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Ukrainian Experience in the Field of
Human Beings Non-discrimination and Tolerance

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According to all the formal criteria, Ukraine is a poly-ethnic state. Out of 46,4 m of its ¹ population around 25% are a national minority. Some national minorities have their separate territorial settlements – principally Russians, Hungarians, Romanians, Bulgarians, Gagaus, Crimean Tatars and Greeks. On the one hand, this facilitates maintaining their individuality, and helps the state to contribute to the social and cultural development of the national minorities. On the other hand, the existence of separate settlements might lead to claims for national and cultural autonomy and requests for moral, economic and political support from their original native land.

Article 24 of the Constitution of Ukraine envisages that no privileges or limitations can exist based on race, skin color, political, religious or any other creeds, gender, ethnical and social origin, property status, place of residence, language or other characteristics, discrimination between ethnic groups is banned and punishable by law.

Ukraine in its policy regarding national minorities gives no ground to international organizations for accusations of infringement of human rights. – Provisions within Ukraine upon such matters as the legal status of foreigners, refugees and ethnic minorities correspond to world standards and have received approval from international organizations. Ukraine joined the main international treaties regarding national minorities, including the European Charter for Regional or Minority Languages. In 2006 Verkhovna Rada (Supreme Council) of Ukraine ratified Additional Protocol to the Convention on Cybercrime, which concerns the criminalization of the actions of racist and xenophobic character done via computer systems.

Formation and provision of realization of the state policy in the sphere of inter-ethnic relations and protection of the rights of national minorities according to the requirements of the current legislation are also entrusted to the State Committee on Nationalities and Religions of Ukraine, which provides for preventive measures guaranteeing inter-ethnic stability and concord, prevention of display of intolerance or prejudice to people based on their national-ethnic identity. The Committee together with structural departments of regional, Kyiv and Sevastopol' city state administrations provides constant monitoring of any displays of intolerance and racial hostility to people of various ethnic groups and, in case of necessity, resorts to law enforcement and reference to the judicial authorities.

According to the State Committee on Nationalities and Religions of Ukraine, Ukraine is one of few former-USSR states where inter-ethnic conflicts do not exist. The inter-ethnic situation in Ukraine is characterized by high level of tolerance, absence of social tendencies towards xenophobia and the stirring up of inter-ethnic conflicts.

¹ <http://www.ukrstat.gov.ua/operativ>

The Ukrainian legislation provides for criminal liability for crimes based on hatred and discrimination in respect of race, ethnicity, gender, religion or creed, as well as political views, national or social origin, language, birthplace or other distinguishing features of the person. The presence of motives of racial, national or religious hostility or enmity is a circumstance that aggravates the sentence for the crime (section 3, part 1, Article 67 of the Criminal Code of Ukraine).

A crime in Ukraine can be any deliberate action aimed at stirring up national, racial or religious hostility and hatred, denigration of national honor and dignity or feelings of the citizens in connection to their religious beliefs, as well as explicit or implicit limitation of rights or granting the explicit or implicit privileges to the citizens based on their race, skin color, political, religious or other beliefs, gender, ethnical and social origin, property status, place of residence, language or other characteristics. A punishment for such crimes could be a fine, corrective labor or restraint of liberty for the term of up to five years, with or without the revocation of the right to occupy certain positions or carry out certain activities for the term up to three years. For the same actions combined with violence, deception or threats, as well as committed by an official, or an organized group of people, or in case they caused loss of life or any other grave consequences, the court may impose maximum punishment in the form of deprivation of freedom for the term of up to five years.

The difficulties appear when proving the intent of such crime, that is why the majority of the criminals are also held culpable under the other Articles of the Criminal Code of Ukraine - hooliganism, desecration of grave, willful homicide, intentional grave or moderately grave bodily injury, and others.

There have been crimes against foreigners that are dealt with according to the legislation. Thus, prosecutor agency of Darnyts'kyi district of Kyiv initiated a criminal case of willful homicide of Nigerian citizen. In the process of the inquiry it was established that three citizens of Ukraine "SH", "YE" and "K", who belonged to informal group of "Skinheads", were drinking alcoholic beverages nearby the exit of metro station. At around 20:30 they noticed dark-skinned person, a citizen of Nigeria, who came out the metro station. After that "SH" came up with the said person and kicked him against his back. "YE" and "K" joined him and also started kicking and punching the Nigerian. At the time of fight "SH" took the knife out of his pocket and stabbed in the back of the victim, who died from sustained bodily injury. "SH" was accused of willful homicide and all 3 of willful actions aimed at the breach of equality of the citizens due to their race, that lead to death of the person. The case has been sent to court and is continuing

National and religious intolerance are demonstrated in the damage of religious or cult buildings. This kind of crime is specified in Article 178 of the Criminal Code of Ukraine. .

The damage of religious or cult buildings in Ukraine are rarely recorded: in 2002-2003 - two crimes, specified by Article 178 of the Criminal Code of Ukraine, were registered each year, in 2004 - none, in 2005-2006 - one each year, in 2007 - two crimes.

Unlawful keeping, desecration or destruction of the religious sacred places (Article 179 of the Criminal Code of Ukraine) also happens rarely. In 2002 only one crime was registered, in 2003 and 2005 - none, in 2004 - two crimes, in 2006 - one, in 2007 - five.

The Ukrainian Criminal Code establishes offences for unlawfully preventing or disrupting the conduct of a religious ceremony (Article 180 of the Criminal Code of Ukraine). In 2002-2003 no such crimes were recorded, in 2004 - three, in 2005 - two, in 2006 - four, and in 2007 - three.

High profile are the crimes specified in Article 297 of the Criminal Code of Ukraine, such as desecration of grave, i.e. offensive treatment, rude jeering, destruction of tombs, display of disrespect to burial place or ashes.

Thus, in February 2008 in village of Nizhnyogirs'ke of the Crimean Autonomous Republic unprecedented act of vandalism happened at a Muslim cemetery as a result of which around 220 tomb monuments were completely destroyed. According to the conclusion of the Committee of

Nizhnyogirs'ke District State Administration the amount of damages was 310 thousand Hrn [about 40,000eu]. The Muslim community considers that the crime was committed on the ground of national and religious hatred. In April 2007 unknown criminals destroyed more than 35 tombstones at Muslim cemetery near village of Sofiyivka of Simferopol' district of the Crimean Autonomous Republic. Based on this fact the investigator of Simferopol' District Executive Committee department initiated a criminal case for desecration of a grave.

A crime specified in Article 297 for desecration of a grave was committed in February 2007 at the territory of the 3rd Jewish cemetery located in Odessa, Khimichna Str., where 302 tombstones and monuments were damaged.

Unfortunately, the crime specified in Article 297 of the Criminal Code of Ukraine (desecration of grave) happens relatively often and there has been an increase in number. In 2002 registered were 1704 crimes, in 2003 – 1861, in 2004 – 2160, in 2005 – 2385, in 2006 – 2305, in 2007 – 4183. Upon investigating the said crimes committed in the previous years it was determined that apart from one or two specific cases the crimes were committed based on hooligan and random impulses and were not based on racial discrimination or any other motives directed against national minorities or their religious objects. The investigation did not find any motives of national or racial hatred in the actions of the criminals.

Article 442 of the Criminal Code of Ukraine envisages the responsibility for genocide. By genocide is meant the actions deliberately committed with the purpose of complete or partial extermination of any nation, ethnic, racial or religious group by means of depriving the members of such group of their lives or causing their grave bodily injury, creating for the group such living conditions that envisage their total or partial physical extermination, decrease in procreation by means of its prevention in such groups or forced transfer of the children from one group to another. These kind of crimes are not recorded in Ukraine.

In Ukraine according to Article 4 of the Law “On Public Associations” the activity of legitimate associations is banned if their purpose is: propaganda of war, violence or cruelty, fascism or neo-fascism, as well as stirring up national and religious hostility, limitation of generally recognized human rights.

It is necessary to underline that as for today there is no official reliable information on participation in youth extremist movements that propagandize inter-ethnic and racial hostility. At the same time non-adults due to their psychological immaturity often fall under influence of adults who intentionally get them to take part in unlawful activity, including participation in mass disorders of various nature.

Article 10 of the Law of Ukraine “On Childhood Protection” regulates that the state must protect children from involvement in extremist, religious psycho-cult groups and sects, and Article 30 of the said Law prohibits participation of the children in military operations and armed conflicts, creation of children militarized organizations and formations, propaganda of war and violence among children.

In order to prevent the crimes based on racial, national or religious hostility the authorities of Ministry of Internal Affairs has prepared plans for organizational and practical measures for preventive actions and prevention of wrongs that might be committed by radical youth groups and organizations and for prevention of intensification of unlawful activity of such organization in Ukraine, including the distribution of propaganda of Nazism, chauvinism and racist ideas among young people, as well as prevention of group breach of public order by aggressive young people from known informal groups, in particular Skinheads, at the time of sport, entertainment and other public events. At the place of residence, schools and other educational establishments' police officers constantly carry out preventive and explanatory work among young people, including clarification of administrative and criminal responsibility for violation of the law. All youth movements are monitored.

At present activity aimed at creation of the necessary legal framework is being carried out in Ukraine. The first priority in this sphere is the enacting of the Law of Ukraine “On the Concept of State Ethnic-National Policy”. The said legislative draft is prepared in the State Committee on

Nationalities and Religions of Ukraine. It is planned to submit the said Law for consideration to the Cabinet of Ukraine in March this year.

In its turn the State Committee on Nationalities and Religions of Ukraine plans to develop a legislative draft concerning amendments to the Law of Ukraine “On Ratification of the European Charter for Regional or Minority Languages”, first of all regarding the extension of the list of the languages to which the regulations of the European Charter for Regional or Minority Languages are applied. In the opinion of the experts of the State Committee on Nationalities and Religions of Ukraine there are grounds to add some languages, in particular Karaite, Judeo-Crimean Tatar, Armenia, Romany and Yiddish to the list of languages that consists of 13 at present