



**Strengthening Parliamentary  
Oversight and Facilitating  
Coordination between  
the Verkhovna Rada of Ukraine  
and the Cabinet of Ministers  
of Ukraine to Enforce International  
Human Rights Treaties**

Recommendations

**#EU4RADA**

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## **Recommendations on building the Verkhovna Rada of Ukraine's capacity to monitor international human rights treaties**

Considering the international experience and the challenges related to the performance of certain parliamentary functions, a number of recommendations are suggested to help implement effective tools for protecting, promoting and securing human rights, as well as addressing systemic issues such as the quality of law making and enhancing the effectiveness of oversight functions.

### **1. On the role of the Committees and ensuring cooperation with Ukrainian Parliament Commissioner for Human Rights**

1.1) To propose introduction of a combination of hybrid and cross-cutting models that will: i) review the remits and functions of several key Committees; ii) ensure the participation of all Committees according to their remits in the monitoring of international human rights treaties;

1.2) In the Parliament of the current convocation, it is proposed to supplement the remits and functions. In particular, the remit of the Committee on Human Rights should include coordination of the Parliament in overseeing the implementation of international human rights treaties, including the development of necessary oversight tools, summarizing the findings of oversight, coordination of activities with the Cabinet of Ministers of Ukraine and the Commissioner for Human Rights, as well as instruments tools to secure adherence to the recommendations and decisions of the UN human rights bodies and special procedures.

Accordingly, it is advisable to consider the following changes:

- ▶ The remit of the Committee on Human Rights, De-Occupation and Reintegration of Temporarily Occupied Territories of Donetsk, Luhansk Oblasts and the Autonomous Republic of Crimea, the City of Sevastopol, National Minorities and Inter-Ethnic Relations should include "monitoring of implementation of international human rights treaties by the Cabinet of Ministers of Ukraine, with involvement of other Verkhovna Rada Committees and Commissioner of Human Rights;"
- ▶ The remit of the Committee on Foreign Policy and Inter-Parliamentary Cooperation should include "oversight of the participation of the Cabinet of Ministers of Ukraine in the activities of international human rights

organizations to which Ukraine is a member; participation in monitoring of implementation of international human rights treaties by the Cabinet of Ministers of Ukraine;”

- ▶ The remits of other Committees should include “participation, in accordance with the Committee’s authorities, in monitoring the implementation of international human rights treaties by the Cabinet of Ministers of Ukraine;”
- ▶ To empower the Committees to set up permanent or temporary joint inter-committee coordination, consultative and advisory bodies for implementation of common tasks.

1.3) To supplement the provisions of the Rules of Procedure with the rules that will ensure that international commitments in the field of human rights are taken into account in the legislative and oversight functions of the Parliament.

## **Amendments to legal acts:**

*In the Rules of Procedure of the Verkhovna Rada of Ukraine:*

To amend Chapter 32. GIVING CONSENT OF THE VERKHOVNA RADA OF UKRAINE TO BINDING OBLIGATION OF INTERNATIONAL AGREEMENTS OF UKRAINE AND THE DENUNCIATION OF INTERNATIONAL AGREEMENTS OF UKRAINE. OFFICIAL DELEGATIONS OF THE VERKHOVNA RADA OF UKRAINE:

changes to the name: GIVING CONSENT OF THE VERKHOVNA RADA OF UKRAINE TO BINDING OBLIGATION OF INTERNATIONAL AGREEMENTS OF UKRAINE AND THE DENUNCIATION OF INTERNATIONAL AGREEMENTS OF UKRAINE. ENSURING IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS TREATIES. OFFICIAL DELEGATIONS OF THE VERKHOVNA RADA OF UKRAINE.

To add Article 201-1 as follows:

“Article 201-1. Ensuring the implementation of international human rights treaties

1. The Verkhovna Rada of Ukraine shall participate in ensuring implementation of international human rights treaties during the legislative procedure and the exercise of oversight function.

2. Draft laws submitted by the subjects of legislative initiative for consideration by the Verkhovna Rada of Ukraine shall be assessed for compliance with international obligations in the field of human rights in accordance with the procedure provided for in these Rules of Procedure.

Planning of the legislative work shall take into account periodic reporting on the implementation of international human rights treaties.

Draft laws developed to implement international human rights treaties shall be considered urgent.

3. The Verkhovna Rada of Ukraine shall supervise the implementation of international human rights treaties by the Cabinet of Ministers of Ukraine in the manner provided for in these Rules of Procedure;”

The Rules of Procedure should also be supplemented by the rules governing the assessment of draft laws on compliance with international human rights obligations (based on the experience of the UK Human Rights Committee, see Table 1).

*in the Law of Ukraine “On Committees of the Verkhovna Rada of Ukraine:”*

To supplement part one of Article 12 with paragraph 7 as follows: “7) assessment of the compliance of draft laws submitted by the subjects of legislative initiative for consideration by the Verkhovna Rada of Ukraine with international obligations in the field of human rights;»

To supplement Article 17 with part five as follows: “5. Establishment of permanent or temporary joint inter-committee coordination, consultative and advisory bodies for implementation of common tasks;”

To supplement Article 32 with the provisions obliging the Committees to cooperate with the Commissioner for Human Rights on all human rights issues, including on the implementation of international obligations;

*in the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights:”*

in Article 3, paragraph 4 shall read as follows: “4) contributing to the implementation of international human rights treaties, bringing the legislation of Ukraine on human rights and freedoms into conformity with the Constitution of Ukraine, international standards in this field;”

*amendments to the Verkhovna Rada of Ukraine Resolution #19-IX of 29 August 2019:*

The remit of the Committee on Human Rights, De-Occupation and Reintegration of Temporarily Occupied Territories of Donetsk, Luhansk Oblasts and the Autonomous Republic of Crimea, the City of Sevastopol, National Minorities and Inter-Ethnic Relations should include “monitoring of implementation of international human rights treaties by the Cabinet of Ministers of Ukraine, with involvement of other Verkhovna Rada Committees and Commissioner of Human Rights;”

The remit of the Committee on Foreign Policy and Inter-Parliamentary Cooperation should include “oversight of the participation of the Cabinet of Ministers of Ukraine in the activities of international human rights organizations to which Ukraine is a member; participation in monitoring of implementation of international human rights treaties by the Cabinet of Ministers of Ukraine;”

The remits of other Committees should include “participation, in accordance with the Committee’s authorities, in monitoring the implementation of international human rights treaties by the Cabinet of Ministers of Ukraine;”

1.4) on optimizing the interaction of Parliament with the Commissioner for Human Rights (hereinafter – the Commissioner)<sup>1</sup>:

*The following forms of interaction are suggested:*

Defining common strategic goals and objectives. It is recommended to plan the interaction between the Parliament and the Commissioner. First of all, it can be done by defining common strategic goals and activities. The Commissioner may suggest common goals and objectives based on the conclusions and recommendations set out in her Annual Report on the Status of Respect and Protection of the Human Rights and Freedoms in Ukraine.

Brief written notifications on the failure of the authorities to comply with well-grounded orders of the Commissioner based on international human rights obligations can become a useful method of interaction and response to human rights issues. Such notifications may be forwarded to individual or several parliamentary Committees so that their further activities within their designated remits enhance the measures taken by the Commissioner.

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1 The Parliament and the Protection of Human Rights: Interaction with the Commissioner for Human Rights. Authored by Alla SANCHENKO, human rights consultant to the EU-UNDP Council for Europe project, edited by Agnieszka GRZELAK, Professor of EU Law and International Law at Kozminski University School of Law in Warsaw. Published with the support of the European Union and the United Nations Development Programme.

In the course of legislative and other operational activities, parliamentary Committees should seek the advice of the Commissioner more often and take into account her conclusions and recommendations, including on bringing the legislation in line with international human rights standards when they develop or consider the draft laws and perform other practical activities.

Similarly, several parliamentary Committees and the Commissioner can join their efforts in the format of intercoupling in order, for example, to analyse and evaluate reports by the Government or executive authorities on the status of human rights in certain areas of social relations, as well as periodic reports by the Government as part of reporting to international human rights bodies on human rights compliance and the reports, recommendations and observations of international treaty bodies.

Such forms of interaction do not require any other changes to the legal acts.

## **2. The legislative procedure**

It is proposed to change the procedures of the draft laws passing in the Verkhovna Rada of Ukraine taking into account the following needs:

- ▶ assessment of the draft law on compliance with international human rights obligations should be mandatory at all stages of draft law passing in the Parliament;
- ▶ if a draft law is not compliant with international human rights obligations, it should be returned to a subject of legislative initiative that submitted it for consideration;
- ▶ similar controls should be envisaged at the stage of amendment and introducing proposals to draft laws that are prepared for the second and third reading;
- ▶ public debate/public consultation on draft laws should be a mandatory stage of law making;
- ▶ the methodology for drafting legal acts should be developed and implemented in a unified manner for all subjects of legislative initiative. The methodology should comply with a human rights-based approach;
- ▶ a unified methodology for the assessment of draft laws and effective laws on compliance with international human rights obligations should be developed and implemented, including the criteria for the selection of draft laws for such assessment.

## **Amendments to legal acts:**

*in the Rules of Procedure of the Verkhovna Rada of Ukraine:*

In Section IV. LEGISLATIVE PROCEDURE, to supplement Articles 91, 93-96, 99, 101, 108, 111, 113, 127, 128, 134 with the provisions specifying that:

- ▶ assessment of the draft law on compliance with international human rights obligations should be mandatory at all stages of draft law passing in the Parliament;
- ▶ if a draft law is not compliant with international human rights obligations, it should be returned to a subject of legislative initiative that submitted it for consideration;
- ▶ similar controls should be envisaged at the stage of amendment and introducing proposals to draft laws that are prepared for the second and third reading.

*The Parliament together with the Government should:*

- ▶ develop and implement a unified methodology for drafting legal acts that is applicable to all subjects of legislative initiative/law making. The methodology should be compliant with a human rights-based approach;
- ▶ develop and implement a unified methodology for the assessment of draft laws and effective laws on compliance with international human rights obligations, including the criteria for the selection of draft laws for such assessment.

consider the possibility of submitting to the Verkhovna Rada of Ukraine the draft law on Public Consultations (registration #7453 of 27.12.2017, 7th session of eight convocation).

## **3. On enhancing the effectiveness of Parliament's oversight authorities**

Amendments to the Rules of Procedure of the Verkhovna Rada of Ukraine:

To replace the words "Question Hours to the Government" with the words "Question Day to the Government;"

To supplement Article 229 with the provision specifying that on the eve of the "Question Day to the Government," the profile Committees conduct meetings with the Ministers that will be summoned to report on the "Question Day to the Government" for relevant consultations.



#### **4. To introduce a human rights-based approach into the budgeting process**

To introduce amendments to the Budget Code of Ukraine specifying that:

- ▶ at all levels of the budgeting process – starting with the drafting stage – a human rights-based approach should be applied, which requires the policy to be based on transparency, accountability, non-discrimination and participation<sup>2</sup>.

#### **5. To consider implementing a pilot project**

5.1) To establish standing expert groups in the Verkhovna Rada Committee on Human Rights, De-Occupation and Reintegration of Temporarily Occupied Territories of Donetsk, Luhansk Oblasts and the Autonomous Republic of Crimea, the City of Sevastopol, National Minorities and Inter-Ethnic Relations and Committee on Foreign Policy and Inter-Parliamentary Cooperation. Such expert groups will be only responsible for supporting the oversight function of the Committees in terms of implementation of international human rights treaties by the Cabinet of Ministers of Ukraine. It is critical to provide appropriate professional training to experts;

5.2) To establish a Joint Working Group of the on Human Rights, De-Occupation and Reintegration of Temporarily Occupied Territories of Donetsk, Luhansk Oblasts and the Autonomous Republic of Crimea, the City of Sevastopol, National Minorities and Inter-Ethnic Relations and Committee on Foreign Policy and Inter-Parliamentary Cooperation;

5.3) The Joint Working Group may be composed of the MPs who are members of the Committees, the newly-appointed experts of the Committees (or staff of the Committee secretariats), the representatives of the Commissioner for Human Rights and of the Government – specifically, of the Ministry of Justice of Ukraine, the Ministry of Foreign Affairs of Ukraine;

5.4) The Joint Working Group will be tasked to assist the Committees in monitoring the implementation of international human rights treaties by the Cabinet of Ministers of Ukraine.

The Joint Working Group will play an expert and coordinating role and may use the following monitoring mechanisms:

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2 The policies of the United Nations High Commissioner for Human Rights should be considered: <https://www.internationalbudget.org/wp-content/uploads/Human-Rights-in-Budget-Monitoring-Analysis-and-Advocacy-Training-Guide.pdf>; <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/openodocpdf.pdf?reldoc=y&docid=5289d1a4e9>

1) support of updating and implementing the National Human Rights Strategy and its Action Plan, including the review of implementation of recommendations by the UPR and other international monitoring bodies; updating the National Strategy and Action Plan in this regard; planning of the Committee's law making activities and providing recommendations on planning the law making activities to other Committees; making proposals on the subject matter and frequency of parliamentary hearings. The respective Ministries and representatives of NGOs concerned should be involved in this process;

2) monitoring of the activities of the Cabinet of Ministers of Ukraine on responding to the judgments of international judicial bodies, as well as general comments of the UN Committees on decisions on individual appeals on human rights that were ruled not in favour of Ukraine;

3) development and implementation of the methodology of assessment of draft laws and effective laws on compliance with international human rights obligations, including the criteria for the selection of draft laws for such assessment.

Successful implementation of these objectives and mechanisms will inform how to best organize the activities of all parliamentary units to ensure implementation of international human rights treaties. It will also inform proposals on systematic changes to the laws of Ukraine that set forth legal framework for the Parliament's activities.





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