

Third report on Ukraine

Adopted on 29 June 2007

Strasbourg, 12 February 2008



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Foreword

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4-5 year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 29 June 2007 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

Executive summary

Since the publication of ECRI's second report on Ukraine on 23 July 2002, progress has been made in a number of the fields highlighted in that report. On 27 March 2006, Ukraine ratified Protocol No. 12 to the European Convention on Human Rights. This instrument entered into force in Ukraine on 1 July 2006. On 21 December 2006, Ukraine also ratified the European Convention on Nationality which entered into force in that country on 1 April 2007. In 2002, the Ukrainian authorities created a program for assisting Roma in areas such as employment and healthcare, and for improving their living conditions. The Office of the Ombudsman has conducted a monitoring program on the situation of minority groups in Ukraine. In March 2007, the State Committee for Nationalities and Religion which has replaced the former State Committee for Nationalities and Migration became fully operational with among other tasks, receiving asylum applications and combating racism and racial discrimination.

However, a number of recommendations made in ECRI's second report have not been implemented, or have only been partially implemented. Criminal legislation against racially motivated crimes has not been strengthened and the authorities have not yet adopted a comprehensive body of civil and administrative anti-discrimination laws. New legislation on language which takes into account Ukraine's linguistic diversity has not yet been adopted. Although the above-mentioned program for Roma achieved some success by raising local authorities' awareness of the problems facing Roma, it was insufficiently funded. Many of the issues concerning Roma raised in the second report remain as members of this community still face many inequalities in areas such as education, employment and housing. Due to the inadequacy of the current legislation against incitement to racial hatred and the lack of a system for monitoring antisemitic incidents, there have been very few prosecutions against people who make antisemitic statements or publish antisemitic literature. In the Crimea, racially-motivated violence targeting primarily Crimean Tatars and Jewish communities has increased and more measures are necessary to ensure peaceful coexistence among different communities living in that region.

In this report, ECRI recommends that the Ukrainian authorities take further action in a number of areas. It recommends in particular that current legislation on hate speech and racially motivated crimes be strengthened as soon as possible. ECRI recommends the adoption of a comprehensive body of anti-discrimination legislation in all areas, including employment, education, housing and health. It recommends that the Ukrainian authorities adopt new legislation on language which fully takes into consideration the country's linguistic diversity. ECRI strongly recommends that the draft laws on refugees, foreigners and stateless persons currently being examined be passed as soon as possible. ECRI further makes a number of recommendations on improving the situation of asylum seekers and refugees, including that the authorities provide them with free translation and interpretation services, language lessons and vocational training. ECRI recommends that the authorities take strong measures to address problems faced by Roma in areas such as education, employment, their relationship with law enforcement officials as well as in accessing adequate housing and healthcare. It urges the Ukrainian authorities to curb rising skinhead violence which is increasingly creating an unsafe atmosphere for, *inter alia*, Africans, Asians, Jewish persons as well as persons from the Caucasus and the Middle East. It recommends that the authorities establish a system for monitoring antisemitic incidents and urges them to curb all antisemitic activities. ECRI also urges the authorities to ensure that law enforcement officials take adequate measures against skinhead youth, especially when they commit violent attacks on persons and/or property.

I. FOLLOW-UP TO ECRI'S SECOND REPORT ON UKRAINE

International legal instruments

1. In its second report, ECRI encouraged Ukraine to ratify as soon as possible Protocol N° 12 to the European Convention on Human Rights and the European Charter for Regional or Minority Languages.
2. ECRI is pleased to note that Ukraine ratified Protocol N° 12 to the European Convention on Human Rights on 27 March 2006 and that this instrument entered into force in Ukraine on 1 July 2006. Ukraine ratified the European Charter for Regional or Minority Languages on 19 September 2005 and this instrument entered into force in Ukraine on 1 January 2006.
3. In its second report on Ukraine, ECRI encouraged Ukraine to ensure that the Revised European Social Charter was ratified as soon as feasible and to consider ratifying of the European Convention on the Legal Status of Migrant Workers.
4. ECRI is pleased to note that Ukraine ratified the Revised European Social Charter in 2006 and that this instrument entered into force in Ukraine on 1 February 2007. The European Convention on the Legal Status of Migrant Workers was ratified on 16 March 2007. Article 34 3) of this convention provides for its entry into force three months after ratification.
5. In its second report, ECRI encouraged Ukraine to sign and ratify rapidly the European Convention on Nationality and the Convention for the Participation of Foreigners in Public Life at Local Level.
6. The European Convention on Nationality was ratified on 21 December 2006 and entered into force in Ukraine on 1 April 2007. Ukraine has neither signed nor ratified the Convention for the Participation of Foreigners in Public Life at Local Level.
7. Since the publication of ECRI's second report on Ukraine, the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems entered into force on 1 March 2006, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families entered into force on 1 July 2003.
8. Ukraine signed the Convention on Cybercrime on 23 November 2001 and ratified this instrument on 10 March 2006. On 8 April 2005, Ukraine signed the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. Ukraine ratified this Additional Protocol on 21 December 2006 and it entered into force in the country on 1 April 2007. Ukraine has neither signed nor ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Recommendations:

9. ECRI recommends that Ukraine sign and ratify the Convention for the Participation of Foreigners in Public Life at Local Level. ECRI also recommends that Ukraine sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Constitutional provisions and other basic provisions

- ***The Constitution***

10. In its second report, ECRI considered that the principles of equality before the law and of non-discrimination on the grounds mentioned in Article 24 of the Constitution, namely race, colour of skin, religious and other beliefs as well as ethnic and linguistic characteristics, should be guaranteed to all individuals and not just to citizens.
11. The Ukrainian authorities have informed ECRI that the term “citizens” contained in Article 24 of the Constitution is a generic term which includes foreigners and stateless persons. ECRI considers that any ambiguity created by the term “citizens” might be eliminated by clearly stating that the right to equality and non-discrimination shall be enjoyed by all persons under Ukrainian jurisdiction. In this regard, ECRI wishes to draw to the Ukrainian authorities’ attention its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination in which it recommends that the Constitution enshrine the principle of equal treatment, the state’s commitment to promoting equality, as well as the right of individuals to be free from discrimination on grounds such as race, colour, language, religion, nationality or national or ethnic origin.¹
12. The authorities have informed ECRI that the Constitution can be directly invoked in court in all cases including in those relating to discrimination. They have further indicated that Article 17 of the Law on the Execution of Judgements and Application of the Case-law of the European Court of Human Rights provides that the courts can refer to the European Convention on Human Rights as well as to the jurisprudence of the Court.

Recommendations:

13. ECRI reiterates its recommendation that the Ukrainian authorities include in the Constitution the right to equality and non-discrimination for all persons under Ukrainian jurisdiction and not just for citizens. It encourages them in this regard to draw their inspiration from its General Policy Recommendation No. 7.

- ***Language law***

14. In its second report, ECRI noted that the Ukrainian parliament was discussing a law on the use of language and that according to high-level political statements the restoration of Ukrainian as the official language would be pursued by promoting the use of this language in different fields rather than by prohibiting the use of other languages. ECRI expressed the hope that this approach would be reflected in domestic legislation and practice, particularly in the light of the

¹ Paragraph 2.

significant proportion of non-Ukrainian mother tongue speakers. ECRI also stressed that the scope of any regulation on the use of language should be limited to relations with state institutions and to instances where there is a legitimate public interest.

15. The Ukrainian authorities have informed ECRI that the Constitution defines the fundamentals of the language policy in Ukraine. The Constitution states that Ukrainian is the state language and that the free development, use and protection of Russian and other languages of national minorities are guaranteed.² The authorities have also informed ECRI that a new law on languages has not yet been adopted and that the currently applicable legislation on this issue is the 1989 Law on Languages. According to the Ukrainian authorities, most of the provisions of this law are not in accordance with the Constitution. A draft concept of the state language has thus been prepared to compile the concepts of language found in the existing legislation. The authorities have indicated that the aim of this document is to provide guidelines to state bodies that will be involved in drafting the new law on languages. The draft concept has been sent to all regional bodies as well as NGOs and a public debate was held to discuss its content. However, as very different opinions were expressed about this draft, the authorities informed ECRI that it was decided to establish a commission to carry out further work on the document in order to obtain a consensus and to prepare a new draft law. They have further indicated that a meeting between this commission and the Ministry of Justice is planned to examine and discuss available material. The government will thereafter decide on a future course of action.

Recommendations:

16. ECRI recommends that the Ukrainian authorities ensure that new legislation on language which takes full account of Ukraine's linguistic diversity is adopted as soon as possible. It recommends that representatives of minority groups, NGOs and civil society be involved in all stages of this process and that their points of view be taken into consideration as much as possible.

- Legislation on national minorities

17. In its second report, in the context of planned amendments to the 1992 Law on National Minorities, ECRI encouraged all efforts by the Ukrainian authorities to ensure that national legislation offer adequate protection against racial discrimination and incitement to racial hatred.
18. The Ukrainian authorities have informed ECRI that several draft laws on national minorities exist and that planned amendments to the current law have not yet reached the Parliamentary Committee in charge of examining them. The State Committee for Nationalities and Religion is thus in the process of drafting these amendments.³

² Article 10.

³ For more information on the State Committee for Nationalities and Religion, see "Specialised bodies and other institutions" below.

Recommendations:

19. ECRI recommends that the Ukrainian authorities adopt a new law on national minorities as soon as possible to protect the rights of members of this group and afford them equality in all areas. It reiterates in this regard that this law should contain provisions prohibiting direct and indirect racial discrimination.

Criminal law provisions

20. In its second report, ECRI considered that protection from all types of illegal behaviour prohibited by Article 161 should extend to all persons and not just to citizens. ECRI also considered that the protection of a person's dignity and feelings could extend to areas other than just nationality and religion to include grounds such as race, colour, ethnic origin and language.
21. Article 161 of the Criminal Code still provides for criminal responsibility for deliberate actions whose aim is inciting ethnic, racial or religious animosity as well as hatred aimed at humiliating the national honour and dignity of a person or offending citizens' feelings based on their religious views. NGOs have pointed out, and the authorities have confirmed, that this Article has seldom been implemented by the courts as conviction based on this provision requires proof of deliberate action on the part of the perpetrator, which is difficult. Furthermore, Article 161 still only refers to citizens. The authorities have informed ECRI that stateless persons and foreigners are included in this term and that a special note in the Criminal Code explains that the term "citizens" does not only include Ukrainian nationals. ECRI further notes that the protection afforded to a person's dignity and feelings has not been extended to include the grounds of race, colour, ethnic origin and language.
22. As recognised by the authorities themselves, Article 161 should be urgently amended, particularly in the light of the increasing number of racially motivated attacks perpetrated by skinheads against foreigners, including Africans, Asians, asylum-seekers and refugees as well as persons from the Middle East, the Caucasus and members of the Jewish community.⁴ The authorities have informed ECRI that a draft law on the introduction of amendments to the Criminal Code is currently at the first reading stage before the parliamentary committee on the support of law enforcement activities.
23. Article 297 of the Ukrainian Criminal Code prohibits the desecration of graves. It appears that in May 2007, one case was investigated by the police under this Article in relation to the desecration of graves in an ancient Jewish cemetery in Chernihiv, northern Ukraine. ECRI hopes that the authorities will continue to implement this provision as it has been informed that this type of vandalism is becoming increasingly frequent.

Recommendations:

24. ECRI urges the Ukrainian authorities to amend Article 161 of the Criminal Code to facilitate the prosecution of anyone who incites racial hatred. It recommends in this regard that in order to remove any ambiguity, the scope of this Article should be specifically extended to include all persons under Ukrainian jurisdiction. ECRI also reiterates its recommendation that the protection of a person's dignity be

⁴ For more information on racially-motivated violence, see "Antisemitism" and "Specific issues" below.

extended to include the grounds of race, colour, ethnic origin and language. ECRI recommends that the Ukrainian authorities draw their inspiration from paragraph 18 of its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination when amending the Criminal Code. ECRI further recommends that NGOs and representatives of ethnic minority groups as well as of refugees and asylum seekers be consulted on any amendments to the current legislation with regard to racially motivated crimes.

25. ECRI recommends that the Ukrainian authorities continue to implement Article 297 of the Criminal Code where necessary.

Civil and administrative law provisions

26. In its second report, ECRI recommended that the Ukrainian authorities consider adopting comprehensive civil and administrative anti-discrimination provisions covering discrimination in different fields of life such as employment, education, housing, access to public and social services and public places and contractual relations between individuals, and providing for effective enforcement and redress mechanisms.
27. ECRI regrets that no comprehensive anti-discrimination legislation has been adopted since its second report. The only existing non-discrimination provision is found in the Civil Code (Article 26). The authorities have assured ECRI that the task of drafting such a law is still on the agenda and ECRI hopes that the necessity of such a piece of legislation will be recognised by all relevant governmental actors as this does not yet appear to be the case. ECRI wishes in this respect to draw the Ukrainian authorities' attention to Chapter III of its General Policy Recommendation No. 7 in which it recommends that anti-discrimination legislation should clearly define and prohibit direct and indirect discrimination. The Recommendation indicates that the legislation should prohibit discrimination by all public authorities as well as all natural and legal persons, both in the public and in the private sectors, in all areas, including the following: employment; membership of professional organisations; education; training; housing; health; social protection; goods and services intended for the public and public places; exercise of economic activities, and public services.

Recommendations:

28. ECRI strongly recommends that the Ukrainian authorities adopt a comprehensive body of anti-discrimination laws in all fields of life. It recommends that they draw their inspiration from Chapter III of its General Policy Recommendation No. 7 to that end.

Specialised bodies and other institutions

- *Ombudsman*

29. In its second report on Ukraine, ECRI encouraged the Ukrainian authorities to ensure that the Office of the Human Rights Ombudsman had the necessary human and financial resources to carry out its tasks. ECRI also recommended that the Ukrainian authorities establish a special representative of the Human Rights Ombudsman with competence to deal with questions of relevance to national minorities and racial discrimination.

30. The Ombudsman's role has not been specifically extended to cover issues pertaining to racism and racial discrimination. The Ombudsman's office has informed ECRI that it initiated a monitoring programme on the status of national minorities which noted violations of their rights, including cases of discrimination. It was further noted that Roma suffer the most from violations of their rights. The Ombudsman's office has indicated that members of the Roma community have filed complaints before it about widespread forcible finger-printing of Roma carried out by law enforcement authorities⁵. This office has also informed ECRI that the above-mentioned monitoring programme discovered in some regions cases of racial discrimination in the employment sector. ECRI notes in this regard reports according to which in the Crimea, Tatars suffer from a high level of unemployment (60%) which has been attributed to discrimination, including in access to jobs in the public service. ECRI is also concerned by reports of Crimean Tatars suffering discrimination in other areas, such as for example, access to land and housing.
31. The Ombudsman's office also expressed its concern about the issue of cemeteries being vandalized and manifestations of antisemitism. This body informed ECRI that few complaints from non-nationals have been filed before it.⁶
32. The Ombudsman is empowered to make recommendations to Parliament in an annual report. However, they are not binding. Concerning its human and financial resources, the Ombudsman's office has expressed to ECRI its dissatisfaction with the funding currently provided to it as well as with its staffing capacity.
33. ECRI has received reports of dissatisfaction with the level of the Ombudsman's involvement in, *inter alia*, issues pertaining to racism and racial discrimination as well as with her accessibility to the general public. This institution may thus wish to examine these concerns.

Recommendations:

34. ECRI reiterates its recommendation that the Ukrainian authorities specifically extend the Ombudsman's tasks to include issues pertaining to racism and racial discrimination and that the Ombudsman's office be provided with sufficient human and financial resources to that end. ECRI also strongly recommends that a body specialised in these issues be created as suggested in its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.
35. ECRI recommends that the Ukrainian authorities study the results of the above-mentioned monitoring programme and take measures to investigate and address any racial discrimination noted therein.
36. ECRI further recommends that the authorities take measures to address the discrimination suffered by Crimean Tatars in all areas of life, including in access to employment, housing and land.

⁵ For more information on the situation of the Roma, see "Vulnerable groups" below.

⁶ For more information on the situation of non-nationals, see "Reception and status of non-citizens" and "Specific issues" below.

- **State Committee for Nationalities and Religion**

37. The State Committee for Nationalities and Religion which has replaced the State Committee for Nationalities and Migration has been fully functioning since 27 March 2007. This body's main tasks include the protection of national minorities, relations between the government and religious organisations, refugee status determination and combating racism and racial discrimination. The State Committee also works closely with the All Ukraine Council of Churches and Religious Organisations, a body comprising the 19 principal religious denominations in Ukraine. The State Committee drafts legislation on issues related to the protection of the rights of, *inter alia*, national minorities and refugees.
38. The State Committee for Nationalities and Religion has informed ECRI that it has also been entrusted with the task of combating racially motivated crimes and has started monitoring the media and conducting an awareness-raising campaign to involve civil society in creating a climate against intolerance and discrimination.⁷ It has also informed ECRI that it is currently establishing several advisory bodies and that one such body will be a council for combating xenophobia, racism and intolerance which will include lawyers and representatives of international organisations and government agencies. The council's role will primarily comprise of studying the Committee's proposals to the government and advising courts and law enforcement officials on racially motivated crimes. The State Committee for Nationalities and Religion has highlighted to ECRI the need for a concerted effort among Ministries and government bodies in combating racially-motivated crimes as this task has been primarily within the purview of the Ministry of Interior.

Recommendations:

39. ECRI recommends that the Ukrainian authorities ensure that the State Committee for Nationalities and Religion receives sufficient human and financial resources to carry out its tasks.
40. ECRI recommends that the Ukrainian authorities ensure that the work commenced by the State Committee for Nationalities and Religion to combat racially motivated crimes is carried out in conjunction with other Ministries and bodies, including the Ministry of Justice, the Ministry of Interior and the Ombudsman. It further recommends that the authorities involve ethnic minority representatives, NGOs and the civil society sector more actively in this work.

Education and awareness-raising

41. In its second report on Ukraine, ECRI encouraged the Ukrainian authorities to include human rights education in the core school curriculum.
42. ECRI is aware of ongoing teacher training and educational reforms in Ukraine. The authorities have, for example indicated that from first grade onwards, children study the Convention on the Rights of the Child and that human rights and civic education are taught from primary school. They have informed ECRI that in 2006, special funding was provided for teacher training and that conditions for admission to the teaching profession were modified. ECRI is not aware of whether issues pertaining to racism and racial discrimination were included in the

⁷ For more information on the public climate in Ukraine, see "Climate of opinion" below.

teacher training programme reforms. ECRI wishes in this regard to draw the Ukrainian authorities' attention to its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education. In this Recommendation, ECRI calls on Member States to, among others, train teaching staff to work in a multicultural environment by, *inter alia*, providing them with initial and on-going training designed to foster awareness of issues pertaining to racism and racial discrimination. It further recommends that this training include international and European standards, the use of teaching material specifically intended for teaching human rights, including the right to equality, as well as the use of interactive and participatory teaching methods.

43. Since ECRI's second report, the teaching of Christian ethics has been introduced in state schools in Lviv and Chernobyl and in autumn 2006, this subject was taught to fifth grade pupils in Kiev. The authorities have informed ECRI that the course is optional, that it was thoroughly reviewed before its implementation and that as no problems were noted, the class was introduced as a pilot project in several schools. However, some minority representatives have expressed their concern with regard to this subject as many other religions are practiced in Ukraine. Moreover, it does not appear that measures have been taken to introduce teaching on other religions.

Recommendations:

44. ECRI recommends that the Ukrainian authorities ensure that issues pertaining to combating racism and racial discrimination are included in the human rights course provided to pupils. ECRI also recommends that teaching staff receive initial and on-going training on matters relating to racism and racial discrimination. It recommends in this regard that the authorities draw their inspiration from its General Policy Recommendation No. 10.
45. Concerning the introduction of the subject of Christian ethics in Ukrainian state schools, ECRI recommends that, as outlined in its General Policy Recommendation No. 10, the Ukrainian authorities ensure that pupils are given an instruction on religion which complies with the scientific neutrality essential in any educational approach. ECRI also recommends that the Ukrainian authorities ensure, in accordance with this Recommendation, that where public schools provide denominational religious education, easy procedures for discharge are in place for children for whom an exemption is requested.

Reception and status of non-citizens

- *Asylum seekers, refugees and immigrants*

46. In its second report on Ukraine, ECRI welcomed the adoption of the new Law on Refugees on 21 June 2001 which brought Ukraine in line with the UN Convention relating to the Status of Refugees.
47. The current law on asylum seekers and refugees is in the process of being amended in order to, *inter alia*, provide for humanitarian protection. A new law on the protection of non-nationals and stateless persons is also being drafted. These two draft laws will be considered by Parliament in the course of 2007-2008. The Ukrainian authorities have indicated that the draft law on refugees and persons eligible for subsidiary and temporary protection purports to regulate the status of refugees, introduce temporary protection, define the procedure for granting and terminating refugee status and to establish guarantees affording them adequate protection. Concerning the second draft, the authorities have

indicated that bodies dealing with stateless persons and foreigners have been contacted to obtain an overview of issues which should be addressed in this document.

48. At the beginning of 2007, 2,275 recognised refugees were residing in Ukraine with 52% being from Afghanistan, 28% from the Former Soviet Union and 13% from Africa. The remaining are nationals of Middle Eastern, Asian and European countries. 48% of recognized refugees are registered in Kiev city or the Kiev region and 26% in Odessa.
49. The State Committee for Nationalities and Religion which as indicated above⁸ is the main body in charge of processing asylum applications and assisting refugees, has informed ECRI that it has received sufficient funds to carry out its work in this area with an increase in its budget from 2.7 million hryvnias (approximately 376,000 euros) in 2004 to more than 8 million hryvnias (1,200,000 euros) in 2007. The State Committee has also informed ECRI that Ukraine signed a readmission agreement with the European Union by which it will accept the return from the EU of asylum seekers and migrants who transited through Ukraine on the way to its Member States. Although the State Committee has indicated that participation in this scheme will be voluntary, ECRI is concerned that as asylum seekers, refugees and immigrants currently living in Ukraine face a number of problems, including racially motivated violence, poor living conditions and problems in integrating into society, Ukraine is not ready to implement this agreement in accordance with international standards. In a report published in October 2006, Human Rights Watch highlighted these issues and concluded that Ukraine cannot be considered a “safe third country” for the purpose of returning asylum seekers and immigrants.⁹

Recommendations:

50. ECRI strongly recommends that the Ukrainian authorities pass the two draft laws concerning refugees, foreigners and stateless persons as soon as possible. It recommends that the United Nations High Commissioner for Refugees (UNHCR) and NGOs working with asylum seekers and refugees be involved in this process.
51. ECRI also strongly recommends that the readmission agreement with the European Union be implemented with full respect for international standards to ensure that everyone concerned by this agreement enjoy all their rights.
52. Article 19 of the Law on Refugees provides that persons who are granted refugee status enjoy the same rights and freedoms as Ukrainian citizens. However, as indicated above, refugees and asylum seekers face a number of problems which need to be resolved in order for them to fully enjoy their rights in accordance with national and international standards. Asylum seekers do not have access to free translation and interpretation when submitting their claim and have to rely on NGOs for these services. They do not receive legal aid when going through the asylum application procedure and the majority of asylum seekers do not receive an allowance or temporary accommodation. They have no access to free Ukrainian and Russian language lessons which impedes their ability to integrate into the Ukrainian employment sector and society in general. Once their status has been recognised, refugees receive a one-off allowance of 17 hryvnias

⁸ See, “Specialized bodies and other institutions”.

⁹ European Union: Managing Migration Means Potential EU Complicity in Neighboring States’ Abuse of Migrants and Refugees, Human Rights Watch, October 2006, p.9.

(approximately 2.50 euros) and no accommodation. ECRI has been informed that as a result, many live in inadequate conditions. Although Article 20 of the Refugee Law grants refugees and asylum seekers the right to work, they face a number of disadvantages in access to employment due to a lack of the requisite language skills, employers' discrimination, in particular against those of non-European origin, and because of uncertainty about asylum seekers' future in the country. ECRI has received reports according to which asylum seekers and refugees are sometimes harassed and detained by police and law enforcement agencies. This has also resulted in their reluctance in filing complaints concerning racially motivated violence suffered at the hands of skinhead groups¹⁰. ECRI has been informed that very few complaints brought to the police regarding racist attacks are solved. There appears to be little understanding of the plight of asylum seekers and refugees by the general public, the authorities and the media¹¹ and this has led to a number of stereotypes. Refugees and asylum seekers are, for example perceived as being irregular or economic migrants and a threat to public welfare and health, in particular in areas where temporary accommodation centres have been built.

Recommendations:

53. ECRI recommends that asylum seekers be provided with free translation and interpretation services when submitting their claim and that they receive legal aid.
54. ECRI urges the Ukrainian authorities to improve asylum seekers' and refugees' access to employment and accommodation by, *inter alia*, ensuring that they are provided with free language lessons, vocational training and free temporary accommodation. ECRI strongly recommends that the authorities take measures to raise employers' awareness of the legislation regarding discrimination in employment and that they ensure the implementation of this legislation where necessary.
55. ECRI urges the Ukrainian authorities to investigate any allegations of police harassment of asylum seekers and refugees and to ensure that those found guilty of such acts are duly punished. ECRI further recommends that an independent body empowered to receive complaints against police officers be established and that they receive initial and on-going training on human rights in general and issues pertaining to refugees and asylum seekers as well as racism and racial discrimination in particular.
56. ECRI strongly recommends that the Ukrainian authorities take measures to improve the public's understanding of the situation of refugees and asylum seekers by carrying out awareness-raising campaigns to that end. It also recommends that these campaigns be carried out in conjunction with the UNHCR and relevant NGOs.
57. In its second report on Ukraine, ECRI encouraged the Ukrainian authorities to address the lack of sufficient reception centres.
58. The State Committee for Nationalities and Religion has informed ECRI that there is one temporary reception centre in Odessa which is intended for 220 individuals. It has indicated that the authorities wish to open one such centre in the Kiev and Transcarpathia regions. It thus appears that further measures are necessary to widen the country's reception centres capacity.

¹⁰ For more information on racially-motivated violence, see "Specific issues" below.

¹¹ For more information on these issues, see "Media" and "Specific issues" below.

59. ECRI has received information according to which there are several detention centres throughout the country where immigrants and asylum seekers are held. Under the law, the maximum duration of this detention is 10 days, but it appears that there are cases where persons remain in these centres for much longer periods of time. ECRI notes with concern information according to which material conditions in these detention centres are far from meeting international standards and that persons detained in these centres face problems of overcrowding, inadequate healthcare, violence and a lack of basic procedural safeguards such as legal assistance and interpretation. It is therefore crucial that the situation in these centres be reassessed as soon as possible and that adequate measures be taken to address the problems noted by several organisations.¹²

Recommendations:

60. ECRI reiterates its recommendation that the Ukrainian authorities increase the number of reception centres as soon as possible, in particular in areas where the largest number of asylum claims are filed. ECRI also recommends that the UNHCR and NGOs working with asylum seekers and refugees have unfettered access to these centres.
61. ECRI urges the Ukrainian authorities to investigate the situation in detention centres around the country and take measures to bring the conditions of detention in those centres up to international norms and ensure that persons held therein fully enjoy their rights. It recommends in this regard that the UNHCR, the Red Cross and relevant NGOs have unfettered access to these centres.

- Foreign students

62. Approximately 40,000 students from 129 countries study in 209 Ukrainian higher education institutions. These students live mostly in large cities such as Kiev, Kharkiv and Odessa. According to government statistics, in 2006, Ukrainian universities earned 0.5 billion hryvnias (approximately 73 million euros) from foreign students. On 26 April 2007, the Ministry of Education issued a press release expressing its concern about the violence inflicted on foreign students by some Ukrainian youths belonging to neo-fascist or skinhead groups. This is an important step in the authorities' recognition of this problem which had been largely underestimated and is increasingly affecting foreign students, in particular those from Africa, Asia, the Middle East and the Caucasus.¹³ Students from these regions have become the target of racist violence by members of skinhead groups either on or off campus (in the metro, clubs, restaurants, etc.), and it appears that the fact that some foreign students are placed in different hostels from Ukrainian students or in the same hostels but separately increases their vulnerability to such attacks on campus. Police response to these attacks does not always appear to be adequate as little police protection has been provided to students in campuses where racist attacks or murders have occurred. As a result, they are reluctant to file complaints and this problem is further compounded by their fear of being subjected to police harassment which has been reported to ECRI as being a regular occurrence. The university authorities' response to this problem also needs to be improved as they appear thus far to be reluctant to acknowledge the existence and extent of the racism suffered by many students and to take adequate measures to protect them from on-campus attacks. ECRI notes with concern that, in December 2006, a Gambian aviation

¹² See, above paragraphs.

¹³ For more information on racially-motivated violence, see "Specific issues" below.

student was killed on campus in Kiev by a group of young people who stole nothing from him, thus leading to a strong presumption that this was a racist attack. At the time of writing, the perpetrators of this crime had not yet been identified or apprehended.

Recommendations:

63. ECRI urges the Ukrainian authorities to take measures to investigate racially motivated attacks against foreign students and to punish the culprits. It also recommends that measures be taken to increase these students' confidence in the police in order to encourage them to report such crimes. ECRI also strongly recommends that allegations of police harassment of foreign students be investigated and that those officers found guilty of such conduct be punished. It further recommends that the above-mentioned measures be taken to improve police service.¹⁴
64. ECRI strongly recommends that the Ukrainian authorities ensure that university authorities take appropriate measures to provide foreign students with a safe environment by, *inter alia*, organising adequate on-campus security. ECRI recommends that the students be consulted and involved in any measures taken to improve their safety both on and off campus. ECRI also recommends that the Ukrainian authorities organize awareness campaigns aimed at, *inter alia*, increasing knowledge of foreign students' presence and contribution to Ukrainian society.

Vulnerable groups

- **Roma**

65. In its second report on Ukraine, ECRI considered that policies were urgently needed to address the position of Roma communities in Ukraine in order to ensure that members of these communities enjoyed in practice the same rights as other Ukrainians. ECRI also expressed its belief that the first necessary step towards developing an appropriate response to the problems faced by the Roma population of Ukraine was recognizing that such problems existed and that they needed to be addressed.
66. According to the 2001 population census, there are approximately 47,000 Roma in Ukraine, although Roma organisations consider this number to be a gross underestimation as they put it at approximately 400,000 persons. ECRI is not aware of the exact reasons for the disparity between these estimations, but the authorities may wish to examine the issue, in cooperation with, among others, Roma organisations.
67. A programme for the social and spiritual revival of Roma was created in 2002 and completed in 2006. The Ukrainian authorities have informed ECRI that the main focus of the programme was the renaissance of the cultural, spiritual and educational life of the Roma. This programme was adopted in the eight regions with the largest Roma communities and funded by authorities dealing with Roma issues and the State Committee for Nationalities and Religion.¹⁵ A budget of 100,000 hryvnias (approximately 14,800 euros) was allocated to the programme and the authorities have informed ECRI that measures taken in the framework of

¹⁴ See, "Asylum seekers, refugees and immigrants".

¹⁵ See, "Specialised bodies and other institutions" above

this programme include the opening of special classes for Roma pupils in kindergartens and primary schools to assist them in catching-up with other children. On this matter, ECRI wishes to draw the authorities' attention to the need to ensure that these classes should not lead to the permanent segregation of Roma children. Measures were also taken to improve living conditions in Roma communities. Although this programme is a first step in recognizing and addressing issues affecting Roma, the authorities themselves acknowledge that it was insufficiently funded and that as a result most of its goals were not met. The authorities indicated that one of the positive effects of this programme was in helping raise local authorities' awareness of problems faced by Roma and in bringing their attention to the need to address them. Roma organisations have expressed their disappointment with the fact that this programme did not reach many of its goals and wish for it to be revived and extended to 2012.

68. The Ukrainian authorities have informed ECRI that Ukraine has not joined the Decade of Roma Inclusion 2005-2015 which is a commitment by several governments in Central and South Eastern Europe to improve the socio-economic status and social inclusion of Roma within a general framework. The programme focuses on education, employment, health and housing and commits governments who have adopted it to take into account issues of poverty, discrimination and gender mainstreaming¹⁶. Roma organisations have expressed their wish to see Ukraine join this programme as they consider that it will serve to address some of the problems they are currently facing. The Ukrainian authorities have informed ECRI that they are examining the issue of joining the Decade of Roma Inclusion 2005-2015.

Recommendations:

69. ECRI recommends that the Ukrainian authorities work in cooperation with Roma organisations to establish the reasons for the disparity between the estimated number of Roma by Roma organisations and the results of the 2001 population census.
70. ECRI also recommends that the Ukrainian authorities either reinstate the programme for the social and spiritual revival of Roma or that they create a new programme dealing with Roma issues. ECRI recommends that Roma be fully involved in this process and that sufficient human and financial resources be allocated to any such programme. ECRI further recommends that the Ukrainian authorities consider joining the Decade of Roma Inclusion 2005-2015.

- Roma access to education

71. In its second report on Ukraine, ECRI considered that priority should be given to initiatives aimed at ensuring Roma children's participation in education at all levels, starting from kindergarten. ECRI stated that such initiatives should be developed in close consultation and collaboration with representatives of the communities concerned and that they should include the establishment of Roma mediators whose role would be to accompany and assist Roma children in participating in schools. ECRI also encouraged the Ukrainian authorities to favour an approach whereby Roma children mingle with majority children in schools.

¹⁶ The nine countries taking part in the Decade are Bulgaria, Croatia, the Czech Republic, Hungary, the Former Yugoslav Republic of Macedonia, Montenegro, Romania, Serbia and Slovakia.

72. Roma still lag behind the rest of society in terms of education as Roma representatives have informed ECRI that according to their estimations, only 68 percent are literate and 2 percent have a university degree or higher education qualification. Poverty and the absence of effective programmes aimed at changing stereotypes are among the main reasons for the lower level of education among the Roma population. ECRI has also been informed that Roma do not receive enough attention in school and that they are often not included in extracurricular activities. ECRI notes with concern reports according to which there are special needs schools in Odessa where the majority of the pupils are Roma.
73. It does not appear that Roma school mediators have been established, but ECRI considers that taking such a measure is worthy of consideration in the light of the problems currently facing Roma in the education system. In this regard, it wishes to bring to the Ukrainian authorities' attention that its General Policy Recommendation No. 10 recommends, *inter alia*, that Member States ensure compulsory, free and quality education for all, and that they, to this end: undertake, in conjunction with civil society organisations, studies on the situation of children from minority groups in the school system, by compiling statistics on their: 1) attendance and completion rates; 2) drop-out rates; 3) results achieved and 4) progress. This Recommendation also calls on Member States to ensure that schools have an obligation to promote equality in education: 1) by devising, in consultation with all the parties concerned and taking into account the socio-economic dimension (employment and housing) policies to avoid, in the best interests of the child, pupils from minority groups being over-represented in certain schools; 2) by making provision, in particular cases and for a limited period of time, for preparatory classes for pupils from minority groups to, amongst others, learn the language of instruction and 3) by introducing policies to avoid placing children from minority groups in separate classes.¹⁷

Recommendations:

74. ECRI recommends that the Ukrainian authorities take measures to improve Roma access to education by, amongst others, appointing Roma school mediators. It recommends that other relevant ministries, Roma NGOs and all other concerned actors be involved in any such initiatives. ECRI further recommends that the authorities draw their inspiration from its General Policy Recommendation No. 10 when implementing these educational measures for Roma.

- Relationship between Roma and law enforcement officials

75. In its second report on Ukraine, ECRI urged the Ukrainian authorities to address manifestations of unlawful behaviour on the part of law enforcement officials generally, and to take measures to ensure that the police react promptly and effectively to all crimes, including those committed against Roma and to ensure that the racist element of such offences is duly taken into account.
76. As previously indicated¹⁸, Roma face a number of problems in their relationship with the police and other law enforcement agencies. ECRI has received reports according to which some police officers illegally arrest and harass members of Roma communities. Since 2004, a project entitled "The Protection of the Rights

¹⁷ See, Chapter I.

¹⁸ See, « Ombudsman » above.

of Roma and Ensuring Their Access to Justice” has been put in place by civil society organisations. ECRI has been informed that within the framework of this project, several seminars between Roma NGOs and law enforcement officials were scheduled, but that although some such meetings were held, their attendance was rather sporadic. Attempts to find a common understanding between Roma organisations and the Ministry of Interior, the Office of the Prosecutor and law enforcement officials have reportedly yielded few results. ECRI has also received reports according to which Roma do not receive an adequate response from the police when they are the victims of crime.

Recommendations:

77. ECRI urges the Ukrainian authorities to investigate any allegations of police misconduct towards members of the Roma community and that any officers found guilty of such conduct be punished. ECRI also recommends that the authorities ensure that a channel of communication remains open between Roma organisations and all relevant actors in the criminal justice system in order to address the problems faced by members of the Roma community in their relationship with the police and other law enforcement officers. It also recommends that the measures mentioned above¹⁹ be taken to reduce instances of police misconduct

- Roma access to employment

78. In its second report on Ukraine, ECRI encouraged the Ukrainian authorities to devote the necessary attention to the problems of the high level of unemployment among Roma.

79. The Ukrainian authorities have indicated that they work in close cooperation with Roma organisations to address problems faced by Roma in the employment sector. They have stated that some measures have been taken in cooperation with Roma NGOs in regions where Roma live in compact areas. These measures include providing Roma with job training courses and assisting them in finding employment. Moreover, when Roma file applications at job centres, they are provided with free vocational training. The authorities have informed ECRI that awareness-raising campaigns have been carried out with Roma organizations and that some first positive results have been noted. For example, since 2006, more Roma have been filing applications at employment centres. NGOs are helping the authorities monitor the situation. However, the situation of Roma in the employment sector remains worrying. Roma organisations have informed ECRI that only 38% of Roma are employed and only 21% have full time jobs. The high unemployment rate among Roma is due to a number of factors including the impact of the economic transition in Ukraine where Roma are often the first to be laid off, the disappearance of traditional Roma trades as well as the de facto residential segregation faced by many Roma which results in their social exclusion. Unequal access to employment thus places many Roma at a serious disadvantage in the labour market, indicating the long-term impacts of discrimination in employment. The Ukrainian authorities have informed ECRI that no complaints regarding racism in the employment sector have been received since 2004 and that they do not consider that Roma suffer discrimination in this area. However, other than the previously mentioned monitoring programme carried out by the Ombudsman²⁰, it appears that no data based on ethnic or

¹⁹ See, “Reception and status of non-citizens” above.

²⁰ See, “Specialised bodies and other institutions” above.

national origin is systematically collected in, among others, the employment sector²¹. It is therefore difficult to assess the extent to which discrimination plays a part in the high unemployment rate within the Roma community. ECRI deems it worthwhile collecting such data to enable the authorities to assess the problems faced by Roma in accessing employment and to adopt policies to address them. The Law on Employment and the Law on Mandatory Social Insurance which prohibit discrimination in the employment sector are additional tools that should be used to combat any discrimination suffered by members of the Roma community in the employment sector.

Recommendations:

80. ECRI encourages the Ukrainian authorities to continue taking measures to improve Roma access to employment and recommends that the requisite human and financial resources be allocated to such initiatives. ECRI also recommends that data be collected to assess the extent of the discrimination suffered by Roma in the employment sector in order to address this problem. ECRI recommends in this regard that existing anti-discrimination legislation be implemented and positive measures such as vocational and adult on-the job training be adopted.
81. ECRI recommends that the Ukrainian authorities carry out awareness-raising measures, aimed at both public and private sector employers as well as employment agencies, on the anti-discrimination legislation in the labour market as well as the need to combat all forms of racial discrimination in the employment sector.

- **Other issues concerning Roma**

82. In its second report, ECRI recommended that the Ukrainian authorities pay enough attention and resources to addressing the problems facing Roma with respect to their living conditions and health status.
83. ECRI was informed that Roma continue to live in desperately poor conditions with many facing severe safety and health hazards. Many Roma have no access to running water, electricity, roads, transportation and communication facilities, and every tenth Roma lives in unsanitary housing. Studies have also indicated that many Roma dwellings have half the water supply available to the rest of society. Roma access to medical services is also a major concern as many lack the financial means to pay for medical treatment. An increase in various infectious and cardiovascular diseases among the Roma population has been noted. As indicated above, some measures have been taken by the authorities to address the problems faced by Roma in accessing sanitation and healthcare. However, much more is required in order to bring Roma to the standard of living enjoyed by the rest of the population. Malnutrition also remains a problem with only half of Roma persons being able to afford to eat every day. The gravity and link between the problems faced by Roma in areas such as education, employment, housing and healthcare require in-depth research and a concerted effort by all relevant governmental bodies in cooperation with Roma organisations in order to adequately resolve them.

²¹ For more information, see "Monitoring the situation" below.

84. In its second report on Ukraine, ECRI noted that articles containing generalisations and stereotypes about Roma had appeared in the press. It thus reiterated its encouragement to the media profession that they establish and observe codes of self-regulation, notably on reporting.
85. Representatives of Roma organisations have informed ECRI that the media continue to play a role in stereotyping their community. For example, the ethnicity of a Roma crime suspect is more often mentioned than when that person is not Roma. The problem may be partly attributable to the fact that journalists present information on crime that they receive from the police without any qualification or analysis. The manner in which Roma are portrayed in the media also appears to affect the public's negative perception and attitude towards members of this community. For example, 34% of respondents to a study indicated that they were aware of cases where Roma rights were violated due to their ethnic origin. The Roma Holocaust Commemoration Decree which was issued by the President is a welcome initiative which might serve to, amongst others, give the general public a different perspective on Roma in Ukraine. ECRI notes in this regard Roma representatives' overall satisfaction with the authorities' willingness to implement this decree.
86. ECRI has been informed that there are currently several Roma studying journalism and that it is expected that in the next two to three years there will be Roma professional journalists. This is a positive development which should be encouraged to increase diversity in the profession.
87. Roma representatives expressed their concern that Roma are unable to integrate into public life. A research paper has indicated that Roma are increasingly interested in this question as forty-five percent of the Roma respondents interviewed therein expressed their firm intention to influence the decision-making process of their local authorities, state administrations, country and district councils as well as executive bodies. Fifty-nine percent expressed their awareness of the necessity of participating in civil society organisations, and sixty-two percent recognised the importance of participating in elections. Roma interest in public life should therefore be encouraged through, for example adequate awareness-raising and civic education measures.

Recommendations:

88. ECRI recommends that the Ukrainian authorities take urgent measures to address the issues facing Roma in accessing adequate housing and healthcare. ECRI strongly recommends that the authorities examine the correlation between the difficulties faced by Roma in areas such as housing, healthcare, education and the employment sector to take an integrated approach to these problems. It recommends that the authorities take into consideration its General Policy Recommendation No. 3 on combating racism and intolerance against Roma/Gypsies to that end.
89. ECRI recommends that the Ukrainian authorities take measures to combat stereotypes against Roma by carrying out awareness-raising programmes to that end. It recommends that Roma organisations be involved in any such measures. ECRI further recommends, as indicated in its General Policy Recommendation No. 3, that the media be encouraged to carry out responsible reporting with regard to issues pertaining to Roma and that measures be taken to encourage members of the Roma community to continue entering journalism.

90. ECRI encourages the Ukrainian authorities to continue implementing the Roma Holocaust Commemoration Decree and recommends that an awareness-raising campaign be carried out to inform the public about this initiative.
91. ECRI recommends that the Ukrainian authorities develop institutional arrangements to promote an active role and participation of Roma communities in the decision-making process, through national, regional and local consultative mechanisms, with priority placed on the idea of partnership on an equal footing.

Antisemitism

92. In its second report on Ukraine, ECRI encouraged the Ukrainian authorities to ensure that criminal law provisions against hate speech were applied to all instances of hate speech, including those of an antisemitic nature. ECRI further encouraged the Ukrainian authorities to keep the situation as regards antisemitism under review.
93. During the 2001 population census, 105,000 people identified themselves as Jewish although Jewish organisations estimate that there are currently approximately 250,000 to 350,000 Jews in Ukraine. ECRI has been informed that there are many Jewish centres, schools, youth and scientific organisations. It has been indicated to ECRI that there is a total of 600 Jewish organisations functioning in 100 cities. ECRI has also been informed that there is a relatively high level of participation by Jewish persons in Ukrainian political life as five of the parties that won seats in the 2006 Parliamentary elections have Jewish representatives. There are currently 25 people of Jewish descent in Parliament, some of whom head NGOs and Jewish organisations. Several cities have further elected Jewish mayors.
94. ECRI notes with concern that one of the main problems currently facing the Jewish community in Ukraine is rising antisemitism. It has been informed that there is little response to antisemitic publications and manifestations from the authorities and society in general. As previously mentioned, the current legislation against hate speech in general is rarely applied for the reasons indicated above.²² ECRI is concerned that since its second report, an increase in antisemitic publications has been noted. The main source of this type of publications is the Interregional Academy of Personnel Management (known by its Ukrainian acronym as MAUP), the largest private university in Ukraine with a student body of approximately 50,000 persons. This institution publishes two weekly newspapers entitled "Personnel" and "Personnel plus" which contain a strong antisemitic, racist and xenophobic theme. ECRI has been informed that according to MAUP, 103,000 copies of "Personnel" are sold each week. However, it appears that some of these copies are freely distributed to its students and that the remaining are easily sold due to their very low price. This publication was suspended for a period of time following a court order rendered apparently due to its antisemitic and racist content, but its publication has been resumed. MAUP is thus the main purveyor of antisemitic and racist ideas in Ukraine and it has hosted several conferences with an antisemitic theme. ECRI notes that some of MAUP's credibility has been eroded by several prominent politicians' decision to publicly distance themselves from this institution and/or condemn its actions. ECRI has also been informed that in 2005, all direct links between state authorities and MAUP were severed. The Ukrainian authorities have indicated that between 2005 and 2006, almost 100 MAUP affiliates were

²² See, "Criminal law provisions" above.

closed down in state-run and private educational establishments. NGOs have however informed ECRI, and the authorities have confirmed, that combating MAUP has proven very difficult as this institution has been actively and successfully challenging its critics, including the Ministry of Education itself which is currently the subject of 70 lawsuits by MAUP, through the court system. MAUP has thus launched several successful lawsuits, mainly for libel or slander, against persons from a wide variety of backgrounds (journalists, rabbis, politicians and academics) as well as institutions who suggest that it is antisemitic.

95. MAUP has further increased its activities by installing bookshops all around Kiev in which antisemitic and racist publications are sold. Despite its activities, NGOs and civil society organisations consider MAUP to be an artificially created antisemitic and xenophobic institution which, for the moment, appears to exert little influence over Ukrainian public life (during the 2006 elections, its political party won less than 10,000 votes). However, as this institution regularly disseminates antisemitic and xenophobic ideas into society, ECRI is deeply concerned that this may in the long-term have an extremely damaging effect on social cohesion in Ukraine. It has, for example been suggested to ECRI that MAUP's activities may partly be responsible for the increasing number of attacks by skinhead youths against, amongst others, Jewish people,²³ due to the intolerant climate created by this institution.
96. ECRI also notes with concern that antisemitic attacks are on the rise, with a record number registered in 2006. These attacks range from serious physical violence against, amongst others, Yeshiva students and rabbis to Holocaust memorial sites, synagogues, cemeteries and cultural centres being vandalised. The police often classify these acts as hooliganism and only a few individuals have been prosecuted and convicted for these crimes. ECRI has received information according to which in April 2007, the Ukrainian President noted the disturbing increase in this type of vandalism over the last few years and requested that the Prosecutor General, the security services chief and the Interior Minister take measures to arrest and punish the vandals. This call is a welcome acknowledgment of the gravity of the problem and ECRI hopes that the authorities will henceforth take appropriate measures to combat this phenomenon.
97. Surveys carried out in 2006 indicate a relatively high level of antisemitism among the general public with 29 % of the respondents indicating their aversion to Jewish people living in Ukraine and only 31% stating that they would welcome a Jewish person in their family. These surveys have also noted an increase in antisemitism among young people, especially among 18 to 20 year olds. A poll carried out in 2006 noted that 45% of respondents from this age group would like to see no Jewish people living in Ukraine. This worrying trend should be further monitored to enable the authorities to measure the extent of the problem and take active steps to resolve it. As there is no state body consistently monitoring manifestations of antisemitism, Jewish representatives have informed ECRI that organisations are largely unable to raise awareness of this phenomenon due to a lack of information.

²³ For more information on racially-motivated attacks, see "Specific issues" below.

Recommendations:

98. ECRI urges the Ukrainian authorities to combat all antisemitic and xenophobic activities. It strongly recommends that the authorities ensure that the current legislation is amended in order to facilitate the punishment of people who incite racial hatred. ECRI also recommends that the judiciary receive training on issues pertaining to antisemitism, racism and xenophobia, and that awareness-raising measures be taken to counter antisemitic and xenophobic messages being disseminated by anyone.
99. ECRI urges the Ukrainian authorities to ensure that adequate measures are taken to punish those who commit acts of antisemitic violence and vandalism. It recommends in this regard that the authorities ensure that law enforcement bodies duly recognize the antisemitic nature of these acts and treat them as such.
100. ECRI recommends that the Ukrainian authorities take measures to consistently monitor antisemitic violence and incidents in order to increase their efficiency in combating this phenomenon. ECRI also recommends that awareness-raising measures for combating antisemitism aimed in particular at young people be taken and that Jewish and non-Jewish youth be jointly involved in such initiatives.
101. ECRI recommends that the Ukrainian authorities take into consideration its General Policy Recommendation No. 9 on the fight against antisemitism when adopting measures to combat this phenomenon.

Media

102. In its second report on Ukraine, ECRI encouraged the Ukrainian authorities to closely monitor any instances of hate speech or dissemination of generalisations and stereotypes in the printed media. ECRI also recommended that the authorities ensure the application of the provisions prohibiting racist expression.
103. Some sectors in the media in Ukraine have played a positive role in raising public awareness of issues pertaining to racism and xenophobia as well as asylum seekers and refugees. For example, in October 2006, a television channel broadcast a documentary on racially motivated violence against foreigners. The media also sometimes report on cases of serious racially-motivated attacks against foreigners. However, as indicated in other parts of this report²⁴, by and large, some segments of the media continue to portray ethnic minorities as well as asylum seekers and refugees in a negative light. ECRI has, for example been informed that racially pejorative words are often used in news headlines and articles and that the problem with this type of language is not always understood. ECRI has also been informed that a code of conduct and a professional ethics code have been adopted and that the Commission for Professional Conduct, a self-regulating NGO from the journalistic community, acts as an advisory organ to the media. Its decisions are however not binding. ECRI has also been informed that journalists are not sufficiently trained in human rights and in European journalistic norms and standards. In this regard, on 23 May 2007, the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression issued a press release after a visit to Ukraine in which he stated that it was brought to his attention that a segment of

²⁴ See, « Reception and status of non-citizens » and « Vulnerable groups » above.

practitioners in the media were not adequately trained, particularly on media ethics and on the importance of respecting human rights. He indicated that the most notable result of these deficiencies is a proliferation of unprofessional publications.²⁵

Recommendations:

104. ECRI encourages the authorities to impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of any ethnic minority group or against asylum seekers, refugees and immigrants. ECRI further recommends that the Ukrainian authorities encourage any initiatives taken by the media to pursue initial and on-going training in human rights in general and in issues concerning racism and racial discrimination in particular. It also recommends that an independent press complaints body be established.

Climate of opinion

105. In its second report, ECRI encouraged the authorities to take appropriate measures to counter prejudice among the Crimean population and facilitate integration and mutual understanding among the different communities living in Crimea.
106. ECRI is concerned about the situation in the Crimea where tensions between Crimean Tatars and ethnic Russians are particularly high partly due to issues relating to land and historical monuments. Skinhead violence against members of the Tatar and Jewish communities is also a regular occurrence in this region. As indicated below,²⁶ these tensions have sometimes spilt over into violent clashes where several people have been injured. There appears to have been little action by police to protect people and ensure the peaceful coexistence of different communities. It is also regrettable that some politicians, authorities and religious leaders have failed to act responsibly, by fanning the flames of ethnic hatred. ECRI is thus concerned that the gap between different communities living in Crimea has widened since its second report. Although, as indicated below,²⁷ in 2006, the then State Committee for Nationalities and Migration issued a statement condemning such actions after a spate of particularly violent ethnic clashes, the authorities should be more proactive in combating the climate of mutual suspicion and racial tensions that currently prevails in that region.
107. As mentioned in other parts of this report²⁸, studies have indicated that the public climate concerning, amongst others, asylum seekers and refugees, Roma and Jewish persons has become increasingly intolerant in some sectors of Ukrainian society. As indicated above²⁹, the activities of MAUP have contributed to the rise in racism in general and in antisemitism in particular. It has also been explained to ECRI that racist and antisemitic attacks against persons and property flourish because of the current environment and that although skinhead groups operate underground, they are enjoying increasing public support. ECRI has been informed that a number of factors may explain the upsurge in racism and xenophobia. These include the presence of religious groups not traditional to

²⁵ See, <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/8B2A24129E16160CC12572E4>

²⁶ See, "Specific issues".

²⁷ *Ibid.*

²⁸ See, "Vulnerable groups" and "Antisemitism".

²⁹ See, "Antisemitism".

Ukrainian society, frustrations about socio-economic differences in society and an increase in sex tourism largely due to the cancellation of visa requirements for EU, US and Canadian nationals. Although some individuals and authorities are increasingly paying attention to rising racism and antisemitism in Ukraine and trying to address the problem, NGOs regret that to a large degree there is a lack of awareness and recognition of the existence and extent of the problem. An integration policy should thus be adopted and measures taken to raise public awareness of the changing nature of Ukrainian society with its increasing diversity. ECRI regrets in this regard that some politicians have, for example made xenophobic statements equating asylum seekers and refugees with illegal immigrants and that others have made antisemitic statements.

108. Due to the wariness of communities targeted by racially-motivated violence, an anti-racism march was scheduled to take place in Kiev on 6 April 2007. This march was however cancelled due to the disruption caused at the conference when one of the organisers of the march, a Nigerian pastor who has lived in the country for several years, was subjected to racist insults by an extremist journalist. ECRI is not aware of whether the heckler was arrested or charged with any offence. Although this appears to be an isolated incident, it highlights the current climate in the country where intolerance is increasingly openly expressed. ECRI wishes in this regard to bring to the Ukrainian authorities' attention the need to curb this type of behaviour to ensure respect for rights inherent in every democratic society, including the right to peaceful assembly.

Recommendations:

109. ECRI strongly recommends that the Ukrainian authorities take measures to improve the current climate in Ukraine by, amongst others, carrying out awareness-raising campaigns about the dangers of racism, antisemitism and xenophobia and about the contribution to Ukrainian society from minority groups. It recommends that the authorities encourage and actively support any measures taken in this regard and that all relevant sectors of society including minority representatives, NGOs as well as governmental bodies such as the State Committee for Nationalities and Religion be fully involved in any such initiatives.
110. ECRI strongly recommends that the Ukrainian authorities take measures to reduce tensions between different communities living in the Crimea and to actively promote a peaceful coexistence among them.
111. ECRI also wishes to bring to the Government's attention the principles contained in the Charter of European Political Parties for a Non-Racist Society and in its Declaration on the use of racist, antisemitic and xenophobic elements in political discourse which may serve as guidelines for responsible action on the part of political parties concerning political discourse.

Conduct of law enforcement officials

112. See, "Reception and status of non-citizens", "Vulnerable groups", "Antisemitism" and "Specific issues".

Monitoring the situation

113. In its second report on Ukraine, ECRI considered that an improvement in the system of data collection and monitoring would be desirable in order to evaluate the evolving situation of minority groups in Ukraine and to uncover and remedy any problems, including differences related to direct or indirect discrimination.

114. On 5 December 2001, a census was carried out in Ukraine. Out of a population of 48,457,000 nationals, 130 nationalities were recorded. According to the census, the largest minority groups living in Ukraine are Russians (8,334,100), Crimean Tatars (358,600), Byelorussians (275,800), Moldavians (258,600), Bulgarians (204,600), Hungarians (156,600), Romanian (151,000), Poles (144,100), Jews (103,600) and Armenians (99,900).
115. ECRI is not aware of any measures taken by the Ukrainian authorities to uncover and remedy any problems faced by ethnic minorities in Ukraine by using the census results or through any other means. No system for collecting data on the situation of various ethnic minorities living in Ukraine in areas such as education, employment, housing, access to social service has yet been established to assess any problems of direct or indirect racial discrimination they may face in those areas and to devise policies to resolve them. ECRI considers that the Ukrainian authorities should envisage taking such measures in order to ensure greater equality among various sectors of society as surveys have indicated, for example that Roma are greatly disadvantaged in areas such as education and employment.³⁰

Recommendations:

116. ECRI recommends that the Ukrainian authorities establish and implement a system of ethnic data collection to assess and redress any racial discrimination that may exist in the country, in full compliance with all relevant national laws as well as European and international regulations and recommendations on data protection and the protection of privacy, as stated in ECRI's General Policy Recommendation No.1 on combating racism, xenophobia, antisemitism and intolerance. The Ukrainian authorities should ensure that data collection is carried out with full respect for the anonymity and dignity of the people involved and in accordance with the principle of full consent. Furthermore, the data collection system on racism and racial discrimination should take into consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination.

II. SPECIFIC ISSUES

Racially motivated violence

117. As previously indicated³¹, since ECRI's second report there has been a worrying increase in racist violence by youth belonging to skinhead and neo-fascist groups. The targets of these attacks range from foreign students, asylum seekers, refugees and immigrants, businessmen, diplomats as well as family members of United Nations personnel. They are mostly nationals of African, Asian, Middle Eastern countries, from the Caucasus as well as visible minorities from Western countries. On their websites, the embassies of the United States and France have thus issued a warning to their nationals about this type of violence.³² As indicated above, Jewish persons are also targeted by racially-motivated violence. Furthermore, Ukrainians who have intervened to help victims of racist attacks or who combat this phenomenon have reportedly been targeted.

³⁰ See, "Vulnerable groups" above.

³¹ See, "Criminal law provisions", "Reception and status of non-citizens", "Vulnerable groups" and "Antisemitism" above.

³² http://kiev.usembassy.gov/amcit_wardenmsg_0302_eng.html; http://www.diplomatie.gouv.fr/fr/conseils-aux-voyageurs_909/pays_12191/ukraine_12315/index.html

118. Racially-motivated attacks have resulted, amongst others, in the death, in October 2006, of a Nigerian national who was married to a Ukrainian, and had lived in the country for several years. The case is currently in the courts. The authorities have informed ECRI that between 2005 and 2006, six cases in total were brought to court under Article 161 of the Criminal Code. The authorities did not provide any information on the outcome of these cases, but in general, due to the previously-mentioned inadequacy of this law³³, instances of incitement to racial hatred and racially-motivated crimes are rarely punished. NGOs have noted a marked increase in this type of violence as they are receiving more complaints from victims. However, the extent of the problem cannot be clearly ascertained because the police do not keep a register on racially-motivated crimes and victims are often reluctant to report attacks as some police officers have been reported to exhibit racist attitudes themselves.
119. ECRI has been informed that skinhead activities appear to be organised and that racist attacks occur regularly (at least once a week) in the largest cities such as Kiev, Odessa, Lviv, Kharkiv and in the Crimea. Skinhead and neo-fascist groups regularly hold public rallies and concerts where they make Nazi salutes and chant racist, xenophobic and antisemitic slogans. One such rally was reportedly held in Kiev on 3 March 2007 by 50 extremists near the city's Shulyavsky Market where most traders are from African and other developing countries. ECRI has also received reports of a torchlight procession held on campus on 18 March 2007 in Kharkiv by university students who chanted racist slogans. It appears that the university authorities authorised this event and that this is the third such demonstration in recent months. Violence against foreign students is reported to have occurred in the previous marches, but it appears that the students were afraid to report these incidents. ECRI has also been informed that on April 20th, Adolf Hitler's birthday, there is a marked increase in skinhead violence and activities and that foreigners feel that they have to remain indoors on that day for their own safety. The authorities do not appear to have taken specific steps to either ban or curb such activities nor have special security measures been taken to protect those who may become the target of violence when these types of activities are held. As skinhead and neo-Nazi groups have officially registered websites and some publications, monitoring their activities appears to be possible.
120. The situation in the Crimea is particularly worrying as there has been a rise in ethnic clashes and racially motivated violence in that region between skinheads and Cossacks (vigilante groups) on the one hand and members of the Crimean Tatar community on the other. Three such major clashes involving several hundred people occurred in July and August 2006. These incidents appear to have been rooted in, amongst others, disputes over historical sites. ECRI notes with concern reports according to which the local police's response to these types of incidents is generally inadequate as they often deny the involvement of neo-Nazi groups. It notes that the then State Committee for Nationalities and Migration reportedly issued a statement condemning one of these attacks in which anti-Crimean Tatar slogans were chanted. This body further called on politicians to act responsibly in these situations. ECRI has been informed that there have also been cases of physical attacks against Crimean Tatars and Jewish persons as well as destruction of property and desecration of cemeteries by skinhead groups. An increase in religious intolerance against Crimean Tatars who are mostly Muslims has been noted in that region.

³³ See, "Criminal law provisions" above.

121. ECRI is worried by some reports according to which skinhead activities in football are increasing, in particular as Ukraine will be co-hosting the European Football Championships with Poland in 2012. For example, on 7 March 2007, a Brazilian football player was attacked by skinhead youth outside a nightclub in Kiev and in October 2006, Scottish football fans were the victims of this type of violence in this city before a match. Civil society groups have also noted attempts by Ukrainian neo-nazi groups to increase their influence among football fans by organising demonstrations and demanding, amongst others, that football players who are not of Ukrainian origin not become naturalised. ECRI has received reports according to which state and football authorities have not been sufficiently firm in their reaction to this nascent form of neo-nazi activity.
122. Some initial steps are being taken by the authorities to address the problem of racist violence. The authorities have thus informed ECRI that a working group within the Ministry of Interior in charge of combating racism and xenophobia has been established. This group is planning on, inter alia, strengthening the monitoring of neo-Nazi and fascist organisations and carrying out awareness-raising campaigns with NGOs. The Ministry of Interior has also assured ECRI that measures are being taken to improve investigative techniques concerning racist crimes. It also appears that on 28 April 2007, following a court order, police in Kiev arrested 77 people who tried to hold a march in honour of an SS unit made up of Ukrainians during the Second World War. ECRI notes these measures, but regrets that in general there is reluctance on the part of the Ukrainian authorities to recognize the existence of violence by skinhead groups which they consider to be by and large sporadic acts of hooliganism. ECRI has also noted a certain tendency to focus more attention on offences committed by foreigners although it has been informed that these offences are often of an administrative nature (for example, over-staying). Recognizing the existence and extent of neo-Nazi violence is an important necessary step for combating this phenomenon and for avoiding an escalation of violence that may lead to a dangerous destabilisation of the relative peace and harmony enjoyed until recently in Ukraine. ECRI notes in this regard reports according to which the lack of an adequate police response is leading some victims of racist attacks to resort to violence to defend themselves. It therefore considers that a strong message should be sent to neo-Nazi groups by arresting and prosecuting their members. This will in turn serve to increase victims' confidence in the criminal justice system and enable the authorities to, amongst others, improve their ability to combat these groups. Far reaching legislative and institutional reforms, including improving police service are necessary to that end. NGOs and civil society actors have indicated to ECRI that the problem of racially motivated violence can still be resolved as long as urgent measures are taken in order to avoid this type of violence reaching levels witnessed elsewhere in the region.

Recommendations:

123. ECRI strongly recommends that the Ukrainian authorities recognize the increasingly prevalent presence of skinhead and neo-Nazi groups in Ukraine. It recommends that relevant monitoring be carried out to that end and that the authorities work in close cooperation with NGOs and civil society organisations on this issue.
124. ECRI urges the Ukrainian authorities to ensure that urgent measures to combat racially-motivated crimes are taken in every part of the country, including in the Crimea. It recommends that training be provided to everyone working in the criminal justice system (the police, prosecutors, judges and lawyers) on the

relevant national and international legal standards relating to racist crimes. ECRI also strongly recommends that Article 297 of the Criminal Code which prohibits the desecration of graves be applied whenever necessary.

125. ECRI recommends that the Ukrainian authorities devise and implement a wide-ranging programme against racism and racial discrimination and that all relevant actors, including representatives of ethnic minorities, the State Committee for Nationalities and Religion as well as the Ombudsman participate in all stages of this programme. It also strongly recommends that awareness-raising measures be taken to promote better understanding among all segments of Ukrainian society by, inter alia, specifically targeting and involving youth in such campaigns.
126. ECRI recommends that the Ukrainian authorities refer to paragraph 18 g) of its General Policy Recommendation No. 7 for further guidelines on measures to combat racially-motivated violence.

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