequate short-term and long-term alternative housing would be made available to victims of domestic violence.⁴⁷ The CoE CHR recommended the Government reinforce measures adopted to combat domestic violence; encourage the setting up of shelters for battered women; and provide gender-based training for members of the police corps and the judiciary. The CoE CHR also recommended the Government implement legislation prohibiting violence against children, child pornography and exploitation as well as adopt measures to address the spreading phenomenon of street children.⁴⁸

19. KRHG reported that the number of *dedovschina* cases (violence against junior servicemen and servicewomen in the army) is still high, quoting information from the General Prosecutor's Office, according to which, during the first three months of 2003, in all military units of Ukraine, 73 persons were injured as a result of so called "violations of statutory relations" and 50 persons as a result of assault and battery.⁴⁹

20. The UPCHR noted that trafficking in human beings remains a problem in Ukraine. In 2004, the Parliament ratified the Palermo Convention and its Protocols.⁵⁰ The CoE CHR recommended that the Government further promote anti-trafficking policies and introduce campaigns to raise awareness; provide adequate protection for the victims and ensure prosecution of the traffickers; and address the problem of corruption in the law enforcement agencies.⁵¹

21. According to the UPCHR, one channel of trafficking in children is international adoption. In this regard, the UPCHR noted the shortcomings of national legislation and maintained that there have been violations against the rights of adopted Ukrainian children abroad. In view of this, she made a submission to the President to improve the adoption procedure of Ukrainian children by adopting families, to elaborate and sign bilateral agreements with countries where the Ukrainian adopted children live, to ensure proper control over the conditions of their education as well as the return of victims back to Ukraine.⁵²

3. Administration of justice and the rule of law

22. The UPCHR highlighted that on 12 January 2007 draft laws on amendments to the Criminal Procedure Code, the Civil Procedure Code, as well as the Administrative Procedure Code were submitted to the Parliament to strengthen human rights protection in courts.

Despite this, a number of issues have not been solved: completion of administrative courts network for settling claims between a person and an authority; establishment of a juvenile justice system; adoption of an amended Criminal Procedure Code and of the laws on the bar and on legal assistance.⁵³

23. AI noted that Ukraine has introduced changes to the criminal justice system aimed at bringing it into line with the European Convention on Human Rights; however, the system still retains many features of the repressive Soviet criminal justice system.⁵⁴ UHHRU noted that economic courts examine disputes applying rules which are not in line with contemporary trends in civil legal proceedings. It further noted that cases involving administrative offences are generally examined with infringements of a number of standards of the right to a fair trial, numerous restrictions on the right to defence and the lack of possibility of appealing a ruling in the appellate courts.⁵⁵ The UPCHR took note that the European Court of Human Rights' decisions against Ukraine are evidence of the critical situation of the Ukrainian judiciary, where 90% of judgments deal with the violation of the right to a fair trial.⁵⁶

24. UHHRU indicated that the selection procedure for judges is not transparent and that it encourages abuse and dependence of judges on public officials involved in the procedure. According to UHHRU, it is not uncommon for judges to experience pressure both from the authorities and from the interested parties. Various forms of influence are applied, ranging from letters, telephone calls and personal visits to the judges and chairpersons of the courts to open criticism of the court rulings. Such non-procedural relations between different parties and the judges are not prohibited by law.⁵⁷

25. Regarding the judiciary, the CoE CHR recommended the Government address the issue of corruption, which penetrates the judiciary, the police as well as the penitentiary system; complete the reform of the judiciary so as to ensure its full independence, impartiality and effectiveness in line with European standards; introduce a system of juvenile justice; strengthen the independence of judges, increase their salaries and take measures to prevent improper influence and pressure; and review the system of selection and appointment of judges, focusing on integrity of candidates, their practical abilities and knowledge of human rights.⁵⁸

26. DM highlighted that the system of public control over penal institutions is in need of radical change; this would involve amending the Regulations on Overseeing Commissions, the relevant norms of the Penal Code and the Law "On democratic civilian control over the military organization and law enforcement agencies of the State".⁵⁹ According to DM, efforts to avoid independent investigations demonstrate attempts to strictly control information coming out which objectively reflects both the state of the system and present trends.⁶⁰ KHRG noted that protest actions by prisoners have become more frequent, yet the results of investigations into these incidents have not been made public.⁶¹

27. KHRG reported that, as a rule, allegations about torture and other forms of ill treatment by state official do not result in effective investigations. Judges, prosecutors, and investigators, to whom law enforcement bodies bring detainees, pay little attention to formal complaints by the detainees about the use of torture against them, let alone take initiative to clarify the circumstances. Convictions of State law enforcement officers for using torture remain rare. KHRG added that punishments meted out by the courts in the case of conviction do not correspond to the gravity of the crime and that convicted officers often receive conditional sentences.⁶² Very often it is also impossible to obtain documents from medical institutions, where a victim was examined or treated. KHRG added that the Prosecutor's

office makes no effort to provide security for those who complain about the use of torture.⁶³ With respect to the staffing policy of the Department of Enforcement of Sentences, DM maintained that the fairly numerous cases of corruption and virtual lack of reaction to them as well as the absence of a clearly stated position from the Department's leaders demonstrate serious staffing problems.⁶⁴

28. AI indicated that impunity - as a result of the lack of independent, impartial and effective investigations and prosecutions of law enforcement officers in connection with allegations of torture and ill-treatment - is partly rooted in the role of the Public Prosecutor. By its very nature, the institution is not independent or impartial. In addition, through their work on criminal investigations, prosecutors often have very close personal links with the police officers, and as a result may be reluctant to pursue complaints.⁶⁵ Victims find it difficult to lodge complaints with prosecutors and to get their complaints investigated promptly, independently and impartially.⁶⁶ AI noted that when applying to join the Council of Europe in 1995, Ukraine committed to changing the role and functions of the Prosecutor's Office in order to bring this institution into line with Council of Europe standards; and noted that Ukraine has not yet fulfilled this commitment.⁶⁷

29. KHRG highlighted that the practice of using confessions not made voluntarily in criminal proceedings remains widespread. In criminal procedures, there are to this day no well-developed criteria for determining whether a confession was made voluntarily. According to KHRG, the legislation does not contain sufficiently clear provisions ensuring that any statement which has been made under torture shall not be invoked as evidence under any proceedings, as requested by CAT.⁶⁸

30. AI mentioned that suspects and detainees are frequently not informed of their right to a lawyer or to be represented by a lawyer during questioning. The right to legal assistance is set out in Ukrainian legislation, but AI expressed concern that the law is not clear enough about when a person should be granted access to a lawyer. The Criminal Procedural Code lists exceptional circumstances when the presence of a lawyer is required such as for minors and disabled detainees, but otherwise a lawyer is required only when requested by the detainee. According to AI, many detainees are not properly informed of their rights.⁶⁹ AI indicated that a lawyer should always be present during police interrogations unless a detainee waives the right to a lawyer, and all interrogations should be recorded accurately, preferably with the use of video/audio equipment. AI also highlighted that victims of torture should be able to obtain redress and adequate reparation, including compensation and the means for the fullest possible rehabilitation and protection from reprisals.⁷⁰

4. Right to privacy, marriage and family life

31. NMGLC stated that no official recognition of same-sex unions exists in Ukraine. Accordingly, gay or lesbian partners are bereft of the possibilities and privileges that families with opposite gender spouses possess, such as property inheritance, guardianship over children and not acting as a witness against a close relative in criminal proceedings.⁷¹ NMGLC recommended to legalise civil partnerships for people of homosexual orientation and to grant homosexual families social and economic rights on a par with heterosexual married couples.⁷² According to HRW, health workers often violate the privacy of people living with HIV/AIDS by disclosing confidential information about their HIV status.⁷³

5. Freedom of religion or belief, expression, association and peaceful assembly

32. HRW reported that journalists and media outlets work free of direct government interference, but threats and physical attacks against journalists critical of government officials or other prominent figures remain a problem.⁷⁴ The UPCHR noted that since the independence of Ukraine, 39 journalists have died due to their professional and public activities.⁷⁵ The Representative for Freedom of the Media of the Organization for Security and Co-operation in Europe (OSCE RFOM) noted that the murder of the journalist Georgiy Gongadze has still not been resolved.⁷⁶ HRW highlighted that media freedom activists lament that there have still been no charges brought against former senior government officials implicated in organizing Gongadze's killing.⁷⁷

33. The OSCE RFOM noted that although political pluralism does generally exist in the media in Ukraine, where it seems to be least developed is in the broadcast media, specifically on television. Albeit private television broadcasting exists at the national and local level, the Government's position is prevalent on the most popular channels that also have the largest area reach. The OSCE RFOM also noted that several serious concerns still exist in the legal field, especially in relation to the new Civil Code.⁷⁸ The UPCHR reported that the tendency of monopolization of media market by oligarch clans and bribery of journalists has been worsening.⁷⁹

34. With respect to freedom of association, UHHRU pointed out that current legislation on associations, passed mainly at the beginning of the 1990s, has failed to meet current needs of civil society. Numerous provisions fail to comply with Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 22 of the ICCPR. UHHRU mentioned as main problems obstacles when registering associations as well as with receiving non-profit-making status and the related tax concessions and that legislation does not allow for the possibility of registering certain types of organizations.⁸⁰

35. Regarding freedom of religion, Human Rights Without Frontiers (HRWF) noted that conflict between religious communities results from competition to control state distribution of formerly confiscated church properties. This conflict is heightened by competition to control content and delivery of religious instruction in state school. HRWF called upon the State to establish clear rules for the distribution of formerly confiscated properties. HRWF further recommended that confessional instruction not be funded by the State but by the free will contributions of the church's members and that state school curriculum related to religion follow the OSCE Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools.⁸¹

6. Right to social security and to an adequate standard of living

36. Poverty is identified by the UPCHR as one of the main factors of human rights violations in Ukraine. The recent increase in the household income level has not resulted in a decrease in Ukraine's poor population. In 2000 the poverty level accounted for 26.4%, and in 2006 for 28.1%. According to the UPCHR, the main poverty factors in Ukraine are low social standards and guarantees, unpaid wages, unemployment and inflation.⁸²

37. Regarding the right to health, HRW reported that the HIV/AIDS epidemic in Ukraine continues to grow. Although Ukraine has taken some positive steps to fight HIV/AIDS, chiefly in the area of legislative and policy reform, it must do more to confront the human rights abuses fuelling the HIV/AIDS epidemic.⁸³ The UPCHR also expressed major concerns

about HIV/AIDS escalation. Ukraine has the highest HIV/AIDS indices in Europe. The UPCHR quoted official data stating that 120,000 persons living with HIV are registered in Ukraine. The UPCHR highlighted that according to medical workers, the real number of persons living with HIV/AIDS amounts to 380,000 people.⁸⁴ HRW noted as a positive step that restrictions on methadone import were lifted in December 2007. International experience has demonstrated that methadone-based medication-assisted treatment is a key component in preventing HIV transmission. HRW reported, however, that police regularly interfere with the delivery of HIV prevention information and services, including drug users' access to legal needle exchange services.⁸⁵

38. HRW noted that Ukraine has harsh criminal penalties for possession of very small amounts of narcotics. Although crime rates are rapidly decreasing in Ukraine, the level of incarceration of drug users remains high. At least 20% of people in detention are there on drug-related charges. According to HRW, the threat of arrest accelerates HIV infection rates by driving those most vulnerable to HIV infection away from HIV prevention services.⁸⁶

39. The UPCHR mentioned that the situation regarding tuberculosis infection is critical. For the last 15 years the tuberculosis case rate has increased 2,6-fold, the death rate 2,9-fold. In 2006 the overall number of persons infected with all forms of tuberculosis accounted for 514,850 on file.⁸⁷

7. Migrants, refugees and asylum seekers

40. HRW highlighted that despite multiple reforms in recent years, Ukraine still lacks a clear migration policy or a unified, efficient migration service. Detention conditions for migrants remain poor in most facilities, and fundamental rights to a lawyer, to inform a third party of detention, and to be informed of one's rights are routinely denied.⁸⁸ AI was concerned by the failure of the Ukrainian authorities to observe the principle of *non-refoulement* and to provide full and fair refugee status determination procedures.⁸⁹ According to HRW, many migrants, especially Chechens, remain at risk of being returned to countries where they could face torture or ill-treatment.⁹⁰ AI reported that in February 2006, 10 asylum-seekers from a third country, who had been seeking international protection in Ukraine, were forcibly returned to the third country, which had issued extradition warrants for the asylum-seekers. AI highlighted that it has received reports that some of the deported asylum-seekers were subjected to torture and ill-treatment upon return to the third country.⁹¹ AI recommended that the Government abide by their obligations under international human rights and refugee law not to send individuals to countries where they face a real risk of grave human rights abuses and ensure that the principle of *non-refoulement* is fully understood and upheld by all law enforcement officials.⁹²

41. HRW indicated that many asylum seekers in need of protection are denied refugee status on procedural grounds or because migration officials fail to evaluate country-of-origin situations.⁹³ According to KHRG, these persons, as a rule, are taken into custody and their communication with the outside world is interrupted. As, by definition, these persons are foreigners, their opportunities for receiving qualified aid are very limited. Legislation does not provide for obligatory presenting a lawyer in such cases.⁹⁴ The CoE CHR recommended, *inter alia*, that the Government enact specific legislation on asylum seekers; ensure legal representation of refugees by NGO staff; resort to detention only as a very last solution; and put an end to the unacceptable situations of asylum seekers who, after some time, find themselves in a legal limbo and are kept in detention of indefinite duration.⁹⁵

42. The UPCHR maintained that every year between five and seven million citizens of Ukraine (seasonal workers included) travel abroad for employment, on temporary or permanent basis. As the monitoring of claims received by the UPCHR attests, the problem of observance and protection of Ukrainian migrant workers' rights abroad is extremely topical.⁹⁶

8. Minorities and indigenous people

43. Unrepresented Nations and Peoples Organization (UNPO) mentioned that Crimean Tatars mainly live in the Autonomous Republic of Crimea in Ukraine and comprise 12% of the population in Crimea. While UNPO noted the positive steps the Government took to facilitate the acquirement of Ukrainian citizenship and to create projects to integrate the Crimean Tatars, they remain discriminated against, especially on the issues of representation, recognition and land rights. Recently Crimean Tatars claiming for land rights have been repressed by the police in the Autonomous Republic of Crimea. UNPO, therefore, urged all parties involved to adequately address the issue of land rights for Crimean Tatars, by means of land allocation or by appropriate compensation for the loss of the lands and called for a halt to police repression of protests.⁹⁷ The CoE CHR recommended Ukraine adopt legislation enabling societal integration of the Crimean Tartar; to ensure their participation in public life; and facilitate their participation in the process of land privatisation.⁹⁸

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

44. KHRG acknowledged that the Government and the judicial system have begun to understand the real scale of the problem of torture and are showing the political will to eradicate wrongful practices. A promising sign of the progress achieved to date is Ukraine's ratification of OP-CAT in 2006.⁹⁹

45. Likewise, AI took note that some positive steps have been taken over the past two years by the Ministry of Internal Affairs to combat torture and ill-treatment. During 2005, the set up a system of mobile groups to monitor places of detention under its control, with the participation of the National University of the Ministry and local human rights groups. The Ministry also took steps to increase the use of bail measures in order to cut down on overcrowding in pre-trial detention centres. In November 2007 the National Commission for the Strengthening of Democracy and the Rule of Law approved a Draft Concept for Reform of the Criminal Justice System which proposes far-reaching changes aimed at humanizing criminal legislation and restructuring the whole system on the basis of human rights.¹⁰⁰

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

N/A

V. CAPACITY BUILDING AND TECHNICAL ASSISTANCE

N/A

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

Civil Society

AI	Amnesty International, UPR submission, February 2008, London (United Kingdom)*
DM	Donetsky Memorial, UPR submission, February 2008, Donetsk (Ukraine)
HRWF	Human Rights Without Frontiers, UPR submission, February 2008, Brussels (Belgium)
HRW	Human Rights Watch, UPR submission, February 2008, New York, NY (USA)*
KHRG	Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine)
NMGLC	Nash Mir (Our World) Gay and Lesbian Center, UPR submission, February 2008, Kiev (Ukraine)
UHHRU	Ukrainian Helsinki Human Rights Union, UPR submission, February 2008, Kiev (Ukraine)
UNPO	Unrepresented Nations and Peoples Organization, UPR submission, February 2008, The Hague (Netherlands)

National Human Rights Institution

UPCHR	Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine)
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Regional intergovernmental organizations

CoE	<p>Council of Europe, UPR submission, February 2008, consisting of</p> <ul style="list-style-type: none"> - Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Ukraine, adopted on 1 March 2002, ACFC/INF/OP/I(2003)007 - Report of Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Ukraine, 10 – 17 December 2006, CommDH(2007)15 - Committee of Ministers, Resolution ResCMN(2003)5 adopted on the implementation of the Framework Convention for the Protection of National Minorities by Ukraine, 5 February 2003 - Report to the Ukrainian Government on the visit to Ukraine carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 9 – 21 October 2005, CPT/Inf (2007) 22 - Response of the Ukrainian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Ukraine, 9-21 October 2005, CPT/Inf (2007) 23 - Letter from the Government of Ukraine to the Secretary General, 21 February 2006 - Letter from the Government of Ukraine to the Secretary General, 7 April 2006 - Table of pending cases against Ukraine - European Social Charter fact sheet
OSCE RFOM	Office of the Organization for Security and Co-operation in Europe Representative on Freedom of the Media, UPR submission, February 2008

² Amnesty International, UPR submission, February 2008, London (United Kingdom), p.2.

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- ³ Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.5.
- ⁴ Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.4.
- ⁵ Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.1.
- ⁶ Ukrainian Helsinki Human Rights Union, UPR submission, February 2008, Kiev (Ukraine), p.1.
- ⁷ Donetsk Memorial, UPR submission, February 2008, Donetsk (Ukraine), p.2.
- ⁸ Ukrainian Helsinki Human Rights Union, UPR submission, February 2008, Kiev (Ukraine), p.1.
- ⁹ Donetsk Memorial, UPR submission, February 2008, Donetsk (Ukraine), p.2.
- ¹⁰ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.2. See also Ukrainian Helsinki Human Rights Union, UPR submission, February 2008, Kiev (Ukraine), p.1.
- ¹¹ Ukrainian Helsinki Human Rights Union, UPR submission, February 2008, Kiev (Ukraine), p.1.
- ¹² Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.1-2.
- ¹³ Ukrainian Helsinki Human Rights Union, UPR submission, February 2008, Kiev (Ukraine), p.5.
- ¹⁴ Ukrainian Helsinki Human Rights Union, UPR submission, February 2008, Kiev (Ukraine), p.5.
- ¹⁵ Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.4.
- ¹⁶ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.4.
- ¹⁷ Ukrainian Helsinki Human Rights Union, UPR submission, February 2008, Kiev (Ukraine), p.5.
- ¹⁸ CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.22.
- ¹⁹ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.5.
- ²⁰ CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.53.
- ²¹ Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.2.
- ²² Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.2-3.
- ²³ Ukrainian Helsinki Human Rights Union, UPR submission, February 2008, Kiev (Ukraine), p.5.
- ²⁴ CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.52.
- ²⁵ Nash Mir (Our World) Gay and Lesbian Center, UPR submission, February 2008, Kiev (Ukraine), p.67.
- ²⁶ Nash Mir (Our World) Gay and Lesbian Center, UPR submission, February 2008, Kiev (Ukraine), p.82-83.
- ²⁷ CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.54.
- ²⁸ Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.1-2.
- ²⁹ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.2.
- ³⁰ CoE, Report to the Ukrainian Government on the visit to Ukraine carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 9 – 21 October 2005, UPR submission, February 2008, para.15.
- ³¹ CoE, Response of the Ukrainian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Ukraine, 9-21 October 2005, UPR submission, February 2008, p.4.
- ³² Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.1.
- ³³ Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.4.
- ³⁴ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.5.
- ³⁵ CoE, Report to the Ukrainian Government on the visit to Ukraine carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 9 – 21 October 2005, UPR submission, February 2008, para.20.
- ³⁶ CoE, Response of the Ukrainian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Ukraine, 9-21 October 2005, UPR submission, February 2008, p.4.
- ³⁷ CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.52.
- ³⁸ Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.3.
- ³⁹ Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.4-5. See also Amnesty International, UPR submission, February 2008, London (United Kingdom), p.1.
- ⁴⁰ Donetsk Memorial, UPR submission, February 2008, Donetsk (Ukraine), p.3.
- ⁴¹ Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.5.
- ⁴² Donetsk Memorial, UPR submission, February 2008, Donetsk (Ukraine), p.3. See also Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.5.
- ⁴³ Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.5.
- ⁴⁴ Donetsk Memorial, UPR submission, February 2008, Donetsk (Ukraine), p.1.
- ⁴⁵ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.3-4.

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- ⁴⁶ CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.52.
- ⁴⁷ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.4.
- ⁴⁸ CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.54.
- ⁴⁹ Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.3.
- ⁵⁰ Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.3.
- ⁵¹ CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.54.
- ⁵² Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.3.
- ⁵³ Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.4-5.
- ⁵⁴ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.1.
- ⁵⁵ Ukrainian Helsinki Human Rights Union, UPR submission, February 2008, Kiev (Ukraine), p.2.
- ⁵⁶ Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.4.
- ⁵⁷ Ukrainian Helsinki Human Rights Union, UPR submission, February 2008, Kiev (Ukraine), p.2-3.
- ⁵⁸ CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.51.
- ⁵⁹ Donetsk Memorial, UPR submission, February 2008, Donetsk (Ukraine), p.2.
- ⁶⁰ Donetsk Memorial, UPR submission, February 2008, Donetsk (Ukraine), p.3.
- ⁶¹ Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine) Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.5.
- ⁶² Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.2.
- ⁶³ Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.2.
- ⁶⁴ Donetsk Memorial, UPR submission, February 2008, Donetsk (Ukraine), p.2.
- ⁶⁵ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.1. See also Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.2.
- ⁶⁶ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.3.
- ⁶⁷ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.1.
- ⁶⁸ Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.3.
- ⁶⁹ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.2.
- ⁷⁰ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.5.
- ⁷¹ Nash Mir (Our World) Gay and Lesbian Center, UPR submission, February 2008, Kiev (Ukraine), p.81.
- ⁷² Nash Mir (Our World) Gay and Lesbian Center, UPR submission, February 2008, Kiev (Ukraine), p.73.
- ⁷³ Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.2.
- ⁷⁴ Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.3.
- ⁷⁵ Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.5. See also Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.3.
- ⁷⁶ Office of the Organization for Security and Co-operation in Europe Representative on Freedom of the Media, UPR submission, February 2008, p.1. See also Amnesty International, UPR submission, February 2008, London (United Kingdom), p.4; Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.5; CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.53.
- ⁷⁷ Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.3.
- ⁷⁸ Office of the Organization for Security and Co-operation in Europe Representative on Freedom of the Media, UPR submission, February 2008, p.1.
- ⁷⁹ Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.5.
- ⁸⁰ Ukrainian Helsinki Human Rights Union, UPR submission, February 2008, Kiev (Ukraine), p.3-4.
- ⁸¹ Human Rights Without Frontiers, UPR submission, February 2008, Brussels (Belgium), p.1. See also CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.53.
- ⁸² Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.2.
- ⁸³ Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.1.
- ⁸⁴ Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.3-4.
- ⁸⁵ Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.2.
- ⁸⁶ Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.3.
- ⁸⁷ Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.4.
- ⁸⁸ Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.3.
- ⁸⁹ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.2.

⁹⁰ Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.3-4.

⁹¹ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.2.

⁹² Amnesty International, UPR submission, February 2008, London (United Kingdom), p.4-5.

⁹³ Human Rights Watch, UPR submission, February 2008, New York, NY (USA), p.3.

⁹⁴ Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.3.

⁹⁵ CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.53.

⁹⁶ Ukrainian Parliament Commissioner for Human Rights, UPR submission, February 2008, Kiev (Ukraine), p.2-3.

⁹⁷ Unrepresented Nations and Peoples Organization, UPR submission, February 2008, The Hague (Netherlands), p.1.

⁹⁸ CoE, Report by the Commissioner for Human Rights, Mr Thomas Hammarberg, on his visit to Ukraine, 10 – 17 December 2006, UPR submission, February 2008, p.53.

⁹⁹ Kharkiv Human Rights Group, UPR submission, February 2008, Kharkiv (Ukraine), p.1.

¹⁰⁰ Amnesty International, UPR submission, February 2008, London (United Kingdom), p.4.