

# **ODIHR Submission of Information about an OSCE participating State or Partner for Co-operation under consideration in the Universal Periodic Review Process**

**Participating State: Ukraine**

**UPR Session and Date of Review:** 28th session (Oct-Nov 2017)

## **Background**

Ukraine has been a participating State in the former Conference for Security and Co-operation in Europe (CSCE) and the present Organization for Security and Co-operation in Europe (OSCE) since 1992 and has thus undertaken a wide range of political commitments in the “human dimension” of security as outlined in relevant OSCE documents.<sup>1</sup> The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE participating States, including Ukraine, to assist them in implementing their human dimension commitments. ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti in the OSCE area. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in Ukraine and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms in Ukraine.

## **Overview of this Submission**

During the period under review, ODIHR deployed an Election Observation Mission (EOM) for the 2015 local elections. The findings of the Final Report of the EOM, published on 19 February 2016, are summarized below.

From 1 January 2013 until 30 March 2017, ODIHR issued 13 legal reviews on draft/existing legislation of Ukraine (on topics other than elections), either by itself or jointly with the Council of Europe’s Venice Commission. Key findings in these opinions are provided below.

The authorities in Ukraine and other sources have provided information to ODIHR most recently for its 2015 annual report on Hate Crimes: Incidents and Responses. Extracts from this information are included below.

With regards to Roma and Sinti issues, during the period under review ODIHR published the “Situation Assessment Report on Roma in Ukraine and the Impact of Current Crisis” (2014), co-organized an expert seminar on access to identity and civil registration documents by Roma in Ukraine, and raised concerns about anti-Roma rhetoric and actions. Key issues affecting the Roma that ODIHR identified though these activities are outlined below.

The submission also includes key observations and a summary of ODIHR activities during the period under review with regards to: gender equality and women’s political participation;

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<sup>1</sup> Compendium of OSCE Human Dimension Commitments, vol 1 and 2; Astana Commemorative Declaration, 2010.

parliamentary ethics, political party finance and capacity building for young policy advisors; migration management and migrant integration; identity management reforms; and building civil society capacity for trial monitoring.

The submission finally contains a summary of findings and recommendations of the Human Rights Assessment Missions on Ukraine (2014) and Crimea (2015), undertaken jointly by ODIHR and the OSCE High Commissioner for National Minorities (HCNM)

### **Election-related activities**

In 2015 ODIHR deployed Election Observation Mission for the 2015 local elections. This was the twelfth ODIHR election observation activity in Ukraine.<sup>2</sup>

The final report published on 19 February 2016 noted that “local elections took place in challenging political, economic, humanitarian and security environment and against the backdrop of a constitutional reform process aiming at decentralization. The planned transfer of a number of executive functions from central state administrative bodies to the elected local councils raised the stakes for political parties and candidates. The Central Election Commission (CEC) made resolute efforts to organize elections throughout the country, but they could not be held in the Autonomous Republic of Crimea, the city of Sevastopol and in certain areas of Donetsk and Luhansk regions (oblasts) declared by the parliament as temporarily occupied territories.”

#### Key recommendations and background from the final report are:

The report offers 27 recommendations. Priority recommendations include comprehensive review of legislation, allowing independent candidates to run at all levels of local councils, establishing deadlines and clear grounds for the replacement of election commission members, and introducing effective and proportional sanctions for all violations of the election laws.

Despite changes to the Law on Local Elections, a number of previous ODIHR and Venice Commission recommendations remained unaddressed, and overall, the legal framework fell short of some OSCE and Council of Europe commitments and other international obligations and standards and did not ensure integrity of several key aspects of the electoral process.

*RECOMMENDATION: The election law should be amended to address the gaps and ambiguities identified in this report as well as other recommendations of the OSCE/ODIHR and the Venice Commission. Consideration should be given to undertaking a comprehensive electoral reform with the aim to harmonize election legislation regulating all types of elections. The reform process should be inclusive and completed well in advance of the next elections.*

The law did not allow for independent candidacies at all levels of local councils, contrary to paragraph 7.5 of the 1990 OSCE Copenhagen Document.

*RECOMMENDATION: Independent candidates should be allowed to stand for elections at all levels of local councils in line with the OSCE commitments and other international*

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<sup>2</sup> During the reporting period, ODIHR also deployed observation missions to the 2014 early parliamentary elections, the 2014 early presidential election, the 2013 parliamentary by-elections.

*obligations and standards, including those obliging participating States to facilitate the participation of national minorities.*

The report mentions that the CEC operated collegially overall, although the frequent replacement of members and the abuse of authority by some Territorial Election Commissions undermined confidence in these commissions.

**RECOMMENDATION:** *In order to ensure stability and to safeguard the independence and impartiality of the election administration, the report recommends establishing deadlines and clear grounds for the replacement of election commission members. It also recommends prohibiting payments from candidates and parties to commissioners.*

While noting that there were numerous complaints on widespread allegations of vote-buying by candidates trying to profit from the financial hardship of voters, the law does not define this practice as vote-buying so long as the value of distributed campaign materials and goods does not exceed five per cent of the minimum wage.

**RECOMMENDATION:** *Effective and proportional sanctions for all violations of the election laws, including the distribution of goods and services to voters in relation to election campaigning, must be unambiguously established by law and enforced. A public commitment by political parties and candidates not to resort to any form of vote-buying could be made.*

## **Legislation reviewed by ODIHR**

Upon request by authorities of a participating State, and OSCE field operation or another OSCE institution, ODIHR reviews draft or enacted legislation of OSCE participating States on topics relating to the human dimension of security for its conformity with OSCE commitments and other international standards. The legal reviews and opinions, often produced in co-operation with the Venice Commission of the Council of Europe, are available at [www.legislationline.org](http://www.legislationline.org).

Basic information about the constitutional system and legislation pertaining to the human dimension of Ukraine is available on <http://www.legislationline.org/countries/country/52>.

From 1 January 2013 until 30 March 2017, ODIHR issued 13 legal reviews on draft/existing legislation of Ukraine (on topics other than elections), either by itself or jointly with the Council of Europe's Venice Commission:

### **1. Joint OSCE/ODIHR-Venice Commission Opinion on Two Draft Laws on Guarantees for Freedom of Peaceful Assembly in Ukraine (18 October 2016)<sup>3</sup>**

**Summary:** the Opinion welcomes efforts made in Ukraine with a view to providing a legal framework for the exercise of the right to freedom of peaceful assembly. Both drafts submitted for assessment, large parts of which were considered to be in line with international standards, constituted a genuine attempt to fill the existing legislative lacuna in this area, as highlighted by the ECtHR in its *Vyerentsov v. Ukraine* judgment (Application no. 20372/11, judgment of 14 April 2013). The Opinion notes that it is up to the Ukrainian authorities to choose the appropriate way to satisfy the requirements of this judgment, either by enacting a specific law on freedom of assembly or by introducing amendments to the existing legislation to regulate this field. The Opinion emphasizes that the Draft Laws should

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<sup>3</sup> [http://www.legislationline.org/download/action/download/id/6457/file/297\\_FOA\\_UKR\\_18Oct2016\\_en.pdf](http://www.legislationline.org/download/action/download/id/6457/file/297_FOA_UKR_18Oct2016_en.pdf).

be seen as a step towards adopting a specific law in this area, and that subject to further improvements, both draft laws would form a good basis for a future legal framework.

**Status:** At the end of 2016, ODIHR was informed that neither draft Law is likely to be passed, which means that the concerns raised in the above-mentioned ECtHR judgment remain unaddressed.

**Note:** By decision of 8 September 2016 (No 6-rp/2016), the Constitutional Court of Ukraine observed that Article 39 of the Constitution stipulates only the requirement of submitting “notification” to executive or local self-government bodies of the intention to hold an assembly, and concluded that the 1988 Decree, which established the procedure for “authorising” assemblies, contradicted the Constitution, is thus invalid on the territory of Ukraine and may not be applied.

### **2. Opinion on the Draft Law of Ukraine “On Public Consultations” (1 September 2016)<sup>4</sup>**

**Summary:** in the Opinion, ODIHR notes many aspects of the Draft Law which correspond to international standards and good practices, such as the wide scope of documents which shall undergo public consultations and their detailed explanation, as well as setting up a list of principles to render the consultation process transparent, accessible and inclusive. The Draft Law would benefit from certain changes involving, in particular, the establishment of clear procedures and designated responsibilities with respect to the imposition of sanctions and the introduction of liability for breaching the procedure for holding public consultations; monitoring of the consultation process should also be conducted by an independent body.

In parallel, as part of the ODIHR-wide Ukraine project, ODIHR is also facilitating the development of guidelines on public consultations.

**Status:** draft law not yet adopted.

### **3. Opinion on the Draft Amendments to the Law of Ukraine on Civil Service (10 May 2016)<sup>5</sup>**

**Summary:** The Opinion welcomes the Draft Amendments, as they seek to introduce a legal framework applicable to the Commissioner’s staff that exempts them, to an extent, from the general rules on civil service. This is positive, as it aims to enhance the Commissioner’s autonomy to recruit and manage his/her own staff - an essential guarantee of this institution’s independence – and avoids the risk that the institution may be perceived as being under the executive’s control. The Opinion recommends some changes to the Draft Amendments to better protect the Commissioner’s institutional independence from any external interference during recruitment processes and regarding general human resources management issues, and to ensure a pluralist and gender-balanced staff composition at all levels.

### **4. Joint OSCE/ODIHR-Venice Commission Opinion on the Law of Ukraine on the Condemnation of the Communist and National Socialist (Nazi) Regimes and Prohibition of Propaganda of their Symbols (21 December 2015)<sup>6</sup>**

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<sup>4</sup> <http://www.legislationline.org/documents/id/20027>.

<sup>5</sup> <http://www.legislationline.org/documents/id/19910>.

<sup>6</sup> <http://www.legislationline.org/documents/id/20100>.

**Summary:** while recognizing the right of Ukraine to ban or even criminalize the use of certain symbols of and propaganda for totalitarian regimes, and noting that such legislation is not uncommon throughout the OSCE region, the Opinion notes that since the regulation affects human rights, in particular the rights to freedom of expression, association, assembly and elections, the legislation needs to comply with requirements set out by the European Convention on Human Rights (ECHR) and other regional or international human rights instruments. While the Law no. 317-VIII could be considered to pursue legitimate aims, the Opinion concludes that its provisions are not precise enough to enable individuals to regulate their conduct according to the law and to prevent arbitrary interference by public authorities. The conclusion is that the Law does not adhere to the three-fold test of legality, legitimacy and necessity in a democratic society. The Opinion emphasizes that the Law is too broad in scope and introduces sanctions that are disproportionate to the legitimate aim pursued. Any association that does not comply with Law no. 317-VIII may be banned, which is problematic with regard to every individual's right to freedom of association. This is particularly the case when it comes to political parties. The banning of political parties from participation in elections or their dissolution should be a measure of last resort applicable only in exceptional cases. The Venice Commission and ODIHR encourage the Ukrainian authorities to follow a "multi-perspective" approach to Ukraine's history, that allows a shared vision of its past in order to promote social cohesion, peace and democracy.

**Status:** the Ministry of Justice agreed in principle to revise the legislation. As of January 2017, the law has not been revised, although draft amendments have been submitted to the Verkhovna Rada for consideration. These draft amendments seem to partly address three out of five main recommendations of the Joint Opinion.

## **5. OSCE/ODIHR Opinion on the Procedure for Qualification Assessment of Judges of Ukraine (12 November 2015)<sup>7</sup>**

**Summary:** The reviewed documents outline four different procedures: the procedure for lifetime appointment of judges, the procedure for promotion of judges, the manner of applying judicial qualification assessment as a disciplinary sanction, and the initial and repeat qualification assessment of all judges of Ukraine, including judges appointed for life. The Opinion notes that it is important to distinguish between assessment in the context of promotion and appointment for life, and the initial and repeat qualification assessment of judges. Whereas the first-mentioned procedures do not change the status or position of a judge if the judge in question fails the qualification assessment, the latter could result in the dismissal of the judge if he/she fails both the initial and repeat qualification assessment.

In the cases involving promotions and appointments for life, the qualification assessment procedure requires certain improvements and clarifications, to avoid situations where judges may feel under indirect pressure to deal with cases in a different substantive or procedural manner in order to be appointed for life or promoted. Such amendments would also help ensure the fairness of those proceedings. Due to their vague and general nature, violations of judicial ethics should not play a role in decisions on promotion or lifetime appointment, and the marking of the assessment should be made more transparent.

ODIHR also recommends reconsidering the provision outlining the dismissal of judges as a possible outcome of a "failed" qualification assessment of a judge, in particular when it

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<sup>7</sup> <http://www.legislationline.org/documents/id/19877>.

comes to judges appointed for life. Such an outcome could raise concerns with regard to the principle of irremovability of judges, which is a fundamental guarantee of the rule of law and the right to a fair trial.

**Status:** the Procedure for Qualification Assessment of Judges of Ukraine was finalized and endorsed (ODIHR is currently reviewing the document to assess to which extent ODIHR recommendations have been addressed).

#### **6. Joint OSCE/ODIHR-Venice Commission Opinion on Draft Amendments to Some Legislative Acts Concerning Prevention of and Fight Against Political Corruption in Ukraine (2 September 2015)<sup>8</sup>**

**Summary:** ODIHR and the Venice Commission welcome the draft amendments, which largely improve the existing legal framework on the financing of political party activities and election campaigns, including the financing of individual candidates. The draft amendments represent an important tool in the fight against political corruption and aim to enhance transparency in political funding.

The opinion welcomes the establishment of a system of public funding for political parties' statutory activities in Ukraine. But consideration should be given to extending some funding to small or new parties enjoying a minimum level of citizen support. Reimbursement of campaign expenses should be subject to the outcome of auditing and the results of analyses of political parties' statements by the National Agency for Prevention of Corruption ("hereinafter NAPC"). The Central Election Commission should be able to suspend such reimbursement until further clarification. Loans, credits and debts should be included in the list of limitations for private contributions throughout the draft amendments to ensure that they are not used to circumvent restrictions on prohibited sources or contribution limits. The decision-makers should consider the introduction of an overall campaign spending limit. The competencies of different oversight bodies should be clarified to ensure coordination and information-sharing and avoid overlapping responsibilities. Provisions on auditing should include detailed procedural rules and exceptions for smaller parties or parties without substantial financial activities (e.g., cashflow). Regard should be paid to the proportionality of sanctions for violations of financial regulations. Throughout the draft amendments, relevant deadlines should either provide political parties with enough time to prepare financial statements and allow a proper analysis by regulatory bodies, or the term "analysis" should be defined in the draft amendments in a way which ensures that essential minimum elements can be included within the given timeframe and additional complaints or requests for clarification are possible after the deadline expires.

**Status:** the amendments to the Law on Political Parties were adopted on 8 October 2015. Several recommendations were implemented, particularly: (i) the procedures for oversight and reporting were made slightly clearer by giving more responsibility to the National Agency for Prevention of Corruption and taking out some of the complicated interplay (and overlap) with the Central Election Commission; (ii) international organisations were struck from the list of prohibited donors; (iii) the prohibition of donations from state-owned companies was expanded to apply to companies in which the state owns 10%; (iv) loans and credits are included in reporting obligations and limits (albeit not everywhere and not consistently); (v) reports shall be available online over an extended period of time; (vi)

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<sup>8</sup> <http://www.legislationline.org/documents/id/19868>.

smaller parties shall be able to receive proportionate public funding; (vii) suspension of public funding for specified gross violations of reporting obligations is possible. The following aspects remain problematic: (i) there is no clear specification of what constitutes campaign activities and statutory activities; (ii) the procedure for oversight and reporting remains very complex, and the scope and the elements to be considered in the analysis of NAPC are still rather vague; (iii) there is no clear guidance for analysis by oversight bodies; and (iv) the allowed amount for private donations was increased in the adopted amendments.

## **7. Opinion on the draft Law of Ukraine on Police and Police Activities (1 December 2014)<sup>9</sup>**

**Summary:** This Draft Law contains many positive aspects which correspond to international standards and good practices, in particular the reference to certain safeguards when implementing coercive measures (e.g., the compliance with the principles of prevention, exclusiveness and proportionality) and their detailed explanation (Article 30); certain measures relating to personal data protection (Chapter 4); the provisions relating to the clear identification of police officers (Article 41) and the introduction of measures to prevent corruption in the police (Article 42).

Despite the Draft Law's attempt to address police reform in a comprehensive and integrated manner, the co-ordination and co-operation mechanism between the police and other actors in the criminal justice system in Ukraine would benefit from clarity and overall improvement. Certain provisions of the Draft Law could potentially lead to serious interferences with human rights and fundamental freedoms. In particular, the Draft Law does not provide for substantive and procedural safeguards relating to the exercise of police powers, particularly as regards document checks, powers to search individuals, vehicles, homes and other property, measures of expulsion from Ukraine, and the policing of assemblies, amongst others. Further, the Draft Law lacks precise and clear provisions relating to accountability and oversight, particularly in terms of public complaint mechanisms. The Draft Law also does not sufficiently address gender equality and non-discrimination, particularly towards national minorities and ethnic groups. Given the key role that the police should play in providing assistance to victims and preventing victimization, the Draft Law should also adopt a victim-centred approach, which would involve protecting and assisting victims of crimes, and treating them with compassion and respect for their dignity.

**Status:** the draft Law under review was dropped and a separate Law on Police was adopted on July 2015, which has been in force since November 2015 (ODIHR will assess how many of its recommendations have been incorporated into the adopted law).

## **8. Opinion on Draft Amendments to some Legislative Acts of Ukraine concerning Transparency of Financing of Political Parties and Election Campaigns (3 September 2014)<sup>10</sup>**

*See above-mentioned Opinion dated 2 September 2015.*

## **9. Opinion on the Draft Law of Ukraine on Combating Cybercrime (22 August 2014)<sup>11</sup>**

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<sup>9</sup> <http://www.legislationline.org/documents/id/19505>.

<sup>10</sup> <http://www.legislationline.org/documents/id/19344>.

<sup>11</sup> <http://www.legislationline.org/documents/id/19323>.

**Summary:** the Opinion notes that the provisions of the Draft Law may potentially lead to dangerous interference with fundamental rights and freedoms and lack substantive and procedural safeguards required according to international standards. The purpose and scope of the Draft Law should be reconsidered entirely; it should focus more on cybersecurity issues and prevention of cybercrime, and institutional frameworks for that purpose, and not so much on criminalization, criminal investigation and prosecution of cybercrimes. Particularly, given their potential to encroach on fundamental rights and freedoms, all provisions of the Draft Law pertaining to the definition of (new) criminal offences and introduction of (new) investigative measures and/or prosecution powers should be transferred to relevant criminal and criminal procedure legislation. It would be advisable for the drafters and relevant stakeholders to carry out a comprehensive review of the Criminal Code and Criminal Procedure Code to ensure that the definitions of cybercrime comply with the Council of Europe Convention on Cybercrime and that all investigative instruments provided for in the Convention are available according to Ukrainian criminal procedure rules. In that respect, adequate substantive and procedural safeguards and guarantees in accordance with international standards should be provided in the Criminal Procedure Code. The drafters should re-consider imposing burdensome and costly obligations on internet service providers pertaining to data retention outside of any criminal investigation context. Finally, any measures relating to restrictions of internet access, given their impact on fundamental rights and freedoms, should be exclusively ordered by courts, and not by administrative bodies.

**Status:** a separate, completely new Draft Law, on Cybersecurity in general, was introduced by the Cabinet of Ministers in March 2015.

#### **10. Opinion on Two Draft Anti-Corruption Laws of Ukraine (18 July 2014)<sup>12</sup>**

**Summary:** ODIHR welcomes the aim of draft Laws to create an independent and effective anti-corruption agency in Ukraine. Both draft Laws could be improved in the area of operational independence and the appointment, suspension and dismissal procedures for the Director, and the protection of staff from civil, administrative and criminal proceedings that might, intentionally or unintentionally, unduly hinder the work of the anti-corruption agency.

More attention should be paid to strengthening the preventive mandate of anti-corruption bodies, either by creating a separate body dealing with prevention or by expanding the preventive functions of the bodies proposed in the draft Laws. A greater focus on the relationship between the proposed anti-corruption bodies and other Ukrainian law enforcement and judicial bodies, including the prosecution service and the courts, would also be beneficial.

#### **11. Opinion on Amendments to Certain Laws of Ukraine Passed on 16 January 2014 (10 February 2014)<sup>13</sup>**

Most of the amendments, which the Opinion considered to be in violation of key international human rights standards (in particular those concerning the freedom of peaceful assembly, the freedom of expression, the freedom of association, and the right to a fair trial) were repealed by decision of the Verkhovna Rada dated 28 January 2014; on 31 January 2014, the President of Ukraine signed a law that recognized these amendments as null and void.

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<sup>12</sup> <http://www.legislationline.org/documents/id/19137>.

<sup>13</sup> <http://www.legislationline.org/documents/id/18720>.

## **12. Opinion on Draft Amendments to Ensure Equal Rights and Opportunities for Women and Men in Political Appointments in Ukraine (19 December 2013)<sup>14</sup>**

**Summary:** ODIHR welcomes the Draft Amendments' genuine attempt to introduce provisions to selected legislation to achieve a more balanced representation of women and men in political offices, which is in principle a laudable step. For these measures to be effective, they would benefit from certain revisions and additions, particularly with regard to the proposed gender ratio, as well as in terms of mechanisms to ensure compliance with gender equality requirements and monitor implementation.

**Status:** it is understood that the adoption of the draft amendments was not pursued.

## **13. Opinion on the draft Law on preventing and combating domestic violence of the Republic of Ukraine (31 July 2013)<sup>15</sup>**

**Update:** while Ukraine signed the Istanbul Convention on 7 November 2011, it has not yet ratified it. The draft law no. 4952 of 12 July 2016 "On amending certain laws of Ukraine due to the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence" has been voted in the first reading in November 2016. It introduces amendments to the Criminal Code of Ukraine and the Criminal Procedural Code of Ukraine and concerns additional measures to be taken to ensure protection of victims of domestic or gender-based violence from unnecessary interactions with a perpetrator. The draft law criminalizes domestic violence as a general phenomenon in Article 126-1 of the Criminal Code. It also introduces new provisions or reshapes existing provisions in accordance with the types of crimes described in articles 34-39 of the Istanbul Convention, including stalking, sexual violence and rape. The draft law no. 5294 of 20 October 2016 "On preventing and combating domestic violence" has also been voted in the first reading in November 2016 with the side note that "any mentioning of gender and sexual orientation shall be removed throughout the text". The draft law considers family in a broad sense and covers all types of relations, including registered marriages, separated marriages, civil unions or former civil unions, foster families, families with adopted children, relations between grandparents and grandchildren, siblings and children living in one family but without family links etc. The draft law aims to prevent and combat physical, sexual, psychological and economic violence. The draft law identifies rights, duties and responsibilities of central and local authorities, as well as the role of self-government institutions.

As such, many of the recommendations made in the Opinion were addressed.

### **Tolerance and non-discrimination issues, including incidents of and responses to hate crime**

OSCE participating States have made a number of commitments to promote tolerance and non-discrimination and specifically to combat hate crime, and ODIHR supports states in their implementation of those commitments. ODIHR reports at <http://hatecrime.osce.org/> to highlight the prevalence of hate crimes and good practices that participating States and civil society have adopted to tackle them. ODIHR's data on hate crime is launched online each

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<sup>14</sup> <http://www.legislationline.org/documents/id/18598>.

<sup>15</sup> <http://www.legislationline.org/documents/id/18049>.

year on 16 November, covering information from the past calendar year. ODIHR also helps participating States design and draft legislation that effectively addresses hate crimes; provides training that builds the capacity of participating States' criminal justice systems and the law-enforcement officials, prosecutors and judges that staff them; raises awareness of hate crimes among governmental officials, civil society and international organizations; and supports the efforts of civil society to monitor and report hate crimes.

Information concerning Ukraine in the most recent (2015) edition of the annual hate crimes reporting<sup>16</sup> includes the following:

- **Overview of officially reported data**

Ukraine has submitted information on hate crimes to ODIHR. Ukraine's hate crime laws combine general and specific penalty-enhancement provisions and contain a substantive offence. Hate crime data are collected by the General Prosecutor's Office, the Ministry of Internal Affairs, the State Department on Sentence Execution and the State Statistics Committee.

The annual 2015 figures included 157 incidents recorded by police, 79 prosecuted and 3 sentenced cases.

Hate crimes recorded by police were disaggregated by bias motivation but Ukraine has not reported on cases of hate crimes separately from cases of hate speech and/or discrimination. Police recorded 31 hate crimes motivated by racism and/or xenophobia, three incidents against Roma and Sinti, 18 anti-Semitic incidents, 94 anti-Christian, nine homophobic and two attacks against people with disability.

### **National development**

The National Police of Ukraine instituted a number of measures to improve efficiency in recording and investigating hate crimes in 2015. The main investigation department of the National Police issued an instruction, "on the provision of information concerning the investigation of criminal offenses committed on the grounds of racial, ethnic or religious intolerance." According to this instruction, individual employees who supervise the investigation of these criminal cases were assigned to the investigation departments of the National Police at the regional level, and are also to inform the main investigation department of the results of their investigations.

An employee of the main investigation department of the National Police was assigned to monitor the unified register of pre-trial investigations on the progress and results of investigations of criminal proceedings initiated on the basis of racial, ethnic or religious intolerance, as well as the analysis and verification of information on hate crimes which appear in mass media.

Specialists from the main investigation department of the National Police, in co-operation with representatives from the Lviv State University of Internal Affairs, developed recommendations on the "peculiarities of investigating crimes committed by bias motive," aimed at improving the skills of investigative units addressing these crimes.

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<sup>16</sup> Available at <http://hatecrime.osce.org/ukraine>

- **Overview of incidents reported to ODIHR by civil society**

<b>Bias Motivation</b>	<b>Attacks Against People</b>		<b>Attacks Against Property</b>
	<b>Violent Attacks</b>	<b>Threats</b>	
Racism and xenophobia	22	4	6
Bias against Roma and Sinti	0	0	4
Anti-Semitism	2	0	53
Bias against Muslims	1	0	2
Bias against Christians and members of other religions	33	9	13
Bias against LGBT people	57	2	5
<b>Total</b>	<b>115</b>	<b>15</b>	<b>83</b>
<b>Grand Total</b>	<b>213</b>		

**The following civil society organizations reported information on incidents to ODIHR**

***Racism and xenophobia***

- The Diversity Initiative, the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR) reported 11 physical assaults and one incident of vandalism.
- The Congress of National Communities of Ukraine (CNCU) and the European Centre for Democracy Development reported two physical assaults, including one committed by a group. The victims were Nigerian and Tajik men. The CNCU, UNHCR and Right 2 Protection (R2P) reported two physical assaults, which targeted a Somali and a Guinean man, respectively. UNHCR and R2P reported one physical assault and three incidents of threats.
- The CNCU additionally reported four physical assaults including two committed by a group and one with the use of a knife; and one attempted arson attack. The European Centre for Democracy Development reported one attack on foreigners in a club, carried out by a large group armed with baseball bats and knives, and one physical assault.
- UNHCR reported one incident in which a Syrian man was threatened by an armed group in territories that are not controlled by the government of Ukraine. The CNCU also reported three incidents of vandalism targeting Tatar memorials or stores, and one incident of the desecration of a religious Tatar memorial in territories that are not controlled by the government of Ukraine.

***Bias against Roma and Sinti***

The Diversity Initiative, IOM and UNHCR reported two incidents of vandalism. The CNCU reported one attempted arson attack and one incident of vandalism.

***Anti-Semitism***

- The Diversity Initiative, IOM and UNHCR reported 22 incidents of vandalism. The European Centre for Democracy Development reported three arson attacks.

- The Anti-Defamation League (ADL), the European Centre for Democracy Development and the Kantor Centre reported three incidents of vandalism against Holocaust memorials. The European Centre for Democracy Development and the Kantor Centre reported three additional incidents of vandalism against Holocaust memorials.
- The Euro-Asian Jewish Congress (EAJC) reported one incident in which a pregnant woman was abducted and assaulted in territories that are not controlled by the government of Ukraine.
- The CNCU, EAJC and the OSCE Special Monitoring Mission in Ukraine (SMM) reported two arson attacks. The CNCU and EAJC reported one physical assault, three arson attacks, an attempted arson attack, two incidents of the desecration of graves, 12 cases of damage to property and one theft. The EAJC and the SMM reported one incident of the desecration of graves.

### ***Bias against Muslims***

The CNCU reported one physical assault. The CNCU also reported two incidents of damage to property in territories that are not controlled by the government of Ukraine.

### ***Bias against Christians and members of other religions***

- The European Centre for Democracy Development reported two physical assaults carried out by groups in altercations on church premises, and three arson attacks on churches.
- The CNCU and the European Centre for Democracy Development reported one attempted arson attack on a church, and the CNCU reported an attempted arson attack on the same church. The Research Institute of Social Initiatives Ukraine reported one further arson attack on a church.
- Jehovah's Witnesses – Ukraine reported 21 physical assaults, eight threats, on incident of vandalism and two incidents of graffiti.
- UNHCR reported four physical assaults located in territories that are not controlled by the government of Ukraine. Jehovah's Witnesses – Ukraine also reported two physical assaults, one burglary, one robbery and one incident of threat located in territories that are not controlled by the government of Ukraine.
- The Observatory on Intolerance and Discrimination against Christians in Europe (OIDC) reported the murders of a priest and a nun of the Orthodox Church; and three thefts targeting a church, followed by an attempt to set it alight.
- The OIDC also reported the kidnapping of an evangelical pastor in territories that are not under the control of the Ukrainian authorities.

### ***Bias against LGBT people***

- Nash Mir reported four incidents in which gay men were murdered; 40 physical assaults, of which 26 caused injuries and three were committed by large groups; four incidents of robbery and one threat. The CNCU and the European Centre for Democracy Development also reported the murder of an LGBT activist.
- Nash Mir, the CNCU and the European Centre for Democracy Development also reported two incidents of physical assault carried out by groups. Nash Mir and the CNCU reported two additional arson attacks.
- The CNCU reported six additional physical assaults and one arson attack. Fulcrum Ukraine reported one incident of vandalism and one threat. The ADL reported one arson attack against an LGBT community Centre.

### **Roma and Sinti issues**

There is a lack of official data on the number and socio-economic situation of Roma in Ukraine. According to the 2001 census, there are some 47,587 Roma living in Ukraine, out of a population of approximately 48.5 million people.<sup>17</sup> Other sources estimate that there are between 120,000 and 400,000 Roma in the country.<sup>18</sup>

ODIHR visited Ukraine in June–July 2014 to assess the overall situation of Roma, steps undertaken to implement the national strategy for Roma integration and the impact of the ongoing crisis on Roma. The resulting “Situation Assessment Report on Roma in Ukraine and the Impact of Current Crisis”<sup>19</sup> identified a lack of personal documents, difficulties in accessing quality education and employment, inadequate housing conditions and misconduct by the police toward Roma as the main challenges facing Roma in Ukraine. The report pointed out the particularly vulnerable situation of displaced Roma who face problems in accessing shelter, medical and social services and education due to the lack of civil registration documents and negative attitudes of the receiving community. The report also noted multiple forms of discrimination faced by Roma women.

In November 2015, ODIHR co-hosted an expert seminar on access to identity and civil registration documents by Roma in Ukraine, together with the Ukrainian Parliament Commissioner for Human Rights and UNHCR. A comprehensive set of seminar recommendations to remedy the lack of identity and civil registration documents among Roma<sup>20</sup> includes a call on Ukrainian authorities to initiate a mapping, needs assessment and analysis of the legal framework to determine the exact scope and causes of the problem, to carry out reforms in law and practice to simplify procedures for obtaining documents, and to conduct outreach campaigns and capacity building to raise awareness on the impact of a lack of identity and civil registration documents on the enjoyment of fundamental human rights.

The report identified police misconduct and lack of trust between the law enforcement and communities among particular challenges faced by Roma in Ukraine. In September 2016, ODIHR expressed concern over the mob violence against Roma community in the village of Loshchynivka, Odessa region, and subsequent eviction of Roma families from the village. ODIHR called on Ukrainian authorities to speak up against anti-Roma rhetoric and violence, immediately address interethnic tension and restore respect for the rule of law in order to prevent further spread of anti-Roma sentiments in the country.<sup>21</sup>

## **Country-specific ODIHR monitoring, assessment, co-operation and assistance activities (other than elections)**

### **Gender equality and women’s political participation**

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<sup>17</sup> State Statistics Committee of Ukraine, Census 2001, <<http://2001.ukrcensus.gov.ua/eng/>>.

<sup>18</sup> As estimated by the World Romani Union and local Roma NGOs. The figures are taken from a document prepared by the Council of Europe Roma and Travellers Division, *Estimates on Roma population in European countries*, <[http://www.coe.int/t/dg3/romatravellers/default\\_en.asp](http://www.coe.int/t/dg3/romatravellers/default_en.asp)>.

<sup>19</sup> The Assessment Report is available in English, Ukrainian and Russian language at the ODIHR webpage, <<http://www.osce.org/odihr/124494>>.

<sup>20</sup> The Summary Report – Access to Identification and Civil Registration Documents by Roma in Ukraine, 21 December 2015, including the set of recommendations, is available in English and Ukrainian at the ODIHR webpage at: <<http://www.osce.org/odihr/211996>>.

<sup>21</sup> ODIHR Press release, “Ukrainian authorities must stand against anti-Roma violence, address interethnic tension, restore respect for rule of law, says OSCE/ODIHR Director”, 2 September 2016, <<http://www.osce.org/odihr/262301>>.

During recent years, there was no significant progress in the development of the gender equality agenda in Ukraine, due to persistence of traditional stereotypes regarding the roles and responsibilities of women and men in the family and in the society. As noted in the Concluding Observations of the UN Committee on the Elimination of Discrimination against Women, strengthening Ukrainian national gender equality mechanisms is one of the key steps to challenging the *status quo* and unfavourable status of women in the country.

These findings have guided ODIHR's work on strengthening gender equality in Ukraine. During the period under review, ODIHR has supported the work of the Equal Opportunities Caucus at the Parliament of Ukraine, assisted in developing 2016-2017 Roadmap of the Caucus activities and supported their outreach and visibility efforts on a number of occasions.

ODIHR also engaged in building the capacity of the Ministry of Social Policy and regional Gender Advisers with regards to mainstreaming gender into communications. In support of the training curriculum, ODIHR developed a *Guidance Note on Gender Sensitive Communication*, distributed to all regions of Ukraine and the Ministry of Social Policy.

## **Democratic Governance**

In 2016, ODIHR and its partners continued to work on parliamentary ethics reform in Ukraine. Following the focus groups on public perception of parliamentary ethics conducted in 2015, ODIHR has developed a Roadmap for Adopting a Code of Conduct for Members of the Parliament of Ukraine that guided our work in this area in 2016. ODIHR is in touch with the Council of Europe's Group of States against Corruption (GRECO), and looks forward to the release of the recommendations of the 4<sup>th</sup> round of evaluation to ensure they are properly addressed in ODIHR's activities related to the parliamentary ethics reform in Ukraine. The need for a parliamentary ethics reform is also included in the recommendations of the European Parliament's Needs Assessment Mission Report and Roadmap on Internal Reform and Capacity Building for the Verkhovna Rada<sup>22</sup>, and in 2016, ODIHR concentrated its efforts on building a coalition of civil society, politicians, members of Parliament (MPs), public officials and international actors in support of the reform.

In 2011, GRECO identified flaws in the legislation that governs the regulation of political finance in Ukraine and shared recommendations for improving the legal framework. On 8 October 2015, the Ukrainian Parliament adopted the Political Finance Reform Law, "On Amendments to Certain Legislative Acts of Ukraine Related to the Prevention of and Counteraction to Political Corruption," which introduced many changes to the regulation of political financing in Ukraine, including the establishment of political finance oversight by an independent body—the National Agency for Prevention of Corruption (NAPC). In its 2015 Compliance Report, GRECO concluded that some recommendations were only partially implemented and progress is still needed on key areas that were raised in the Report.

ODIHR has been contributing to the ongoing process of political party financing reform in Ukraine by providing information and exposure to international good practices. For example in 2016, ODIHR organized a study visit to Poland for the National Agency for Prevention of Corruption of Ukraine, as well as organizing, for the fourth time, a Political Party Expert

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<sup>22</sup> European Parliament's Needs Assessment Mission to the Verkhovna Rada of Ukraine led by Pat Cox, September 2015-February 2016.

Workshop to support the on-going reforms in the area of political party legislation and financing. The workshop discussed numerous attempts to reform political party legislation in Ukraine, highlighting good practices and lessons learned over the past two decades with a special focus on recently introduced legislative reforms. In follow up to the 2015 and 2016 Political Party Expert Workshops, ODIHR contributed to the development of the document, titled *‘Ukrainian Stakeholder Assistance Strategy: Political Finance’*. The document, designed by the members of the Community of Practice on Money, will serve as a roadmap for international organizations to ensure coordinated and tailored assistance for comprehensive reform of political party financing in Ukraine.

Ukraine’s young policy advisors from the government participated in ODIHR Young Policy Advisors’ Training that offered necessary tools and skills for professional, efficient and more value-based civil service implementing the ongoing reforms in the country.

## **Migration**

In October - December 2014, ODIHR worked to build capacity of Ukrainian authorities and civil society in meeting international standards and good practices on migrant integration. We conducted, in co-operation with IOM, training workshops on good practices in migrant integration in line with OSCE commitments. Four training workshops brought together 92 participants (64 women and 28 men) in Odessa, Lviv, Kharkiv and Kyiv.

In February 2015, ODIHR continued to support the Ukrainian authorities by organizing, in co-operation with IOM, the workshop “Best practices in integration of migrants in Moldova and Ukraine” in Chisinau, Moldova. 34 participants (23 women and 11 men) focused on migrant integration processes in Ukraine and Moldova, relevant binding international standards for two countries, relevant OSCE commitments, national legal requirements and good practices developed by Moldovan and Ukrainian state authorities and civil society actors so far, as well as the way forward towards more efficient integration measures.

On 22-23 March 2017, the conference “On migrants in an irregular situation, whose return or removal has been postponed, in line with OSCE commitments, international legal standards and good practices” was organized by ODIHR in co-operation with the Office of Citizenship and Migration Affairs of the Republic of Latvia in Riga. The event brought together 76 participants (47 women and 29 men) from 16 OSCE participating States, including 3 representatives of Ukraine, mostly officials responsible for migration management issues from relevant ministries and agencies, to discuss international legal standards, OSCE commitments, national legislation and good practices relevant to the postponement of irregular migrants’ removal or voluntary return for diverse reasons. Experts from the European Commission, the Council of Europe, IOM, UNHCR Regional Representation for Northern Europe, the Secretariat of the Council of the Baltic Sea States, as well as representatives from civil society organizations and academia also participated.

## **Freedom of movement**

At the initiative of the Ministry of Interior of Ukraine, in 2015 ODIHR engaged in advising the Ministry in its efforts to reform identity management processes in issuance of travel and identification documents. This reform has been one of the requirements in the Visa Liberalization Action Plan agreed between Ukraine and the European Commission. ODIHR’s work was in line with the assignment that OSCE received at the 2005 Ministerial Council in

Ljubljana where OSCE participating States agreed to enhance the security of travel documents and encourage circumstances that would allow liberalization of visa regimes.

ODIHR has been working closely with the State Migration Service within Ukraine's Interior Ministry since July 2015, and between September and November 2015 two ODIHR experts assessed the existing procedures for identity management and proposed amendments. This work set up a road map to align the issuance of identity and travel documents in Ukraine with the standards set by the International Civil Aviation Organization (ICAO) and put forward by the European Union as one of the requirements for visa liberalization.

At the end of its work, ODIHR assisted with the development of a detailed description of internal processes for collecting, processing and retaining personal data in the state-wide population register. The Office also helped to define new procedures to verify the identity of persons applying for biometric passports or identity documents.

In 2016 ODIHR advised the State Migration Service on how to develop more efficient instruments for co-ordination among different organizational units, hierarchically and horizontally, and on how to introduce targeted policies to facilitate vulnerable groups' and IDPs' access to documents. Recommendations resulting from this assistance informed the development of the State Migration Service reform strategy, contributing to positive changes in the efficiency and security of the systems and functioning of the State Migration Service.

### **Civil society and trial monitoring**

In July 2015 and April 2016, ODIHR responded to requests to build capacity of civil society organizations on trial monitoring and fair trial rights. USAID and the Human Rights House Network (namely Human Rights House in Chernihiv) partnered with ODIHR and assisted with the selection of civil society participants for training.

### **Human Rights Assessment Missions on Ukraine (2014) and Crimea (2015)**

At the invitation from the Government of Ukraine, in 2014 ODIHR and the OSCE High Commissioner on National Minorities (HCNM) deployed a Human Rights Assessment Mission (HRAM) to Ukraine, to assess the human rights and minority rights situation in the country in light of OSCE human dimension commitments and other applicable human rights standards. The HRAM collected information on the human rights situation from late February to late March 2014. In March, the ODIHR/HCNM research teams arrived in Crimea the day after the disputed referendum and conducted on-the-ground assessment.

The final report, published on 12 May 2014, attested to an escalation of tensions in a number of regions of Ukraine resulting in an overall deterioration of the human rights situation. The report raised concerns with regard to the exercise of rights and freedoms such as freedom of assembly, the right to liberty and security of person, the prohibition of torture and ill-treatment, as well as concerns related to allegations of intolerance. The report is available at: <http://www.osce.org/odihr/118476>.

A year later, the Government of Ukraine invited ODIHR and HCNM to conduct a follow-up HRAM dedicated particularly to the situation in Crimea. The *de facto* authorities in Crimea did not respond to requests to facilitate access to Crimea. For this reason, ODIHR and the

HCNM conducted the HRAM primarily through fact-finding and research in the territory of mainland Ukraine, and remote interviews with relevant contacts in Crimea and elsewhere.

The final ODIHR/HCNM report of the HRAM on Crimea is available at: <http://www.osce.org/odihr/report-of-the-human-rights-assessment-mission-on-crimea>. ODIHR and HCNM found that critical human rights problems in Crimea were largely consistent with the negative trends and human rights concerns identified in their previous report. The findings were likewise consistent with the other human rights reports - including by OSCE institutions, United Nations agencies and experts, and international and regional NGOs - on Crimea since its illegal annexation. The report and recommendations of the Council of Europe human rights mission to Crimea (deployed on 25 January 2016; report issued on 14 April 2016) were also consistent with ODIHR's and HCNM's findings.

Some of the findings of the 2015 HRAM report (on citizenship concerns, and limitations on rights of non-Russian citizens, including freedom of association) were also consistent with both the annual report of the High Commissioner on Human Rights in the Russian Federation and the annual report of the local ombudsperson appointed by *de facto* authorities in Crimea.

### **Key Findings of the 2014 HRAM on Ukraine**

A pattern of violent, simultaneous assemblies organized by pro- and anti-Maidan groups emerged since late February 2014. Sporadic instances of violence were followed by more intense clashes in which several people were killed and many more injured. In the assemblies where the most violent clashes occurred, violence often erupted at the instigation of individuals known either as “titushky” (mercenary support agents of various groups), members of so-called “self-defence” groups or both. The “self-defence” groups describe themselves as volunteers who, faced with the alleged inability of the police to discharge their duties, perform law-enforcement functions during assemblies, often with the use of violence.

Most regions visited by the HRAM were characterized by a volatile and polarized environment. The HRAM received credible allegations of enforced disappearances. In Crimea, the targeted individuals primarily included pro-Maidan activists, journalists and members of the Armed Forces of Ukraine. In a number of these cases, victims were reportedly subjected to torture and other ill-treatment while in custody. Any steps taken by law enforcement and prosecutorial bodies to investigate enforced disappearances and related acts appear to have been ineffective.

Manifestations of intolerance increased against the backdrop of amplified polarization within Ukrainian society, serious infringements on the freedom of the media and the intensification of biased information, disinformation and propaganda. Instances of hate speech towards ethnic and religious groups have been widespread. In eastern and southern Ukraine, in particular, there has been a trend of conflating political orientation (pro- or anti-Maidan) with ethnicity. Ukrainian symbols and vehicles carrying such symbols have been targeted on a number of occasions. Instances of hate speech towards ethnic and religious groups have been widespread also in Crimea, where Crimean Tatars form a sizeable community.

No increase in anti-Semitic hate speech was identified within the reporting period in 2014. The same holds true for the Roma community, who, rather, continue to face entrenched discrimination. No increase in the manifestation of intolerance or escalation of violence

against the Russian-speaking population was observed in the regions covered by the HRAM during its deployment.

### **Key Findings of the 2015 HRAM on Crimea**

The change in authorities exercising effective control over Crimea has generally had regressive effects on the enjoyment of rights, including with regard to discrimination against minority groups in their enjoyment of human rights. The impact of changes in Crimea on human rights has been widespread, both through changes in the legal framework being applied, and the apparently politically motivated targeting of activists, journalists and other individuals who express (or are suspected of having) pro-Ukrainian views:

- ***Fundamental freedoms*** restricted by changes in law and practice:
  - ***Assembly***: denial of assemblies; restrictions on content, time/place.
  - ***Association***: restrictions and denial of registrations.
  - ***Movement***: entry bans and measures to prevent exit in some cases.
  - ***Expression***: targeted blocking of websites, threatening of web users; intimidation, harassment and criminal investigation of media; denial of registration of media organizations, accreditation of journalists, and tender bids, affecting in particular pro-Ukrainian media.
- ***Economic, social and cultural rights***: formal (legal) discrimination, by limitation of some Crimean residents' access to services, education, and employment, based on lack of Russian citizenship, passports and/or residency permits.

Of particular concern is the apparently discriminatory application of the justice system and laws (e.g. laws on association/registration, peaceful assembly, and the Criminal Code of the Russian Federation).

Problems with regard to the rule-of-law have exacerbated the aforementioned shortcomings:

- Retroactive and extraterritorial application of the Criminal Code of the Russian Federation – in some cases to incidents that occurred prior to the imposition of the Code, and even outside of Crimea in Ukraine (such as at the Maidan protests in Kyiv).
- Deportation of one Ukrainian citizen (ignoring his automatically imposed Russian Federation citizenship); criminally prosecuting other Ukrainian citizens (e.g. Mr. Sentsov and Mr. Kolchenko) as Russian Federation citizens, despite their efforts to reject that automatically imposed Russian citizenship.
- Lack of accountability for self-defence forces – including for allegedly serious human rights abuses at the start of and since the illegal occupation of Crimea.
- On 21 January 2016, Crimean authorities also issued a warrant for the arrest of Crimean Tatar leader and Ukrainian MP, Mustafa Dzhemilev.

### **Key Recommendations of the 2014 HRAM on Ukraine:**

#### **To Ukraine:**

##### General:

- To ensure effective, prompt, thorough and impartial investigation into allegations of actions by state and non-state actors resulting in human rights violations and to ensure that those responsible are identified and prosecuted, as well as to ensure access to effective remedies for the victims;

- To conduct prompt, thorough, independent, effective and impartial investigations into all allegations of torture or ill-treatment and to ensure that those responsible are identified and prosecuted;
- To co-operate with international human rights monitoring and judicial bodies in matters related to allegations of human rights violations and criminal responsibility;
- To strengthen the independence of democratic institutions, with particular emphasis on the judiciary, as well as enhance the capacity and integrity of law enforcement;
- To undertake an overall reform of the security sector and to ensure that law-enforcement officers receive adequate training with regard to international human rights norms and standards, including the UN Code of Conduct for Law Enforcement Officials;
- To promote an enabling environment for freedom of expression and of the media, with special attention to ensuring independence, pluralism and diversity in the media;
- To promote a conducive environment that enables and empowers civil society activists to pursue their activities freely and without undue limitations, in particular ensuring that they are able to exercise their freedom of expression without undue impediment;
- To promote diversity and human rights in formal and non-formal educational setting, and to develop and implement education campaigns promoting an open, tolerant and inclusive society and raising awareness of human rights and of the need to combat discrimination and intolerance.

#### Attacks on journalists and activists:

- To ensure that the appropriate mechanisms and procedures are put in place to protect journalists and activists from attacks, threats, harassment and intimidation;
- To ensure that journalists are provided full access to all forms of public assembly, including the possibility to report on policing operations;
- To ensure that any attacks, enforced disappearances, harassment, threats or intimidation targeting journalists and activists are effectively, promptly, thoroughly and impartially investigated with a view to bringing those responsible to justice and preventing a further recurrence.

#### Freedom of peaceful assembly:

- To comply with the applicable international standards and constitutional guarantees on freedom of peaceful assembly. ODIHR and the Venice Commission's Guidelines on Freedom of Peaceful Assembly provide a framework to facilitate the implementation of the freedom of peaceful assembly;
- To develop and adopt a law governing the exercise of the right to freedom of peaceful assembly ensuring clarity on issues such as time limits for advance notification of assemblies, long-term notification and a human rights approach to the policing of assemblies, including simultaneous assemblies and any counter-demonstrations; the law should be developed through broad consultations involving judges, law-enforcement personnel and civil society; to request ODIHR to review the draft law for compliance with applicable OSCE commitments and other international human rights standards;
- To ensure that the police are adequately trained and equipped to facilitate assemblies, including simultaneous assemblies and any related counter-demonstrations;
- To ensure that policing of public assemblies is performed by the law enforcement and that under no circumstances is this function to be assigned or delegated to the civilian population or the military.

#### Manifestations of intolerance:

- To train relevant state actors, in particular the police, on tolerance, non-discrimination and hate crimes;
- To make efforts to improve relations between law-enforcement agencies and communities, with a view to improving trust and confidence in law enforcement, to encourage victims to report hate crimes and witnesses to contribute to solving and prosecuting hate crimes.

#### Freedom of movement and IDPs:

- To ensure the co-ordination of services rendered at the central and local level, including by setting up a centralized IDP registration system and ensuring adequate funding;
- To facilitate the voluntary return of IDPs;
- To identify, as appropriate, durable solutions for IDPs that may provide long-term safety, security and freedom of movement, an adequate standard of living, including, at a minimum, access to adequate housing, health care and basic education, and access to employment, with due consideration of the specific needs of men and women, and with particular attention to the most vulnerable groups, such as children, the elderly, and people with special needs;
- To endorse a humanitarian and non-punitive approach to IDPs in particular by refraining from taking measures that could have a negative impact on their residency and citizenship status, as well as their enjoyment of human rights, including social and economic rights.

#### **Key Recommendations of the 2015 HRAM on Crimea:**

##### **To Ukraine, the Russian Federation and *de facto* authorities in Crimea:**

- Grant unfettered access to and movement in Crimea for ODIHR, OSCE's SMMU, United Nations, Council of Europe, NGOs, media, and Crimea residents and IDPs.
- Expand co-operation between the ombudsperson institutions of Ukraine and the Russian Federation, particularly to serve as honest brokers to resolve problems of Crimean residents and IDPs whose rights have been abridged due to the conflict.

##### **To the Russian Federation and *de facto* authorities in Crimea:**

#### Citizenship and residency:

- Allow permanent residency in Crimea with Ukrainian documentation, and without Russian Federation permits.
- Extend indefinitely opportunity for Ukrainian citizens to retain their citizenship, including detainees, who should be provided with the opportunity to transfer to Ukrainian facilities, and potentially benefit from any conditional releases.

#### Law enforcement and justice system:

- In Crimea, halt all criminal detentions, investigations and prosecutions of persons alleged to have committed crimes under the Criminal Code of the Russian Federation, including those that occurred prior to annexation and/or outside of the Russian Federation territory.
- Review any sentences imposed on persons prosecuted and convicted of such charges, with a view to their exoneration or amnesty.

Freedom of association:

- Allow all previously operating Ukrainian media, non-governmental and religious organizations to operate freely without re-registration in Crimea, and without being considered unlawful.
- Extend indefinitely all application periods to re-register legal entities that were registered under Ukrainian law (including private enterprises), and provide a simplified procedure to do so without excessive application requirements.
- Facilitate local consultations with all organizations and legal entities seeking to re-register under Russian laws, in order to identify and provide solutions for any obstacles encountered by potential applicants.

Freedom of expression:

- Cease applying politically motivated criminal charges (including “extremism”, “separatism” and “incitement of hatred”) to peaceful public assemblies and public expression of cultural identities or political opinions and beliefs.
- Cease online censorship through the blocking of websites, including on vague grounds of “extremist” content.

Economic, social and cultural rights:

- For those Ukrainian citizens and other Crimean residents not wishing to become Russian citizens, respect all of their economic, social and cultural rights.

**Other assessments and recommendations contained in ODIHR reports on thematic human issues**

N/A