

## Universal Periodic Review

(28<sup>th</sup> session, Oct-Nov 2017)

### Contribution of UNESCO to Compilation of UN information

(to Part I. A. and to Part III - F, J, K, and P)

#### Ukraine

#### I. Background and framework

Scope of international obligations: Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO

Title	Date of ratification, accession or succession	Declarations /reservations	Recognition of specific competences of treaty bodies	Reference to the rights within UNESCO's fields of competence
Convention against Discrimination in Education 1960	State party to this Convention (ratification 19/12/1962.)	Reservations to this Convention shall not be permitted		Right to education
Convention on Technical and Vocational Education 1989	Not state party to this Convention			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage 1972	12/10/1988 Ratification			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage 2003	27/05/2008 Ratification			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005	10/03/2010 Ratification			Right to take part in cultural life

#### Right to education

## II. Promotion and protection of human rights on the ground

1. The **Constitution of 1996 (with amendments up to 2013)**<sup>1</sup> enshrines the right to education in Article 53, which provides that **everyone has the right to education**. The State ensures accessible and free pre-school, complete general secondary, vocational and higher education in state and communal educational establishments and ensure the development of all forms of instruction. Citizens who belong to national minorities are guaranteed in accordance with the law the right to receive instruction in their native language, or to study their native language in state and communal educational establishments and through national cultural societies. The **Law on Education** (1991, amended and restated in 1996 with its subsequent amendments)<sup>2</sup> considers that education is a priority sphere for the social, economic, spiritual and cultural development of the country. **Law on General Secondary Education of 1999**<sup>3</sup> stipulates that a twelve-year educational programme will be compulsory for all pupils. The amending **Act No. 232-IV of 2002**<sup>4</sup>, concerns the right of several categories of disabled persons to get a fellowship to study in higher educational institutions. Additionally, the **Law on Preschool Education of 2001**<sup>5</sup> stipulates that a child is guaranteed by the State the right to free preschool education in state and municipal preschools, in addition to free medical care in these institutions. The **Law on Vocational Education and Training of 1998**,<sup>6</sup> (amended by Law no. 4312-VI of 2012)<sup>7</sup>, the **Law on Higher Education of 2002**<sup>8</sup>, the **Law on Professional Development of Employees of 2012**<sup>9</sup> and the **Law on non-scholastic education of 2000**<sup>10</sup> (amended Act No. 2626-IV of 2005)<sup>11</sup>, also secure the right to education. Lastly, a notable Decree of the President of Ukraine to be mentioned is **No. 244 of 20 March 2008 on Additional Measures to Increase Education Quality in Ukraine** which proposes measures to provide at least 75% of children of the relevant age group with preschool education<sup>12</sup> and step by step activity have been launched in order to create the national system of monitoring researchers of the quality of education<sup>13</sup>.
2. Unfortunately, in terms of **reporting to UNESCO**, Ukraine did not participate in the successive consultations of Member States organized by UNESCO on the measures taken for the implementation of the Convention against Discrimination in Education which was ratified by Ukraine in 1962 (including the ongoing 9<sup>th</sup> Consultation). Therefore, Ukraine did not submit national reports, which limits the availability of information. Furthermore, Ukraine did not report on the measures taken for the implementation of the 1974 UNESCO Recommendation

<sup>1</sup><http://www.unesco.org/education/edurights/media/docs/ef2059fd231dbe50ecf78e00ea522f66b4a4c5ec.pdf>

<sup>2</sup><http://www.unesco.org/education/edurights/media/docs/e7bc30e146af586a30120230fd230dd8a5c887b4.pdf>

<sup>3</sup><http://www.unesco.org/education/edurights/media/docs/8382f6bcd122f547017b1d8ad68a91e90483f3fd.pdf>

<sup>4</sup>[http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=63796&p\\_country=UKR&p\\_count=621&p\\_classification=09&p\\_classcount=20](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=63796&p_country=UKR&p_count=621&p_classification=09&p_classcount=20)

<sup>5</sup> <http://zakon1.rada.gov.ua/cgi-bin/laws/annot.cgi?nreg=2628-14> (in Ukrainian)

<sup>6</sup> <http://zakon1.rada.gov.ua/cgi-bin/laws/annot.cgi?nreg=103%2F98-%E2%F0> (in Ukrainian)

<sup>7</sup>[http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=92836&p\\_country=UKR&p\\_count=621&p\\_classification=09&p\\_classcount=20](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=92836&p_country=UKR&p_count=621&p_classification=09&p_classcount=20)

<sup>8</sup> Law accessible online (in Ukrainian) on the official website of the Ukrainian Parliament at: <http://zakon1.rada.gov.ua/cgi-bin/laws/annot.cgi?nreg=2984-14> (Accessed on 1 April 2014)

<sup>9</sup>[http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=92836&p\\_country=UKR&p\\_count=621&p\\_classification=09&p\\_classcount=20](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=92836&p_country=UKR&p_count=621&p_classification=09&p_classcount=20)

<sup>10</sup>[http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=57840&p\\_country=UKR&p\\_count=621&p\\_classification=09&p\\_classcount=20](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=57840&p_country=UKR&p_count=621&p_classification=09&p_classcount=20)

<sup>11</sup>[http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=71264&p\\_country=UKR&p\\_count=621&p\\_classification=09&p\\_classcount=20](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=71264&p_country=UKR&p_count=621&p_classification=09&p_classcount=20)

<sup>12</sup> World Data on Education, 7th Edition, 2010/11, [http://www.ibe.unesco.org/fileadmin/user\\_upload/Publications/WDE/2010/pdf-versions/Ukraine.pdf](http://www.ibe.unesco.org/fileadmin/user_upload/Publications/WDE/2010/pdf-versions/Ukraine.pdf)

<sup>13</sup> National Report submitted for the 48th session of the International Conference on Education, 2008, p. 9, accessible at: [http://www.ibe.unesco.org/National\\_Reports/ICE\\_2008/ukraine\\_NR08.pdf](http://www.ibe.unesco.org/National_Reports/ICE_2008/ukraine_NR08.pdf)

concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms within the framework of the Fourth and Fifth Consultation of Member States.

### **Freedom of opinion and expression**

#### ➤ Constitutional and Legislative Framework:

3. Freedom of thought and speech are regarded as basic rights and are protected under Article 34 of the Constitution<sup>14</sup>. Nevertheless, in the same article, those rights are subjected to several restrictions, such as: “national security, territorial indivisibility or public order, with the purpose of preventing disturbances or crimes, protecting the health of the population, the reputation or rights of other persons, preventing the publication of information received confidentially, or supporting the authority and impartiality of justice”.
4. Access to information is guaranteed by the Article 34.2 of the Constitution, that states that “everyone has the right to freely collect, store, use and disseminate information by oral, written or other means of his or her choice.”
5. In addition, the Parliament has adopted the Access to Information Law<sup>15</sup> in 2011. The new law reduces the limit for responding to information requests from 30 days to 5 working days and requires information holders to disclose information systematically through different communication outlets.
6. In 2001, Ukraine abolished criminal defamation.
7. In 2016, the Council of Europe Project “Strengthening Freedom of the Media and Establishing a Public Broadcasting System in Ukraine” has been launched. It aims to enhance the role of media and the public broadcaster in particular as an instrument for consensus building in the Ukrainian society.

#### ➤ Implementation of legislation:

8. The National Council of Television and Radio Broadcasting of Ukraine<sup>16</sup> (NTRBCU) is an authority enforcing/implementing legislation for broadcasting media and regulating audiovisual media. The Board of the National Council comprises of 8 Members, who are appointed by the Parliament and the President of Ukraine. The National Council, which is financed by the State, can impose sanctions on violators of the state policy and participates in its implementations.

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<sup>14</sup> National Report submitted for the 48th session of the International Conference on Education, 2008, p. 9, accessible at: [http://www.ibe.unesco.org/National\\_Reports/ICE\\_2008/ukraine\\_NR08.pdf](http://www.ibe.unesco.org/National_Reports/ICE_2008/ukraine_NR08.pdf)

<sup>15</sup> National Report submitted for the 48th session of the International Conference on Education, 2008, p. 9, accessible at: [http://www.ibe.unesco.org/National\\_Reports/ICE\\_2008/ukraine\\_NR08.pdf](http://www.ibe.unesco.org/National_Reports/ICE_2008/ukraine_NR08.pdf)

<sup>16</sup> <http://www.nrada.gov.ua/en.html>

9. In August 2015, the government launched the re-organization process of the Public Service Broadcasting. The process of reformation of state media went through two stages: first, all organizations had to merge into one, and then there was the transition of an entity into Public Service Broadcaster. In 19 January 2017, the National Public Broadcasting Company of Ukraine was registered as legal entity. Government of Ukraine adopted the statute of Public Joint Stock Company “National Public Television and Radio Company of Ukraine”.
10. In 2015, the National Expert Commission of Ukraine on the Protection of Public Morality, an advising body to examine the media and detect sexual and violent contents, established by the government in 2004, was disbanded.

➤ Media Self-Regulation:

11. The Commission of Journalistic Ethics<sup>17</sup> (KZHE) is the main self-regulatory body. The Commission consists of 15 members elected by the convention signatories of the Code of Ethics of Ukrainian journalists<sup>18</sup>, which has been adopted on 14 April 2002, at the “Journalistic Ethics in Ukraine: Elections of 2002 and Future” Conference.
12. The main journalists’ union of the country is the National Union of Journalists of Ukraine<sup>19</sup> (NUJU), member of the EIJF.

➤ Safety of journalists:

13. Since 2008, UNESCO has recorded the killings of 10 journalists in Ukraine.<sup>20</sup> Government has responded to UNESCO requests concerning two of the killings of journalist’s cases.

### III. RECOMMENDATIONS

**14. Below are the recommendations made within the framework of the 2nd cycle of the Working Group (14th session) on the Universal Periodic Review (December 2012)<sup>21</sup>:**

*97.42. Continue to implement measures and programmes to promote and protect the rights of children, in particular the right to education and the right to health*

*97.126. Ensure adequate funding for the public education system and improve the availability, accessibility and quality of general education in rural areas*

*97.127. Strengthen efforts in mitigating the effects caused by the decline in schools in recent years to ensure that the children’s schooling cycle is not left vulnerable*

*97.133. Ensure implementation of legislation and other measures protecting the rights of persons with disabilities by, inter alia, allocating adequate funding for projects aiming at establishing a barrier-free living environment, and guaranteeing for children with disabilities equal access to education in mainstream schools*

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<sup>17</sup> <http://www.cje.org.ua/>

<sup>18</sup> <http://www.mediawise.org.uk/ukraine/>

<sup>19</sup> <http://nsju.org/>

<sup>20</sup> <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/press-freedom/unesco-condemns-killing-of-journalists/countries/ukraine/>

<sup>21</sup> <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UASession14.aspx>

*97.137. Take further steps to promote education in the languages of the national minorities, including in the areas where the number of students may be decreasing*

*97.138. Further ensure, in a sustainable way, the education in minority languages*

*97.139. Further improve the situation pertaining to minority issues, especially in the social and economic fields for the disadvantaged groups, and promote equal opportunities for them to have access to education and other related sectors at all levels*

## **Review and specific recommendations**

15. Recent official information related to the right to education in Ukraine is quasi non-existent. For this reason, we are unable to make recommendations regarding to the implementation of the previous UPR recommendations due to the lack of information on policies and educational measures taken by the Ukraine. Therefore, it is imperative that Ukraine is more transparent with regards to the educational policy framework and ensure that this information is rendered public and available.

### **Specific Recommendations:**

1. As a State Party to the Convention against discrimination in education, Ukraine should be strongly encouraged to regularly submit state reports for the periodic consultations organised by UNESCO on its education related standard-setting instruments and notably the Convention.
2. Ukraine should be encouraged to render accessible up to date information on the measures taken with regards to the implementation of the right to education.
3. Ukraine should be encouraged to share with UNESCO relevant information to update the country profile of the Global Database on the right to education.<sup>22</sup>

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## **Freedom of opinion and expression**

16. The Government is urged to further investigate the cases of killed journalists, and to voluntarily report on the status of judicial follow-up to UNESCO. The Government is strongly recommended to consider taking advantage of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity as a means to strengthen protection of journalists and freedom of expression.<sup>23</sup>

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## **Cultural Rights**

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<sup>22</sup> <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to-education/database/>

<sup>23</sup> See for example, General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR), 2006 Recommendation of the 87<sup>th</sup> Session Human Rights Committee, the recommendations of the UN Special Rapporteurs on the Right to Freedom of Opinion and Expression, and Resolution 1577 (2007) of the Parliamentary Assembly of the Council of Europe.

17. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972),<sup>24</sup> the Convention for the Safeguarding of the Intangible Cultural Heritage (2003),<sup>25</sup> and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)<sup>26</sup>, Ukraine is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Ukraine is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

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### **Freedom of scientific research and the right to benefit from scientific progress and its applications**

18. In the framework of the (1974) covering the period from 2013 to 2016, launched by UNESCO in December 2016 (<http://on.unesco.org/2hL0xGz>), **Ukraine** is encouraged to report to UNESCO on any legislative or other steps undertaken by it to ensure the application of this international standard-setting instrument. **Ukraine** is invited to complete the online questionnaire, which has been prepared by UNESCO to guide and assist Member States with their reporting (<http://unesdoc.unesco.org/images/0024/002468/246830E.pdf>). When replying to the 2013-2016 monitoring questionnaire, **Ukraine** is kindly invited to pay particular attention to the legal provisions and regulatory frameworks which ensure that scientific researchers have the responsibility and the right to work in the spirit of the principles enshrined in the 1974 Recommendation

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<sup>24</sup> Periodic Report available at: <http://whc.unesco.org/document/136521>

<sup>25</sup> Periodic Report available at: <http://en.unesco.org/creativity/monitoring-report/quadrennial-reports/available-reports/periodic-report-ukraine>

<sup>26</sup> Periodic Report available at: <http://en.unesco.org/creativity/monitoring-report/quadrennial-reports/available-reports/periodic-report-ukraine>