

Delegation of Ukraine

TOLERANCE IMPLEMENTATION MEETING: ADDRESSING THE HATE CRIME DATA DEFICIT

9 and 10 November 2006

Legislative Instruments of Ukraine Designed to Counter Hate Crime

The instruments on which the Ukrainian State's national policy for ensuring the rights of members of different nationalities are the Constitution of Ukraine, the Declaration of the Rights of Nationalities in Ukraine, the National Minorities in Ukraine Act and the Citizens' Associations Act, and such international legal instruments as Ukraine is a party to.

Part 2 of article 24 of the Constitution of Ukraine lays down that there may be no privileges or restrictions on the basis of race, skin colour, political, religious or other persuasion, sex, ethnic or social origin, property status, place of residence, or language or other characteristics. Under article 67, part 1, paragraph 3, of the Criminal Code of Ukraine, the commission of a crime on the basis of racial, national or religious enmity or disagreement is regarded as an aggravating circumstance.

Article 37 of the Ukrainian Constitution prohibits the establishment and activities of political parties or public organizations whose programmatic objectives or actions are aimed at propagandizing war or violence, at inflaming inter-ethnic, racial or religious enmity, or at infringing on human rights and freedoms.

In accordance with article 1 of the Declaration of the Rights of Nationalities in Ukraine, discrimination on the basis of national affiliation is prohibited and is punished by law.

Article 110, part 2, "Infringements on the territorial integrity and inviolability of Ukraine" of the Ukrainian Criminal Code provides that deliberate acts carried out for the purpose of changing the borders of the territory or the State border of Ukraine in violation of the procedure established under the Ukrainian Constitution, and also public calls or the dissemination of material containing calls for the commission of such acts, if they are committed by a person who is a representative of the authorities, or for a second time, or through prior conspiracy by a group of persons, or if they are linked to the incitement of national or religious enmity, are punished by a limitation of liberty for a period of from three to five years or by the deprivation of liberty for the same period.

Article 161 "Violation of the equal rights of citizens because of their racial or national affiliation or attitude towards religion" of the Criminal Code of Ukraine lays down responsibility for deliberate actions aimed at the incitement of national, racial or religious

enmity or hatred, at disparagement of national honour or dignity or at insulting the sensitivities of citizens in connection with their religious persuasions, and also for any direct or indirect limitation of the rights of, or the institution of direct or indirect privileges in respect of, citizens on the basis of race, skin colour, political, religious or other persuasions, sex, ethnic or social origin, property status, place of residence, or language or other characteristics, in the form of a fine in the amount of up to fifty times the citizen's untaxed minimum income or correctional labour for a period of up to two years, or the limitation of liberty for a period of up to five years, coupled with the loss of the right to hold specific offices or engage in specific activities for a period of up to three years, or without such loss. These same acts, when accompanied by violence, deception or threats, and also when committed by an official, are punished by correctional labour for a period of up to two years or by the deprivation of liberty for a period of up to five years (article 161, part 2). Part 3 of this article lays down that the actions provided for in parts 1 or 2 of this article, if they were committed by an organized group of persons or if they resulted in the death of persons or in other serious consequences, are punished by deprivation of liberty for a period of from two to five years.

Article 442 "Genocide" provides that genocide— i.e., an action deliberately carried out for the purpose of the total or partial annihilation of any national, ethnic, racial or religious group by depriving the members of that group of their lives or by causing them severe bodily injuries, or by creating for the group living conditions designed to bring about its total or partial physical annihilation, by reducing or hindering childbirth within that group, or by the forceful transfer of children from one group to another — is punishable by deprivation of liberty for a period of from ten to fifteen years or by a life-time deprivation of liberty. Public calls for genocide as well as the preparation of materials containing calls for genocide for the purpose of disseminating them, or the actual dissemination of such materials, are punishable by arrest for a period of up to six months or by deprivation of liberty for a period of up to five years.

The Criminal Code of Ukraine also provides for responsibility for crimes that infringe on the human right to freedom of profession of faith:

- The damaging of religious buildings or houses of worship (article 178);
- The illegal holding, desecration or destruction of religious objects (article 179);
- The hindering of the performance of religious rites (article 180);
- The jeopardizing of human health under the pretext of preaching religious teachings or conducting religious rites (article 181).

In the event that more than one crime has been committed, the matter is dealt with under an article of the Criminal Code of Ukraine that provides for a more severe punishment (Order No. 55 of the State Judicial Administration of Ukraine of 5 June 2006 "On the approval of the forms used in records-keeping in respect of the examination by appellate and local courts of judicial cases and materials and the instructions on how such forms are to be completed and transmitted", registered under No. 724/12598 with the Ministry of Justice of Ukraine on 20 June 2006).

Statistical data on hate crimes for the first six months of 2006

During the first six months of 2006, the general courts of Ukraine heard four criminal cases under article 161 of the Criminal Code of Ukraine “Violation of the equal rights of citizens because of their racial or national affiliation or attitude towards religion”. As a result of the examination of these cases, a sentence of acquittal was handed down in the case of one person, for two other persons the cases were dropped, and in the case of the fourth person the case was returned for additional investigation.