**Alternative report to the UN Committee on the Elimination of Racial Discrimination ahead of its review of twenty-fourth to twenty-sixth periodic reports submitted by Ukraine**

*Social Action Centre NGO, Ukraine, March 2025*

# **Executive summary**

This report, prepared by the Social Action Centre (Ukraine)**[[1]](#footnote-0)**, outlines key shortcomings in Ukraine’s implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), in light of the country’s 24th–26th periodic reports to the UN Committee.

The submission highlights persistent legal and institutional gaps, including the absence of a comprehensive legal definition of racial discrimination in domestic law, the lack of legal provisions addressing hate crimes and hate speech, and the failure to introduce administrative liability for non-criminal discriminatory acts. Ukraine also lacks a national strategy to combat racial discrimination, and there is no independent and properly resourced equality body in line with international standards.

The report draws attention to the ongoing absence of disaggregated data collection mechanisms. While some progress has been made — such as the adoption of a law on antisemitism and amendments to the legal aid framework — these remain largely unenforced or delayed, particularly under martial law.

The shadow report also emphasizes the discriminatory impact of Russia’s full-scale invasion of Ukraine. It points to the patterns of hate-motivated international crimes committed by the occupying forces – including deportations, killings, and attacks targeting ethnic, religious, and other minorities – and calls for these acts to be recognized and prosecuted with their bias motivation acknowledged as an aggravating factor.

Informed by these concerns, the report offers targeted recommendations to the Ukrainian government and the UN CERD Committee. These include the urgent adoption of comprehensive anti-discrimination legislation, enforcement of hate crime protections, and the establishment of robust systems for data collection and legal redress. The report also calls on the international community to ensure that ethnically and racially motivated crimes by the Russian Federation are adequately documented, recognized, and addressed through both domestic and international justice mechanisms.

# **1. Legal framework gaps**

Despite having formally adopted anti-discrimination laws, Ukraine’s legal framework remains limited and inconsistent with international standards, particularly with the requirements of the UN CERD and relevant EU anti-discrimination directives. The Law of Ukraine “On the Principles of Preventing and Combating Discrimination”, while outlining general concepts of direct and indirect discrimination, does not contain a standalone or **comprehensive definition of racial discrimination** and misses definitions of the **forms of discrimination (**segregation, victimisation, and discrimination by association) and a comprehensive list of protected grounds (such as national origin and descent). This omission contradicts Article 1 of CERD, which requires States Parties to define and explicitly prohibit racial discrimination in all its forms. Furthermore, Ukrainian law fails to establish specific definitions and sanctions for hate speech and hate crimes, including those motivated by racial or ethnic hatred.

Although Article 161 of the Criminal Code criminalizes incitement to national, racial, or religious hatred, it has limited application (see detailed analysis in Annex I). Hate crimes are rarely qualified as such with proper recognition of bias motive[[2]](#footnote-1). The law enforcement and prosecution regulations lack clear guidelines for dealing with the cases of hate crimes.

Additional legal gaps identified by civil society include:

* Lack of coherent and effective hate crime provisions in the Criminal Code: apart from Article 161, articles with aggravating clauses have a limited list of protected grounds with incoherent wording and terms used across the CCU.
* Article 67, which provides for aggravating circumstances in sentencing, does not require that courts necessarily take into account the bias motivation.
* Offences under part 1 of Article 161 of the CCU cannot be prosecuted unless there is a victim statement, which impedes justice in such cases.
* Lack of administrative liability for acts of discrimination, leaving many cases without any effective sanction or remedy when criminal thresholds are not met, including lack of sanction for effective prosecution of hate speech outside criminal liability.
* The legislation lacks provisions on “special measures” based on grounds other than gender.
* The failure to establish a specialized, independent equality body, as required under EU Equality Directives and recommended by the CERD Committee. The current institutional framework relies on the Ukrainian Parliament Commissioner for Human Rights, who does not have enough powers and resources to act as a fully functional equality body.
* A non-binding and fragmented approach to collecting data on racial discrimination, with no obligation for law enforcement or judicial bodies to disaggregate statistics by protected grounds such as ethnicity, race, or national origin and regularly publish it.

There are several recent developments which add to the formal framework of protection in certain areas but still lack sanctions or are postponed in implementation. For instance, in 2021, Ukraine adopted a new Law of Ukraine “On Preventing and Combating Antisemitism in Ukraine”[[3]](#footnote-2) which explicitly provides for a prohibition of antisetism but does not provide any sanctions for both antisemitic speech or acts of vandalism.

Later, in 2024, Ukraine made amendments[[4]](#footnote-3) to the Law of Ukraine “On Free Legal Aid” providing for victims of hate crime an opportunity to receive free legal aid – but this provision will enter into force one year after the martial law is abolished. This creates a situation when there is a right and no practical implementation of this right.These legal shortcomings result in a system that is formalistic, where legal provisions exist on paper but do not translate into meaningful protection or accountability in practice.

As of 2025, victims of racial discrimination in Ukraine continue to face procedural obstacles, institutional indifference, and limited access to justice due to these structural flaws.

# **2. Ineffectiveness of the anti-discrimination framework in practice**

Despite the presence of formal anti-discrimination laws, their implementation remains weak, the Ukrainian Parliament Commissioner for Human Rights, while mandated to protect against discrimination, lacks sufficient powers and resources to act effectively in this capacity. The institution collects individual claims and publishes annual report but has no means in providing victims protection or redress.

Moreover, there is no national strategy or action plan specifically aimed at combating racial or ethnic discrimination, nor are there effective mechanisms for monitoring state compliance with CERD obligations. The National Strategy on Human Rights and Action Plan to it, had not been renewed and active since the beginning of full-scale invasion in 2022[[5]](#footnote-4).

# **3. Gaps in data collection and monitoring**

A key obligation under Article 2 of CERD is for states to monitor the situation of racial and ethnic minorities through reliable and disaggregated data collection. Yet, as of 2025, Ukraine still does not maintain any centralized, comprehensive system for gathering statistics on racial discrimination, hate speech, or hate crimes.

Despite formal commitments to improving classification systems, there is no obligation for law enforcement, prosecutors, or courts to separately record bias motivation, or to disaggregate their records by protected characteristics[[6]](#footnote-5). Consequently, the actual prevalence of discrimination and racially motivated violence remains undocumented and invisible at the policy level. The only institution that disaggregates cases of discrimination and indicates protected groups is the Ukrainian Parliament Commissioner for Human Rights in its annual report[[7]](#footnote-6).

This lack of state-collected data significantly impairs Ukraine’s ability to develop consistent policy and targeted responses in compliance with CERD. It also undermines the visibility of affected communities, reinforcing structural marginalization and inequality.

# **4. Discrimination in wartime and documentation of hate-motivated international crimes**

The full-scale war launched by the Russian Federation against Ukraine has exacerbated patterns of hate-motivated violence. According to recent documentation by civil society, war crimes committed by Russian forces include clear hate motives targeting ethnic Ukrainians, Crimean Tatars, Jews, Roma, and LGBTQI individuals[[8]](#footnote-7).

Through systematic propaganda and state-sponsored narratives, the Russian government has employed hate speech and dehumanizing rhetoric to target Ukrainians, ethnic minorities, religious groups, and marginalized communities[[9]](#footnote-8), creating an environment where violence against these groups is normalized, encouraged and justified. These tactics have contributed to a series of international crimes that extend beyond traditional battlefield atrocities[[10]](#footnote-9).

In many recorded cases, Russian soldiers subjected civilians to violence and torture accompanied by hate speech such as ‘Banderites’, ‘Nazis’, and ‘subhumans’. These narratives, deeply rooted in Russian state propaganda, were used to dehumanize Ukrainians and other minorities during filtration, detention, or occupation operations. Examples of such bias-motivated acts include[[11]](#footnote-10):

* torture and execution of individuals with patriotic tattoos or affiliations;
* religious persecution of Jehovah’s Witnesses in occupied Crimea;
* violence against Roma and Jews in detention;
* punitive actions against LGBTQI individuals for displaying rainbow symbols or social media activism.

The legal frameworks currently used to document and prosecute these crimes, both within Ukraine and internationally, have failed to fully capture the hate motives behind the atrocities.

On the ground level, prosecution rarely treats these cases as hate crimes or include identity-based bias as an aggravating factor. Hate motive is not routinely captured in the documentation of international crimes, nor is it used as an analytical category by prosecutors. This risks erasing the discriminatory nature of many crimes and failing to provide justice to survivors.

# **5. Recommendations**

1. ***The Committee should include the following recommendations into its concluding observations following the review of the State Party’s report:***
2. Legislative and institutional framework (Article 1 of the Convention):
	1. Amend national legislation to provide a standalone and comprehensive definition of racial discrimination in accordance with Article 1 of the Convention.
	2. Introduce a legal definition of hate crimes (or hate motive) and hate speech, including aggravated sentencing provisions across all relevant criminal offenses.
	3. Establish administrative liability for acts of discrimination that do not meet the criminal threshold.
	4. Introduce the definition of special measures and the procedure for their application in line with the Convention.
	5. Establish an independent and fully resourced national equality body with the mandate to investigate, monitor, and report on racial discrimination, in line with the Paris Principles and EU equality standards.
3. Data collection and monitoring (Article 2 of the Convention):
	1. Create a national system for collecting disaggregated data on racial discrimination, hate crimes, and hate speech, ensuring the participation of ethnic and racial minorities in its design and oversight.
	2. Mandate the Ukrainian Parliamentary Commissioner for Human Rights, law enforcement and judicial authorities to record and analyze bias motivation in all relevant criminal proceedings and publish regular data.
4. Access to justice and effective remedies (Article 6 of the Convention):
	1. Ensure immediate access to free legal aid for victims of hate crimes and discrimination, regardless of the status of martial law or other emergency provisions.
	2. Develop and implement a national strategy or action plan on combating racial and ethnic discrimination, with clear goals, timelines, and indicators, and aligned with CERD obligations.
5. Accountability for hate-motivated international crimes:
	1. Integrate the documentation of hate motive into investigations and prosecutions of international crimes through appropriate standards and procedures.
	2. Ensure regular training for prosecutors, investigators, and judges on identifying and analyzing hate motive as an aggravating factor in the cases of international crimes and non-war-related cases.

***B. Recommendations to the Committee and international community***

The Committee in its concluding observations shall recognise the impact of hate motivated violence perpetrated by the Russian Federation in the war against Ukraine.

International organizations and justice authorities shall collaborate with civil society groups and national authorities to develop comprehensive methodologies for documenting hate motives in war crimes and other international violations. National and international judicial bodies should work to recognize hate motives as aggravating factors in war crimes, crimes against humanity, and genocide.

## **Annex I**

Overview of application of Article 161 of the Criminal Code of Ukraine (‘Violations of citizens’ equality based on race, nationality, or religious beliefs)

A review of court decisions from 2021 to 2024 reveals critical trends and shortcomings in how this provision has been applied. Over this four-year period, 59 verdicts under Article 161 were identified and analyzed (see Table 10 for detailed data).

The nature of the cases and the courts’ approach to hate motives have evolved significantly over time:

* A sharp increase in cases in 2022 is directly tied to the outbreak of full-scale war and the growing use of Article 161 to prosecute pro-Russian rhetoric, incitement of hatred, and justification of war crimes.
* Digital platforms became the primary space for hate-related offenses. While in 2021 most cases involved in-person speech or printed materials, by 2022–2024, most cases involved social media platforms like Facebook, Telegram, TikTok, and YouTube.
* Approximately 70% of all verdicts resulted from plea bargains, which led to minimal judicial scrutiny of the hate motive. This has weakened the jurisprudence surrounding the analysis of intent and bias.
* Use of linguistic expert evaluations became more common in 2022–2024, especially in cases involving anti-Ukrainian propaganda. However, these references were often superficial, lacking in-depth judicial reasoning or evaluation of the proportionality of the response.
* In war-related cases since 2023 ​​verdicts became harsher, but most sanctions still consisted of fines or suspended sentences. Only a few cases resulted in actual imprisonment, despite the clear national security implications.
* Civil offences cases were initially underqualified; in 2021–2022, courts rarely recognized them as incitement to hatred. By 2023–2024, however, there was a visible shift toward stricter assessments, including more frequent verdicts against UOC-MP supporters spreading hostile narratives. Nonetheless, most outcomes still involve minimal penalties, pointing to a persistent reluctance to impose serious consequences for hate crimes in civil society contexts.
* While Ukraine has made increasing use of Article 161 in recent years, especially in the context of wartime information threats, the broader picture remains concerning. Courts continue failing to recognise the hate motive, and sentencing remains light, even in cases involving clear incitement or support for aggression.
1. Social Action Centre is a Ukrainian non-governmental organization specializing in anti-discrimination, human rights advocacy, and legal reform. The organization works closely with civil society, law enforcement, and policymakers to improve the legal framework and institutional capacity for combating hate crimes and discrimination. <https://socialaction.org.ua/en> [↑](#footnote-ref-0)
2. Discrimination: Case Law. An Overview of the 2012-2020 Case Law of Ukrainian Courts on Discrimination. Available at: <https://res2.weblium.site/res/635043c5e65ff6000fb6009e/67c05f74bce5a5b9df534cf1> [↑](#footnote-ref-1)
3. Decree of the of the President of Ukraine *On the National Human Rights Strategy,* available at: <https://zakon.rada.gov.ua/laws/show/1770-20#Text> [↑](#footnote-ref-2)
4. Law of Ukraine 4133-IX ‘On Amendments to the Law of Ukraine “On Free Legal Aid’ to Expand the List of Persons entitled to Free Secondary Legal Aid

Regarding the Expansion of the List of Persons Entitled to Free Secondary Legal Aid <https://zakon.rada.gov.ua/laws/show/4133-20#Text> [↑](#footnote-ref-3)
5. <https://zakon.rada.gov.ua/laws/show/119/2021#Text> [↑](#footnote-ref-4)
6. Ukraine’s hate crime, hate speech and discrimination data collection system Recommendations for improvement and for adopting a joint approach and national situational analysis. Available at: <https://rm.coe.int/final-data-collection-report-ukraine-en/16809fac70>. [↑](#footnote-ref-5)
7. See 2023 report <https://ombudsman.gov.ua/report-2023/> [↑](#footnote-ref-6)
8. <https://socialaction.org.ua/en/resources-1> [↑](#footnote-ref-7)
9. <https://info_warfare.uwazi.io/en> [↑](#footnote-ref-8)
10. Documenting Hate Motive in Russia’s War against Ukraine: a policy brief. Available at: <https://res2.weblium.site/res/635043c5e65ff6000fb6009e/67c049d28022570a10495138> [↑](#footnote-ref-9)
11. Cases documented by civil society organisations monitoring and recording international crimes committed by the Russian Federation. [↑](#footnote-ref-10)