



Ukraine (82)

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UKRAINE

Ukraine is governed by a directly elected president and a unicameral parliament, the Verkhovna Rada (Supreme Council), which is elected partially according to proportional representation and partially by direct constituency mandate. Incumbent President Leonid Kuchma was reelected after two rounds of voting on October 31 and November 14. While there were some irregularities during the election campaign and during the balloting, almost all observers agreed that the election results reflected the will of the electorate. Despite numerous flaws and irregularities, previous national elections in 1998 and 1994 generally reflected the will of the electorate. The President appoints the Cabinet and controls government operations. Although the Constitution mandates an independent judiciary, the courts are funded through the Ministry of Justice, are subject to political interference and corruption, and are inefficient.

The Security Service of Ukraine (SBU), the Ministry of Internal Affairs (which controls the various police forces), and the Ministry of Defense all have equal responsibility for internal security and report to the President through the Cabinet. The National Bureau of Investigation, established by presidential decree in 1997 but never fully funded, was abolished in a government reorganization in December. The armed forces largely have remained outside of politics. While civilian authorities generally maintain effective control of the security forces, institutional government corruption sometimes can lead to their improper use. The SBU and other government agencies have interfered indirectly in the political process through criminal investigations of politicians, journalists, and influential businessmen. Members of the security forces committed human rights abuses.

Ukraine is making a difficult transition from a centrally planned to a market-based economy. The private sector has continued to grow and now represents a substantial portion of the economy. Nevertheless, the country remains in a serious economic crisis, due to the absence of the critical level of reform needed to generate sustained economic growth. Industrial output has suffered years of sharp decline. Reform, particularly in the agricultural sector, has stagnated; however, at year's end the President signed a far-reaching decree on agricultural reform. According to official statistics, about half the work force is employed formally in manufacturing, with the balance divided between services and agriculture; however, in reality many industrial enterprises have reduced or stopped production. Exports are diversified and include metals, chemicals, sugar, and semifinished goods. The annual per capita gross domestic product for 1999 was approximately \$1,000. However, millions of employees go months without being paid, and most individuals derive a significant proportion of their income from the shadow economy. Annual inflation is expected to remain at the 1998 level of about 20 percent. Investment remains at low levels, with many potential investors discouraged by rampant corruption, onerous taxation, and arbitrary licensing practices. Unemployment has affected women disproportionately. Wealth is concentrated among the political elite and directors of state-dominated sectors such as metals, oil, and gas.

Ukraine's human rights record during the year was mixed; there was limited progress in some areas; however, serious problems persisted. Members of the military killed soldiers during violent hazing incidents, and there were some reports of possibly politically motivated killings. Police and prison officials regularly beat detainees and prisoners, and there were numerous instances of torture, sometimes resulting in death. The beating of conscripts in the army by fellow soldiers was common and sometimes resulted in death. Prison conditions are harsh and life threatening. There were instances of arbitrary arrest and detention. Lengthy pretrial detention in very poor conditions was common, and

detainees often spent months in pretrial detention for violations that involved little or no prison time if convicted. Long delays in trials are a problem. The Government rarely punishes officials who commit abuses. The SBU, police, and Prosecutor's Office have drawn domestic and international criticism for their failure to take adequate action to curb institutional corruption and abuse in the Government. Many high-profile corruption cases have been dropped, ostensibly because of lack of incriminating evidence. Anti-corruption legislation has been enforced selectively, mostly against government opponents and low-level officials. Political interference and corruption affect the judicial process. The judiciary is overburdened, inefficient, and lacks sufficient funding and staff. These factors undermine citizens' right to a fair trial. The criminal justice system has been slow to reform due to both lack of government effort and strained economic resources. The State continued to intrude in citizens' lives and infringe on their privacy rights. The Government partially limited and increasingly interfered with freedom of the press during the year, most notably in the run-up to the October presidential elections. Government authorities interfered in the election process and stepped up pressure on the media through tax inspections and other measures. The national broadcast media came under particular pressure. While the print media reflected the full political spectrum, there were tendencies toward self-censorship. There were some limits on freedom of assembly, and there were some instances of restrictions on freedom of association. Limitations on nonnative religious organizations constrained freedom of religion. The Government took steps to return to religious groups properties expropriated during the Soviet era. Some limits on freedom of movement, most notably the registration or "propiska" system, remained. The Government took steps to support the return and resettlement of exiled Tatars in Crimea. The SBU monitored the activities of nongovernmental organizations (NGO's) during the election campaign. Violence against women and children; trafficking in women and girls; discrimination against women; societal anti-Semitism; and discrimination against religious, racial, and ethnic minorities are problems. The Government discourages some workers from organizing unions, and forced labor in the form of women and girls trafficked for sexual exploitation is a problem.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing There were no reports of political killings by government agents; however, the pervasiveness of corruption, connections between government officials and organized crime, and the political activities of organized crime figures often blurred the distinction between political and criminal acts. Politicians, politically connected businessmen, and journalists were victims of possibly politically motivated--and sometimes fatal--attacks.

No 1999 official statistics for contract killings are available, but some such killings may have been politically motivated. In February the manager of security forces for the independent television station STB was murdered in the stairwell of his apartment building in an apparent contract killing. In May chairman of the regional arbitration court Borys Vihrov and director of local television station Ant Igor Bondar were shot and killed in Odessa.

Abuse of prisoners and detainees, and harsh prison conditions, sometimes led to death (see Section 1.c.). According to revised government statistics, in 1998 there were 1,901 deaths in prison and detention facilities, many due to harsh conditions. There were reports that police beat persons at alcohol corrective treatment centers, sometimes killing them (see Section 1.c.).

Members of the military killed soldiers during violent hazing incidents (see Section 1.c.). According to a government official, in 1998 10 to 12 military personnel were beaten to death, and a total of 20 to 30 died as an indirect result of injuries sustained from hazing.

The Government made no known progress in resolving a number of the high profile

killings of past years. There was no progress in resolving the 1998 murders of former director of the National Bank Vadym Hetman; deputy head of the Crimean government Aleksandr Safontsev; the mayor of Shakhtersk; or the campaign manager of a Kiev mayoral candidate. Nor was there progress in resolving the 1997 murders of the governor of the Razoolnensky district; the Crimean deputy minister of tourism and resorts; prominent businessman Arkadiy Tabachnyk; or the bombing of the intensive care unit in Simferopol.

b. Disappearance

There were no reports of politically motivated disappearances.

The 1996 alleged kidnaping of the former speaker of the Crimean legislature was discovered by investigators to have been staged. The 1994 disappearance of Myhailo Boichyshyn, a prominent leader of the Popular Movement of Ukraine party, remains unsolved.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture; however, police and prison officials regularly beat detainees and prisoners, and there were numerous reports of such abuse. Amnesty International (AI) and other human rights groups continued to receive regular reports that Berkut (special militia units or riot police) troops beat and tortured inmates as part of regular training exercises. The media report that police subject detainees to the "swallow," in which the detainee is placed on his stomach and his feet are tied to his hands behind him, forcing his back to arch. Another abuse is the "baby elephant," in which a gas mask is placed on the prisoner's head and the flow of oxygen slowly reduced. A human rights group from Cherkassy reported that in May a detainee died from injuries sustained during police torture using a method called the "monument," in which a prisoner is suspended from his hands on a rope and beaten. Requesting an attorney often leads to a worse beating, and detainees may be beaten until they waive their right to one. There is no effective mechanism for registering complaints about mistreatment or for obtaining redress for such actions. Prisoners may address complaints to the Human Rights Ombudsman, and that office has received widespread reports of torture in pretrial detention. However, the Ombudsman has no enforcement authority, and the Government made little effort during the year to end such practices or to punish officials who committed or abetted such abuses. According to the Office of the Human Rights Ombudsman, most of the complaints that it received centered on human rights violations by law enforcement personnel. In July a human rights group complained that the Ombudsman failed to investigate whether special police units beat prisoners during regular exercises in jails. Instead, the Ombudsman forwarded the petition to the penal administration. On December 1, the Parliament passed an amendment to the Criminal Code that prescribes up to 15 years' imprisonment for torture.

Police also abused Roma, particularly in the Transcarpathian region, and harassed and abused dark-skinned persons (see Section 5). Police also harassed journalists and refugees (see Sections 2.a. and 2.d.).

In April 1998, the Government created a penal department to oversee reform of the penal system and to serve as the administrative center of the penal system. The new department originally was placed under the oversight of the Ministry of Interior but was given the status of an independent government agency by presidential decree in March. However, human rights groups report that this change in status has not affected its practices. The Government failed to punish prison and police officials who committed or condoned violence against prisoners. Police corruption also remains a serious problem.

Several politically active individuals were wounded in violent attacks. On October 2, leading presidential opposition candidate Natalia Vitrenko was lightly wounded (and others more seriously hurt) in a murder attempt when two grenades were thrown at her

during a visit to Kryvyi Rih in the southeast. More than 30 persons were injured in the explosions, including members of Vitrenko's campaign staff, and 17 were hospitalized, 2 of them with critical injuries. Local police detained two suspects, one of whom allegedly is linked to the local campaign headquarters of Socialist Party presidential candidate Moroz. In April senior official of the Kiev municipal government Mykola Pidmogylny was shot and wounded seriously outside his house. On August 27, unknown assailants beat up Hennadiy Fomenko, head of Socialist Party leader Moroz's election headquarters in Luhansk oblast (province). The local police reported that they did not believe that the attack was motivated by politics. However, Moroz supporters alleged that the incident, which coincided with the visit of President Kuchma to Luhansk, was an attempt by the local government to intimidate the opposition. In October a Rada deputy for the Communist Party was beaten after attending a campaign event for Communist Party candidate Petro Symonenko in Donetsk, and a Symonenko campaign official was attacked and seriously wounded in Kiev, according to another Rada deputy. On November 23, Vinnytsia mayor and former parliamentarian and Vinnytsia oblast governor Dmytro Dvorkis was shot and wounded by unknown gunmen in Vinnytsia.

Many members of the press were hurt in violent incidents throughout the year. In February Sergey Korenev, a cameraman for the independent television station STB, was attacked in Lviv by unknown assailants, who also stole his equipment and videotapes. On March 3, two masked individuals broke into the Kiev residence of Dmitro Dahno, the commercial director of STB, assaulted him and his wife, threatened them with a knife, and held them for more than 1 hour. The two men searched the apartment, apparently looking for documents, while ignoring money and other valuables. In June in Odesa unknown individuals beat Ihor Hrinstein, a journalist for the local Odesa television company Odesa-Plus and host of its news program Oko. Hrinstein linked the beating to Oko's policy of criticizing local authorities and giving broadcast time to Rada deputies who oppose President Kuchma. Hrinstein is the latest of several Odesa journalists who have been beaten allegedly in connection with their reporting.

In January the office of the Tatar Assembly Mejlis was firebombed in Simferopol. No suspects were identified, but Tatars blamed Russian chauvinists. On May 23, a bomb exploded in the office of local Communist Party leader Leonid Hrach in Simferopol, Crimea. The explosion did not result in any casualties. Hrach called the act a provocation intended to exacerbate tensions between leftists and Crimean Tatars, who had been picketing the government building in Simferopol. At a press conference in June Socialist Party leader Moroz reported that his party's headquarters in Dnipropetrovsk had been destroyed by fire. On August 14, during a meeting between presidential candidate and former Prime Minister Yevhen Marchuk and local residents who had lost their savings in pyramid schemes, the chief of the local police department ordered that the building be evacuated because of an anonymous bomb threat. No bomb was found and Marchuk accused the presidential administration of being behind the incident.

There were continued reports of harsh conditions and violence against conscripts in the armed forces. Senior officers reportedly required malnourished recruits to beg for food or money. Senior conscripts often beat recruits, sometimes to death (also see Section 1.a.). Punishment administered for committing or condoning such activities did not serve as an effective deterrent to the further practice of such abuses. Between 1991 and 1998, 450 soldiers were convicted of violent harassment of their colleagues; and approximately 200 military personnel were prosecuted in 1998 for violent hazing (10 to 12 conscripts were beaten to death and 20 to 30 died from injuries related to hazing). The press reported the conviction of three soldiers in late 1998 for violent hazing of their colleagues at the Defense Ministry Headquarters.

Disputes between religious groups at times resulted in violence. For example, in April there was a violent scuffle between supporters of the Ukrainian Orthodox Church (Moscow Patriarchate) and the entourage of Patriarch Filaret of the Ukrainian Orthodox Church (Kiev Patriarchate)--see Section 5.

There was no improvement during the year in prison conditions, which are harsh, life-

threatening, and do not meet minimum international standards. Prison officials intimidate and mistreat inmates. Due in part to the severe economic crisis, prisons and detention centers are severely overcrowded and lack adequate sanitation and medical facilities. At the request of the President, the Parliament endorsed in July a mass amnesty that released 40,000 inmates, due to overcrowding. Because the country lacks a well-developed system of suspended sentences, and the law does not differentiate between misdemeanors and felonies, at least one-third of inmates were convicted of only minor violations.

Conditions in pretrial detention facilities routinely fail to meet minimum international standards. Inmates sometimes are held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. Overcrowding is common in these centers. For example, the pretrial detention center in Kiev, which was constructed to hold 2,850 persons, houses 3,500. According to official statistics, as of June, the prison population was 223,900 (including 42,600 persons in pretrial custody), twice that of 1992.

According to official sources, information on the physical state of prison walls and fences as well as pretrial detention blocks is considered to be a state secret. However, the press reports freely about harsh prison conditions. In 1998 there were 1,901 deaths in prisons and detention facilities, which was more than 3 times the death rate of the general population. Poor sanitary conditions result in deaths from diseases such as tuberculosis and dysentery, and there are frequent incidents of murder by fellow inmates and suicide.

Conditions in the Interior Ministry's Corrective Labor and Treatment Centers for Alcoholics (LTP's), where violent alcoholics are confined forcibly by court decision, differ little from those in prisons. Virtually no treatment is available. According to 1998 statistics, 12 LTP's with some 3,800 inmates continued to operate. The Government has not lived up to its earlier commitment to hand the LTP's over to the Health Ministry. Police have the right to take forcibly any person appearing drunk in public to special sobering centers. Human rights groups report cases of police mistreatment, robbing, or beating of detainees, occasionally to death, at such centers. In August the Government issued a decree directing the closure of such centers by 2000.

The Government continued to allow prison visits by diplomatic representatives and human rights monitors; however, these groups reported that it had become more difficult to obtain access to prisons. Cases were reported in which prisoners were not permitted correspondence and family visits were allowed only once per year. Prisoners may complain to the Ombudsman about the conditions of detention, but human rights groups reported that inmates were punished for initiating complaints.

d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention remain problems. The law provides that authorities may detain a suspect for 3 days without a warrant, after which an arrest order must be issued. The Constitution stipulates that only courts may issue arrest warrants, but under its transitional provisions, the Prosecutor's Office retains the right to issue search and arrest warrants until 2001. The maximum period of detention after charges have been filed is 18 months, but the law does not limit the aggregate time of detention before and during a trial. The law permits citizens to contest an arrest in court or appeal to the prosecutor. The Constitution requires immediate notification of family members about an arrest, but this action often is not taken in practice.

By law a trial must begin no later than 3 weeks after indictment, but this requirement rarely is met by the overburdened court system. Months may pass before a defendant finally is brought to trial, and the situation did not improve during the year. Complicated cases can take years to go to trial. Although the 1996 amendment to the Criminal Procedures Code provides for bail, it is used rarely. Restrictions on travel outside of a given area sometimes are employed. Accused persons usually are held without bail in pretrial detention for several months. As of June, there were 223,900 prisoners, 42,600 of

whom were persons held without bail in pretrial detention. The Constitution provides compensation for unlawful or arbitrary arrest, detention, or conviction, but there are no known cases in which this provision was invoked. Reports indicate that this inaction is a result of lack of faith in the judiciary, rather than the absence of unlawful or arbitrary detentions.

The law stipulates that a defense attorney be provided without charge to the indigent from the moment of detention or the filing of charges, whichever comes first. There are insufficient numbers of defense attorneys to protect suspects from unlawful, lengthy imprisonment under extremely poor conditions. Although the concept of providing attorneys from the state system remains in principle, public attorneys often refuse to defend indigents for the low government fee. While in custody, a suspect or a prisoner is allowed by law to talk with a lawyer in private; however, human rights groups report that the client-attorney privilege occasionally is denied by prison or investigative officials. To protect the defendant, each investigative file must contain a document signed by the defendant attesting that the charges against him, his right to an attorney, and his right not to give evidence against himself or his relatives have been explained to him. An appeals court may dismiss a conviction or order a new trial if this document is missing. As defendants increasingly became aware of their rights, they insisted on observance of these procedures. However, many persons still were unaware of these safeguards.

The Government occasionally charges persons who are openly critical of the Government (usually opposition politicians or editors/journalists from the opposition press) on criminal libel or tax evasion charges (see Section 2.a.). On January 15, Ministry of Internal Affairs officials arrested Volodymyr Yefremov, editor in chief of the Dnipropetrovsk oblast council newspaper Sobor and held him for 2 days. Yefremov was charged with abuse of office for alleged financial improprieties that reportedly came to light during a spot check on the newspaper's financial activities. Observers believe the arrest to have been politically motivated since the oblast council was headed by presidential rival Pavlo Lazarenko before he became prime minister, and Lazarenko was known to have contributed substantially to the newspaper's finances. On February 25, Peter Hois, the editor of the Uzhgorod newspaper Rio, was detained for 2 days for criminal libel in connection with statements that were never printed. The newspaper was to publish a statement by one of the newspaper's investors accusing various Rada deputies of abusing their positions. However, although Hois edited the original statement and deleted the specific names and accusations, the Prosecutor General still used the original text as the basis for Hois's arrest (see Section 2.a.).

On May 19, police officers in Mukachevo detained some 70 persons, primarily Roma, in a local market for illegal trading. After being kept in an overcrowded police bus for approximately 1 hour, the detainees were forced to wash the police department automobiles and to perform yardwork around the police station, while they were abused verbally by police officers. The detainees were held for 2 days, and none of the Roma was charged formally with a crime. On May 24, 16 of the Roma filed complaints against the police officers. On July 7, five police officers in Mukachevo detained three Romani women in a market, after they did not produce their identification documents. The officers took the women to the police station, where they ordered them to clean the station and threatened to lock them in cells if they refused to cooperate. When a leader of a Romani NGO arrived at the station and demanded an explanation, the women were released. The women wrote letters complaining about their treatment to the regional director of the Ministry of Interior and the regional prosecutor general.

In May three Baptist ministers were arrested in Kegichevka, as they were beginning a "tent mission."

Police also arbitrarily detain persons for extensive document checks and vehicle inspections (see Section 1.f.).

Official corruption is widespread. The Government apparently enforced anticorruption statutes selectively for political ends. While anticorruption statutes are applied

increasingly against lower-level officials, such enforcement reportedly is lacking against high-level officials. A number of people arraigned on criminal and corruption charges claimed that they were victimized because of their support to the fugitive former prime minister and government opponent Pavlo Lazarenko. Former government officials Petro Shkudun, Mykola Syvulsky, and Vasyl Koval all claimed that their cases were politically motivated by their links to Lazarenko. As of October, the first two were out on bail, and the latter was in custody pending trial on corruption charges.

In March four Uzbeks, two of them Uzbek oppositionists, were detained in Kiev and deported without a hearing to Uzbekistan, where they were convicted of terrorism and subversion and sentenced to 15 years. They were denied access to an attorney (see Section 2.d.).

The law does not provide for exile as a punishment, it does not exist in the law, and the Government does not use it.

e. Denial of a Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice, the judiciary is subject to considerable political interference from the executive branch and also suffers from corruption and inefficiency. The courts are funded through the Ministry of Justice, which allows the Government to influence the judicial process. The presidential administration also reportedly continues the old Soviet tradition of weighing in by telephone directly with justices.

The establishment of an independent judicial system provided for in the Constitution still awaits the passage of implementing legislation. As a result, the judiciary continues to operate according to Soviet principles. Most judges and prosecutors were appointed during the Soviet era, and court officials are attuned closely to the Government's interests. The High Judicial Council, which approves the appointment of judges and disciplines judges, consists primarily of senior executive branch representatives including the Prosecutor General and the Chairman of the State Security Service. Human rights lawyers claim that the judiciary is not free from government influence, particularly at the regional and local levels. For example, court chairmen are appointed directly by the executive and wield considerable influence over the outcome of a case through case assignments, control of staff and promotions, and control of social benefits available to judges. Court chairmen reportedly deliberately overburden independent-minded judges with too many cases and then instigate disciplinary actions against them for not completing their casework. There are credible reports that court chairmen regularly followed executive instructions. The Ministry of Justice and court chairmen also control judges' housing. Judges whose rulings are not in accord with the executive branch are provided with apartments far from city centers or are ignored altogether when new apartments become available.

The judiciary lacks sufficient staff and funds, which engenders inefficiency and corruption. The court system receives all its funding from the Ministry of Justice. Budgetary funds allocated by the Government in 1999 covered only half of the judiciary's requirements for the year. In June the Supreme Court challenged in the Constitutional Court the legality of the Government's practice of arbitrarily limiting the judiciary's budget. In its petition, the Supreme Court complained that the district courts received only 51 percent of required funding, military courts 33 percent, and oblast courts 62 percent. In July the Constitutional Court ruled that the Government's practice of limiting the judiciary's budget was unconstitutional. This attempt by the Government to cut the judiciary's budget, and similar attempts in recent years, demonstrated clearly the dependence of the court system on the executive and the Government's willingness to make use of that dependence.

The authority and independence of the judicial system also are undermined by the poor record of compliance with court decisions in civil cases. Provisions calling for criminal punishment for noncompliance with court decisions rarely are used. Compliance is

particularly poor if the decision clashes with government interests. The Prosecutor General, Head of the Supreme Court, chairmen of regional courts, and the chairmen of the Kiev municipal court (or the deputies of these officials) can suspend court decisions, which leads to interference, manipulation, and corruption.

Many local observers regard the Constitutional Court as the country's most independent judicial body. Human rights groups state that overall the Constitutional Court has maintained a balance of fairness, despite some indication in 1998 that it may have had a pro-presidential bias.

The 1996 Constitution provides for a thorough restructuring of the court system, to be accomplished by 2001, including the introduction of appellate courts; however, pending the passage of the required enabling legislation on the law on the judiciary, the court system still is organized along Soviet lines, with the exception of the Constitutional Court.

The court system consists of the Constitutional Court, general jurisdiction courts, and arbitration/commercial courts. General jurisdiction courts and arbitration courts are organized according to three levels: District courts; regional courts; and the Supreme Court and Supreme Arbitration Court. General jurisdiction courts are divided into criminal and civil sections. Military courts only hear cases involving military personnel.

The Constitutional Court consists of 18 members, appointed for 9-year terms in equal numbers by the President, the Parliament, and the Congress of Judges. It is the ultimate interpreter of legislation and the Constitution and determines the constitutionality of legislation, presidential edicts, cabinet acts, and acts of the Crimean Autonomous Republic. The President, at least 45 Members of Parliament, the Supreme Court, the Human Rights Ombudsman, and the Crimean legislature can request the Constitutional Court to hear a case. Citizens may apply to the Constitutional Court through the Human Rights Ombudsman, although in practice the Ombudsman has yet to exercise this right. In some limited cases, the Constitutional Court can interpret law for individual citizens, when the applying citizen provides compelling proof that a constitutional provision is violated, or that it is interpreted differently by different government bodies. However, of some 8,000 such petitions only 4 were accepted for review as of January.

Under the current court system, cases are decided by judges who sit singly, occasionally with two public assessors ("lay judges" or professional jurors with some legal training), or in groups of three for more serious cases. The Constitution provides for public, adversarial trials, including a judge, public assessors, state prosecutor, defense, and jury (when required by law). With some qualifications, these requirements are upheld in practice. However, implementing criminal procedure legislation establishing juries has not been adopted. Complicated cases can take years to go to trial. In the interim, defendants usually wait in pretrial detention. The 1996 amendment to the Soviet-era Criminal Procedures Code provides for bail, but to date it has been used rarely (see Section 1.d.).

Organized crime elements also are widely alleged to influence court decisions. The Justice Ministry reported that in 1997 135 judges were disciplined, 22 dismissed, and 5 prosecuted for bribery. No higher court judge has been disciplined to date. Criminal elements routinely use intimidation to induce victims and witnesses to withdraw or change their testimony. The law requires that a special police unit protect judges, witnesses, defendants, and their relatives. However, it has not yet been formed, and trial participants are vulnerable to pressure. There is a witness protection law, but it is in abeyance because of lack of funding.

Prosecutors, like the courts, also are organized into offices at the rayon, oblast, and republic levels. They are responsible ultimately to the Prosecutor General, who is appointed by the President and confirmed by the Parliament for a 5-year term. Regional and district prosecutors are appointed by the Prosecutor General.

Although by law prosecutors and defense attorneys have equal status, in practice

prosecutors are much more influential. The procuracy, in its pretrial investigative function, acts in effect as a grand jury. A prosecutor may initiate investigation through his own office or conduct investigations initiated by the Ministry of Internal Affairs or the SBU. Prosecutors also have the right to issue warrants without court approval and to suspend court decisions, thus effectively placing the procuracy above the courts in the legal hierarchy. In several cases the procuracy has used its judicial review powers to annul court decisions unfavorable to the presidential administration's economic or political interests and ordered the case reexamined by a different court. The office of the Prosecutor General practices selective prosecution and initiates investigations against the political or economic opponents of the President and his allies. The Prosecutor General ignores parliamentary and court requests for investigations into high-ranking persons if the accused is a presidential ally.

The Constitution considerably curtails the prosecutor's authority, limiting it to prosecution, representing the public interest in court, oversight of investigations, and implementation of court decisions. However, in the absence of new criminal and criminal procedure codes to implement constitutional restrictions, the transitional provisions of the Constitution permit the prosecutor's office to conduct investigations and oversee general observance of the law. In November 1997, the Constitutional Court interpreted the procuracy law, ruling that citizens can dispute prosecutors' decisions in court.

The Constitution includes procedural provisions to ensure a fair trial, including the right of a suspect or witness to refuse to testify against himself or his relatives. However, pending passage of legislation to implement these constitutional provisions, a largely Soviet-era criminal justice system remains in place. While the defendant is presumed innocent, conviction rates have changed little since the Soviet era. Nearly all completed cases result in convictions.

According to official statistics, in the first half of 1999, there were 114,600 convictions, between 36 and 39 percent of which resulted in prison sentences. A total of 494 defendants were acquitted, which is up 11 percent from the corresponding period last year. However, as judges frequently send cases unlikely to end in conviction back to the prosecutor for "additional investigation" (which usually leads to the dropping of the case), these statistics are somewhat misleading. Additionally, evidence indicates that suspects often bribe court officials to drop charges before cases go to trial, to lessen sentences, or to commute them.

The Dnipropetrovsk trial of former government opponent Leopold Taburiansky, who spent several months in pretrial detention in 1996 for repeatedly holding unauthorized demonstrations on behalf of duped clients of pyramid schemes, has been suspended indefinitely. Human rights groups believe that this illustrates a pattern of government use of such suspended criminal cases against opponents or their close associates to silence critics.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Authorities infringed on citizens' privacy rights. Although the Constitution requires that courts issue search warrants, this provision has not yet been implemented, and prosecutors continue to issue search warrants. The SBU may conduct intrusive surveillance and searches without a warrant, with the consent of the Prosecutor General, who nominally oversees this function of the SBU. However, the extent to which the Prosecutor General utilizes his authority to monitor SBU activities and to curb excesses by security officials is unknown. The Constitution provides citizens with the right to examine any dossier on them in possession of the SBU and to sue for physical and emotional damages incurred by an investigation. However, this right does not exist in practice, because the necessary implementing legislation has not been passed.

Some remnants of Soviet control mechanisms persist. There are no probable cause statutes, and police officials and militia personnel have the right to stop persons and vehicles arbitrarily to initiate extensive document checks and vehicle inspections. Police may detain a person arbitrarily for up to 3 hours to verify identity. There have been reports that police sometimes abused this right. For example, police detained the local leader of the opposition Socialist Party in Cherkassy for an identity check to disrupt a local leftist demonstration in August.

Journalists whose news reports are critical of the Government or who covered opposition politicians reported that frequently they were followed by SBU agents and that their telephones were wiretapped (see Section 2.a.).

Under the current "propiska" registration system, all internal passports contain a stamp indicating residence and matrimonial status (see Section 2.d.). The Government has indicated its intent to eliminate the propiska system, but little progress has been made to date.

The Law on Public Organizations prohibits members of the police, SBU, and armed forces from joining political parties. Prior to the March 1998 parliamentary elections, mass--perhaps coerced--enrollment of public sector and government employees augmented the ranks of progovernment parties, particularly the People's Democratic Party (see Section 2.b).

There were no reported cases of political abuse of psychiatry; however, the press and human rights groups have reported several cases of abuse of psychiatry for economic reasons. Persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and confined to psychiatric institutions. The disputes often entail the corruption of psychiatric experts and court officials. The country still uses Soviet classifications of mental illness and has no law on psychiatric practice. Persons diagnosed with mental illness may be confined and treated forcibly, declared not responsible for their actions, and stripped of their civil rights without being present at the hearings or notified of the ruling. A new law on psychiatry was stalled in Parliament after having been passed on first reading in 1998. In the meantime, the 1988 old Soviet psychiatric regulation remains in force (there are some 1.2 million registered psychiatric patients in the country). Within 3 days after forcible confinement to a hospital a patient must be examined by three doctors. Patients (including convicted prisoners) subsequently must be examined by the senior regional psychiatric commission within half a year. According to the Ukrainian Psychiatric Association, the Health Care Ministry has not always cooperated with human rights groups attempting to monitor abuse of psychiatry.

A presidential decree issued in June required that all communication companies and Internet providers be licensed, and that their equipment be fitted for wiretapping (implicitly by the security services). However, this decree was blocked by Parliament in September (see Section 2.a.).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution and a 1991 law provide for freedom of speech and of the press; however, in practice the Government partially limits freedom of the press through tax inspections, libel cases, subsidization, and intimidation of journalists that leads many to practice self-censorship. The Government owns or controls most of the national radio and television channels; however, there is a wide variety of newspapers and periodicals available, which espouse different political points of view, and individuals can and frequently do criticize the Government without reprisal. Government attempts to control the press are reported by the media.

The print media, both independent and government-owned, demonstrate a tendency toward self-censorship on matters sensitive to the Government. Private newspapers have been established and are free to function on a purely commercial basis, although very few turn a profit. However, they are subject to various pressures, such as control of access to affordable state-subsidized newsprint; dependence on political patrons who may facilitate financial support from the State Press Support Fund; close scrutiny from government officials, especially at the local level; and politically motivated visits by tax inspectors. In 1997 the President issued a decree on support of the press that requires the Cabinet to draw up a list of publications needing government support, including those published by central and local governments, public organizations, associations, unions, educational institutions, and newspaper employees. The journalistic community believed that this decree was intended to control the press by supporting loyal members. The dependence of much of the press on government patronage has inhibited criticism particularly at the local level. The State Committee for Information Policy has warned some periodicals against fomenting ethnic tensions and conducting antistate propaganda and has applied to the Prosecutor's Office to open investigations into those newspapers. However, no newspapers are known to have been prosecuted as a result.

The Committee on Protection of State Secrets enjoys broadly defined powers over all media. In 1997 the Cabinet adopted a regulation that further defined state secrets to include information on executions, the state of prisons, pretrial detention blocks, and centers for the forcible treatment of alcoholics. (The "state of prisons" refers to the physical state of the prison walls and fences, not prison conditions.) The press is able to report about harsh prison conditions without any inhibition. Journalists report that, in general, the Committee has not interfered with their activities (see Section 1.c.).

The Government, both central and local, regularly targeted opposition newspapers with unannounced tax inspections or fire and building code inspections. Prior to the October 31 presidential election, the Government forced at least one opposition newspaper, Polytyka, to close. The June closure, following protracted litigation and government harassment for allegedly violating secrecy statutes, was Polytyka's fourth closure in 13 months. Between March and June the newspaper also was forced to change printing houses seven times. Government officials have initiated more than 20 criminal and civil libel cases against Polytyka's editor, Oleg Lyashko, asking for more than \$40 million (220 million hryvnia) in damages. In one of two criminal libel cases pending against Lyashko for slandering the President and his staff, Lyashko was acquitted on December 23. The court stated that there was no evidence that a crime had been committed and that the preliminary investigation had been biased. However, on December 28 Prosecutor General Mikhaylo Potebenko announced the suspension of Lyashko's acquittal. The case reportedly was to be reconsidered in 2000. In September a deputy regional governor requested prosecution of the local Socialist Party newspaper Pravilny Vybor for the alleged defamation of the President and regional governor following publication of reports critical of the Government. In the summer, Lviv oblast authorities subjected the anti-Semitic newspaper Za Vilnu Ukrainu to tax inspections, fire inspections, eviction notices, the cutting of its telephone lines, and police harassment. The harassment began after the newspaper announced its support for presidential candidate and former Prime Minister Yevhen Marchuk. Den, another newspaper that supports Marchuk, was subjected to 25 tax inspections between January and July.

Kievskiye Viedomosti suspended publication on February 21, citing lack of funds, after months of government pressure against it. The newspaper's accounts had been frozen since October 1998 for alleged lease contract violations. Kievskiye Viedomosti resumed publication on April 22 under new management. Presidential ally Hrihoriy Surkis bought the newspaper and replaced its editor.

On June 1, the Parliament adopted a resolution on the media calling for investigations into all complaints of harassment of non-state media outlets by the Tax Inspectorate, the Prosecutor General's Office, or the presidential administration.

Government officials also frequently use criminal libel cases or civil suits based on alleged damage to a "person's honor and integrity" to punish critics. Article 7 of the Civil Code allows anyone, including public officials, to sue for damages if circulated information is untrue or insults a person's honor or dignity. Article 125 of the Criminal Code prescribes imprisonment of up to 3 years for libel. There is no distinction between private individuals and public officials (except for the President), nor is there a limit to the amount of damages that may be awarded. Consequently, any journalist who publishes an article critical of a public official risks being sued for damages. Additionally, the Prosecutor General can file criminal libel charges. According to Ministry of Justice statistics, 123 persons were convicted in 1998 for criminal libel. Of these, seven cases resulted in prison sentences. According to the Union of Journalists of Ukraine, journalists lose two of every three cases against them in the courts. Journalists complain that because the law does not limit damages, it can be used to drive opposition newspapers out of business.

On occasion fines were so large that accounts were frozen and equipment confiscated by the Tax Inspectorate to enforce payment. It is clear that a large number of libel and personal dignity suits are motivated politically. Moreover, even when the actions of the Tax Inspectorate are overturned by subsequent court decisions, the damage to the newspapers' finances can be irreparable. Their accounts remain frozen until all appeals are completed. Independent newspapers face further financial pressure as they try to compete with pro-presidential newspapers, which are sold at a price significantly below cost. Newspapers aligned with the presidential administration reportedly often are financed by wealthy presidential allies. The threat of multiple lawsuits for large amounts of money also was used to pressure owners of opposition newspapers to sell their shares to their political opponents.

On February 25, Peter Hois, the editor of the Uzhgorod newspaper Rio, was detained for 2 days for criminal libel in connection with statements that were never printed. The newspaper was to publish a statement accusing various Rada deputies of abusing their positions. However, Hois deleted the specific names and accusations, but the Prosecutor General used the original text as the basis for Hois's arrest (see Section 1.d.).

Journalists sometimes were subjected to physical attack related to their professional activities. Some journalists reported threats of arrest or assaults when investigating crime and official corruption (see Section 1.c.). The intermeshing of organized crime and many public officials makes it difficult to assess whether these attacks and threats were motivated politically.

Despite government pressure and media self-censorship, the variety of newspapers and periodicals on the market, each espousing the view of its respective sponsor, provides a variety of opinion. Foreign newspapers and periodicals circulate freely.

The broadcast media, the primary source of news and information for most citizens, are either state-owned or, in the case of private stations, subject to pressure from the Government, which took steps during the year to strengthen its control over this sector. In 1998 the Government handed over state-owned broadcasting and transmission facilities from the Derzhtele-radio (State Committee for Television and Radio) directly to the Information Ministry (later reorganized as the State Committee for Information Policy). The President and the Parliament each appoint half of the members of the National Council for Television and Radio Broadcasting, which issues licenses and allocates broadcasting time. However, as of October, President Kuchma had not named his half of the eight-member National Television and Radio Council. The Rada named its four members, but the President claimed that the vote was conducted with procedural irregularities. The inability of the Council to achieve a quorum provided the Government with virtually unchallenged control over media licensing prior to the presidential election.

Other state agencies took advantage of the lack of a working Council to harass opposition

stations. For example, the frequency of arbitrary tax inspections increased considerably without a working council. The State Electro-Communications Inspectorate increased the fees for broadcast frequencies tenfold in the early summer without the prior approval of the Council. Fee increases disproportionately affect independent stations, since state channels are permitted to ignore payment of their frequency fees. The law entitles private and foreign companies to obtain a license to establish and operate their own transmission facilities.

Prior to the October 31 presidential election, the Government stepped up pressure on the broadcast media, using tax inspections and other measures, and forced at least five local television stations (four in the Crimea and one in Dnipropetrovsk) to close. Numerous sources charge that the administration has used government agencies, particularly the Tax Inspectorate, to pressure the opposition media and businesses supporting its political opponents. During the year, the independent television station STB, one of the more balanced and independent media outlets, faced increasing harassment by government entities and was threatened with closure if it did not cede financial and editorial control to presidential supporters. In February and March STB staff members suffered various attacks: A cameraman was beaten and his equipment and videotapes stolen; masked individuals assaulted the station's commercial director and his wife in his home; the president of the board of directors received telephone threats; and burglars robbed the home of the station's news director, stealing videotapes, computer disks, and documents (see Section 1.c.). In March Ukrcreditbank, which is controlled by an ally of President Kuchma, announced a lawsuit of approximately \$1.3 million (5 million hryvnia) against STB for an expose the station ran on a factory privatization in which the bank played a role. On May 28 and June 7, the Ukrainian Frequency Supervision Agency ordered STB to discontinue the satellite uplink for broadcasting programming to its regional affiliates. STB ignored the order, which would have resulted in the loss of half of its viewers, since it did not believe that the order was legal. On August 26, the State Tax Administration froze STB's bank accounts for failure to pay sufficient taxes. This action caused serious financial hardship for the station, and it was forced to cancel its political programming. As of October, STB had changed its programming to take a more pro-Kuchma approach but continued to suffer from official pressure.

On March 9, the Dnipropetrovsk oblast transmission center, acting on instructions from the regional directorate of the State Electronic Communications Inspection, ceased broadcasting Channel 11, one of the city's more popular local television stations. The center claimed that Channel 11 did not have proper documentation or appropriate permits. On orders from an oblast official, the broadcast antenna on the station's roof was removed and its journalists were told to vacate the station's premises, allegedly without a warrant. The station resumed broadcasting on March 18 after it was acquired by Viktor Pinchuk, a Rada deputy, unofficial presidential advisor, and owner of the country's largest and most influential daily, Fakty.

On July 26, the State Electronic Communications Agency ordered a state-owned broadcast center to cease transmitting the signals of four independent Crimean television companies, including the popular Black Sea television station, reportedly because the broadcast center lacked the proper permits. The four stations believe that the move was intended to prevent coverage of opposition presidential candidates.

The presidential campaign saw a marked imbalance in coverage of candidates on national television and radio channels (except the STB television channel). Opposition presidential candidates received very limited and often negative coverage at the national level. Opposition candidates had more success in obtaining access to smaller local and regional television channels. According to a Rada-sponsored media monitoring group, President Kuchma appeared on national television more than twice as often as any other candidate. On July 28, three leading contenders, Yevhen Marchuk, Oleksandr Moroz, and Oleksandr Tkachenko, publicly charged that their supporters had been harassed and intimidated and that media outlets had been closed to restrict coverage of their campaigns. Despite vehement protests from the Rada, in May the state-controlled National Television and Radio Company suspended live radio broadcasts of parliamentary sessions, which had

been broadcast since 1990. (Of the 15 presidential candidates, 13 were Members of Parliament.) Radio broadcasts of Rada sessions resumed in early October on a small, private Kiev station.

There is no known government censorship of books, film, or theater.

While major universities are state owned, they operate for the most part under full autonomy. However, academic freedom is an underdeveloped and poorly understood concept. Nepotism and bribery reportedly are common during entrance exams and also influence the granting of degrees. Administrators of universities and academic and research institute directors possess the power to silence colleagues by denying them the ability to publish, withholding pay and housing benefits, or directly terminating them. This atmosphere tends to limit the spirit of free inquiry. Restrictions by the Communications Ministry on the mailing of scientific documents also have caused concern.

The State Secrets Committee maintains offices for the protection of state secrets in state scientific and research institutes, including those not conducting any classified research. An April 1998 presidential edict allows only government-designated contractors to provide Internet access at state institutions that have such censorship offices. Human rights groups fear that this may limit the freedom of information for universities and scientific research institutes. Another presidential decree in June required that all communication companies and Internet providers be licensed and that their equipment be fitted for wiretapping (implicitly by the security services). However, this decree was blocked by Parliament in September (see Section 1.f.).

All private and religiously affiliated universities operate without any reported state interference or harassment.

b. Freedom of Peaceful Assembly and Association

The Constitution and law provide for freedom of assembly, and the Government generally respects this right in practice; however, there were some instances in which this right was restricted. The 1988 law on public assembly circumscribes freedom of assembly by stipulating that organizations must apply for permission to their respective local administration at least 10 days before a planned event or demonstration. The Criminal Code prescribes up to 6 months in prison, 1 year of corrective labor, or a fine for repeatedly staging unauthorized demonstrations. The 1996 Constitution requires that demonstrators merely inform the authorities of a planned demonstration in advance; however, authorities insist that all demonstrations meet the restrictive requirements of the 1988 law. Under the 1988 law, demonstrators are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. In practice unlicensed demonstrations are common, and most but not all occur without police interference, including fines or detention; however, there were no reports of cases of interference during the year. In March the leader of a pro-Russian group in Dnipropetrovsk was jailed for 3 days for repeatedly holding unauthorized pro-Russian demonstrations.

The Dnipropetrovsk trial of former government opponent Leopold Taburiansky, who spent several months in pretrial detention in 1996 for repeatedly holding unauthorized demonstrations on behalf of duped clients of pyramid schemes, has been suspended indefinitely. Human rights groups believe that this illustrates a pattern of government use of such suspended criminal cases against opponents or their close associates to silence critics. Communist groups complain that the authorities fail to punish Ukrainian nationalist groups who harass them during their demonstrations. Ukrainian nationalist groups in turn complain that the authorities do not protect them from harassment by Communist groups.

The Constitution, law, and government regulations restrict freedom of association to

varying degrees. These restrictions generally apply to organizations that are considered dangerous, such as those which advocate violence or racial and religious hatred, or which threaten the public order or health.

A government requirement that a political party have representatives in at least half of the country's regions in order to register officially has limited the ability of Russian, Crimean, Tatar, and Romanian groups to organize (see Section 3).

The Ministry of Justice, with the Prosecutor General's consent, has the authority to warn, fine, or suspend operations of political parties for illegal operations. Suspension can be for up to 3 months and can be extended for 6 months upon the Ministry's request.

In 1998 the Constitutional Court invalidated the 1993 Crimean law on citizens' associations, thus outlawing regional Crimean parties. A 1992 law on public organizations prohibits the State from financing or materially supporting political parties. According to this law, political parties may not receive funds from abroad or maintain accounts in foreign banks. The law prohibits police authorities, members of the SBU, and armed forces personnel from joining political parties.

Prior to the 1998 parliamentary elections, mass--perhaps coerced--enrollment of public sector and government employees augmented the ranks of progovernment parties, particularly the People's Democratic Party (see Section 1.f.).

Freedom of association also is restricted through a strict registration requirement that lends itself to political manipulation and corruption; however, in practice such regulations seldom are employed to restrict this freedom. Groups must register with the Government to pursue almost any purpose. The Ministries of Internal Affairs, Justice, Economy, and Foreign Economic Relations, as well as the State Committees on Religion and Broadcasting and other government bodies have registration functions and used this power to limit freedom of association (see Sections 1.d. and 2.c.).

For example, after almost a year of attempting to register as a national organization, a Luhansk-based group for the protection of gay rights finally succeeded in registering in November. According to group representatives, local officials indicated that the group was not registered because it was a gay rights group.

Groups must be registered with the Government to engage in almost any activity, whether commercial, political, religious, or philanthropic. Unregistered groups are prohibited from opening bank accounts, acquiring property, or entering into contracts.

The registration law gives the Government the right to inspect the activities of all registered groups. This law requires that a party specify all its activities in its charter, but the party is not required to notify authorities of all its meetings. A change in the group's charter necessitates reregistration.

A registered group may not duplicate any function or service that the Government is expected to provide. For example, human rights lawyers who wish to represent prisoners are prohibited from establishing an association because the Government is required by the Constitution to provide lawyers for the accused. However, this requirement is not always enforced. In the mid-1990's, AI was refused registration under the pretext that human rights protection is the function of the State. It continued to apply and eventually was registered. Lack of registration has several important disadvantages. Unregistered groups are prohibited from having bank accounts, acquiring property, or entering into contracts.

c. Freedom of Religion

The Constitution and the 1991 Law on Freedom of Conscience and Religion provide for separation of church and state and the right to practice the religion of one's choice; the Government generally respects these rights in practice, with the exception of some

nonnative religions, which experienced difficulties registering, buying, or leasing property. The Government generally permits religious organizations to establish places of worship and to train clergy. The Government has continued to expedite allotment of land plots for construction of new houses of worship and to return religious buildings and sites to their former owners.

Although the Government's protection of religious freedom had deteriorated for nonnative religious organizations (defined as all organizations other than Orthodox, Greek Catholic, and Jewish) in recent years, nonnative religions reported less difficulty in obtaining visas and registering during the year. The Government does not discriminate against individual believers of nonnative religions, but their organizations faced ongoing difficulty in carrying out their activities during the year. However, through burdensome licensing requirements and informal means, local authorities restricted nonnative religions as well as Christian denominations other than Greek Catholic and Orthodox. The Government took steps to return to religious groups properties expropriated during the Soviet era.

A 1993 amendment to the 1991 Law on the Freedom of Conscience and Religion restricts the activities of nonnative, foreign-based, religious organization. The amendment narrowly defines the permissible activities of members of the clergy, preachers, teachers, and other foreign citizen representatives of foreign-based religious organizations. They may preach, administer religious ordinances, or practice other canonical activities "only in those religious organizations which invited them to Ukraine and with official approval of the governmental body that registered the statutes and the articles of the pertinent religious organization." Although the Church of Jesus Christ of Latter-Day Saints had complained in 1998 that this restriction prevented the transfer of its missionaries between cities, during the year church leaders reported no difficulties in transferring missionaries between cities.

All religious organizations are required by the 1991 religion law to register with the State Committee on Religious Affairs. If a group chooses to register as a national organization it must register with the central office of the State Committee for Religious Affairs, and each of its local groups must register with the local office of the State Committee in the region where they are located. Those groups that choose to register as local organizations must register only with the regional office of the State Committee. This status is necessary to own property or carry out many economic activities, such as publishing religious materials or opening bank accounts. This process is supposed to take not more than 1 month (or 3 months in cases in which either the central or regional Committee decides that an expert opinion is necessary to determine the legitimacy of a group applying for registration). However, this requirement often is not met. The regional offices also supervise the compliance of religious organizations with the provisions of the law. Some nonnative religious organizations credibly reported that, especially at the local or regional levels, officials of the State Committee refused to register their organizations for protracted periods, thus effectively delaying their activities and limiting freedom of association (see Section 2.b.). However, there were fewer reports than in prior years of nonnative religious groups experiencing such registration problems.

Native religious organizations, especially the Orthodox church in the central, southern, and eastern regions of the country and the Greek Catholic Church in the west, exerted significant political influence at the local and regional levels and pressured local officials not to register nonnative religious organizations or to allow them to rent or purchase property. Each of the two dominant denominations, within their respective spheres of influence, also reportedly pressured local officials to restrict the activities of the other.

The ongoing dispute among competing Orthodox Christian administrative bodies claiming to be "the Ukrainian Orthodox Church" remained deadlocked. The Government has been unable to stop disagreements between the Orthodox believers and Greek Catholics in the western part of the country, where the two communities are contentious and often engage in bitter disputes over church buildings and property in over 600 localities. The Kiev Patriarchate of the Orthodox Church complained of harassment by local authorities in the predominantly Russian-speaking eastern region of the country, while the Moscow

Patriarchate of the Orthodox Church complained that local governments turned a blind eye to the appropriation of its churches in the Ukrainian-speaking western region. In April Patriarch Filaret of the Ukrainian Orthodox Church of Kiev Patriarchate and his followers were assaulted by supporters of the Moscow Patriarchate in Mariupol (see Section 5). A planned tour of the country by the Moscow Patriarchate was canceled at the request of President Kuchma due to security concerns.

According to the State Committee for Religious Affairs, the transfer of most places of worship back to their original owners according to a 1992 decree on restitution was nearing completion at year's end. In 1996 and 1997, 105 buildings were returned; in 1998 92 were returned; and in 1999 103 were returned. There still were about 380 former houses of worship that were used for nonreligious purposes, but 275 of them were not claimed by religious groups. In the fourth quarter of the year, local authorities in the oblasts of Dnipropetrovsk, Donetsk, Zakarpatia, Lviv, Mykolayiv, Odesa, Poltava, Sumy, Ternopil, and Chernivtsi, as well as in Sevastopol, returned 42 former houses of worship to religious groups.

Numerous Jewish congregations have negotiated successfully with local authorities for worship space. In 1996 a Kiev arbitration court decided in favor of transferring the title of the former Kiev Central Synagogue, which in Soviet times was used as a puppet theater, to a Chabad Hasidic congregation. By December 1997, the puppet theater had vacated the building, and in the spring of 1998 the building reopened once again as a synagogue. The decision set an important precedent for the judiciary's role in religious property restitution. According to Jewish community representatives, progress on restitution was frozen for the first few months of the year but resumed thereafter at a rate satisfactory to Jewish community leaders. For example, a synagogue was returned in Poltava oblast in the fourth quarter of the year.

The pace of restitution of Christian churches has slowed in recent years, since the buildings that remain in state possession tend to be prime properties currently being used as museums, concert halls, or city halls. All religions have enjoyed equal opportunity to regain control over former community property. Problems in obtaining restitution result from inadequate legislation, bureaucratic inertia, and the difficulty of locating alternative quarters for current occupants. In February a presidential order instructed all local governments to complete the handover of former religious property whenever possible by the end of the year and banned privatization of religious communities' property. The Committee attributed delays in returning other properties to lack of funds and the difficulties involved in finding alternative space for current users.

Nonetheless, a number of religious properties were returned to Christian churches during the year. Of the 42 houses of worship returned in the fourth quarter of the year, the Ukrainian Orthodox Church received 20 buildings. In particular the Assumption Monastery in Donetsk oblast received several structures. The Kiev Patriarchate received four churches, including one of national architectural importance in Berezhany, Ternopil oblast. Authorities transferred 16 former cathedrals to the Greek Catholic Church and 4 to Roman Catholic parishes. A Lutheran church also was returned in Ternopil oblast.

In May authorities arrested three Baptist ministers (see Section 1.d.).

The Government made significant efforts during the year to ensure that pilgrims of the Bratslav Hasidic sect were able to visit the tomb of their founding rabbi in the city of Uman on the occasion of the Jewish New Year.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and with some limits, the Government respects them in practice. However, the Government has not yet fulfilled its pledge to abolish mandatory registration--the "propiska" system--and to replace it with an informational

residence register (see Section 1.f.). Regulations impose a nationwide requirement to register at the workplace and place of residence in order to be eligible for social benefits, thereby complicating freedom of movement by limiting access to certain social benefits to the place where one is registered. For example, persons who move to other regions for work in the private sector may be denied formal access to free medical care and other services provided by the State. Residence without registration carries a fine under the administrative code, but this provision rarely is enforced. Human rights groups reported an increasing number of cases of persons being stripped of their residence registration, evicted from their homes, and made homeless through criminal fraud or court error. Police also arbitrarily detain persons for extensive document checks and vehicle inspections (see Section 1.f.).

An August 1998 regulation requiring foreigners to obtain special permits to visit areas within 18 to 30 miles of the border was rescinded in April. In September the governor in Donetsk oblast declared restrictions on foreign travel for directors of enterprises owing wage arrears; however, the restrictions have not been enforced.

Citizens who wish to travel abroad are able to do so freely. Exit visas are required for citizens who intend to take up permanent residence in another country. There were no known cases of exit visas being denied during the year. The Government may deny passports to individuals in possession of state secrets, but denials may be appealed. A lapse in an Israeli-Ukrainian student exchange agreement during the year led to concerns about the ability of several hundred Ukrainian students to travel overseas for study in Israel. While negotiations continued between the Ukrainian and Israeli Governments over the renewal of the lapsed exchange agreement, the Ukrainian Government took steps to ensure that the students in question could travel to Israel.

Citizenship law provides the right to citizenship for all individuals who were born or lived in the country before independence and to their descendants who lived outside the country as of November 13, 1991. In order to be eligible, persons must not be citizens of other countries and must submit their application by the year 2000. Dual citizenship is not recognized. A 1997 amendment to the citizenship law also provides the right to citizenship for deported victims of political oppression, such as the Crimean Tatars. Refugees can acquire citizenship if they have lived legally in the country for 5 years and can communicate in the Ukrainian language. Since independence over 1.5 million Ukrainians have returned to the country, while over 1 million persons, mostly ethnic Russians, have left the country.

The Government has not supported a foreign-funded program to facilitate the travel to Ukraine of some emigrants who qualify for resettlement as refugees. Approximately 260,000 Crimean Tatars have returned from exile to Crimea, mainly from Central Asia. As of August, 192,700 of them had acquired Ukrainian citizenship. Crimean Tatar leaders have complained that their community has not received adequate assistance in resettling and that an onerous process of acquiring citizenship has excluded many of them from participating in elections and from the right to take part in the privatization of land and state assets. However, the 1997 amendment to the citizenship law waives some of the usual residence and language requirements for returning deportees and expedites the acquisition of citizenship. The amendment facilitates the acquisition of citizenship by Crimean Tatars who were deported victims of political oppression. It allows deported persons, including Crimean Tatars, to acquire Ukrainian citizenship without a mandatory 5-year term of residence in the country and without Ukrainian language proficiency. On July 13, the Rada further amended the citizenship law to allow deported persons or their descendants living in the country for 5 years to acquire automatically Ukrainian citizenship without having to renounce any foreign citizenship they may possess. Previously Crimean Tatars had difficulty obtaining documents from Uzbekistan to confirm that they had relinquished their Uzbek citizenship.

The 1993 Law on Refugees governs the treatment of refugees and entitles refugees to all the benefits accorded to citizens. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR), and refugee status initially is given for a 3-month

term and is subject to further extension. As of October, 3,500 persons (70 percent of whom are Afghans) had been granted refugee status. A commitment has been made to award refugee status to all Afghans who arrived in the country before 1995. Under the new citizenship law, legally registered refugees can apply for citizenship after 5 years of permanent residence. Under the refugee law, refugees are entitled to material assistance. The Cabinet decided to start allocating funds in the 1999 national budget for payment of refugee pensions and small allowances for indigent refugees, plus transportation fare to a refugee center. In cooperation with the UNHCR in 1997, the Government established a refugee receiving center for 200 persons in Vinnytsya. The Government plans to open four other centers elsewhere; however, no additional center has as yet been opened.

Instances of police harassment of certain categories of refugees appear to have diminished during the year.

According to the State Committee for Nationalities and Migration, the Government has a first asylum policy. This means that persons who travel directly from their home country to Ukraine as refugees are assured refugee status. However, there were some problematic cases during the year. In March four Uzbeks, including two exiled Uzbek oppositionists, reportedly were arrested without a warrant, were denied counsel, and were deported forcibly to Uzbekistan without a hearing, despite protests by human rights groups. On August 18, a court in Uzbekistan sentenced the four to between 8 and 15 years in prison for insulting the president and conspiracy against the constitution, in all but one case. The four released a statement on August 17, in which they claimed that they had been tortured and forced to give false testimony.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right and the ability to change the government peacefully. The Constitution provides universal suffrage for citizens at least 18 years of age, and for periodic elections every 4 years for the Parliament and every 5 years for the President. A presidential election was held on October 31 and November 14. Parliamentary elections took place in 1994 and in March 1998.

Power is divided between the executive, legislative, and judicial branches. Although nominally independent, the judicial branch in practice is influenced heavily by the executive (see Section 1.e.). The President appoints the Prime Minister, who appoints the remainder of the Cabinet. The Prime Minister, as well as certain other appointments, such as the Prosecutor General, is subject to parliamentary approval. The Constitution grants the President limited power to pass binding decrees and directives that have the power of law.

International observers noted violations of election day procedures in both the October 31 voting and the November 14 runoff in the presidential elections, with more numerous and serious violations occurring in the second round of voting. However the violations reportedly were not widespread or systematic. The most serious problems were imbalanced media coverage and the coordinated and inappropriate involvement of government officials in both rounds of the election on behalf of President Kuchma. The Organization for Security and Cooperation in Europe (OSCE) also was concerned over pressure exerted on voters in prisons, hospitals, and educational institutions on behalf of President Kuchma. A representative of the Parliamentary Assembly of the Council of Europe declared that the elections were "far from fair and democratic." OSCE observers noted unauthorized persons, including SBU officers, present in polling stations, especially during the runoff election, and had reports of militia involvement in campaigning. After the first round of voting, three regional administrators were dismissed, allegedly for failing to produce sufficient votes for President Kuchma in their districts. After the second round of voting, President Kuchma dismissed two oblast governors and six raion (regional) heads in those regions where Kuchma received fewer votes than Communist Party rival Symonenko. Very high voter turnouts, particularly in western districts, aroused suspicion of ballot stuffing on President Kuchma's behalf in the second round of voting. However, observers concluded that it was unlikely that these problems significantly

altered the final outcome of the election, in view of President Kuchma's 18-point margin of victory.

In the preelection period, various forms of government pressure on the media served to limit the independence of the press (see Section 2.a.). The Parliamentary Assembly of the Council of Europe found that state media coverage of the presidential campaign was biased strongly in favor of President Kuchma. In the period prior to the October 31 presidential election the Government allegedly used government agencies, especially the Tax Inspectorate, to disrupt or eliminate the businesses of political opponents prior to the elections. Presidential candidate Yevhen Marchuk reported that police ordered a meeting with voters evacuated in Luhansk in August citing an anonymous bomb threat (see Sections 1.c. and 2.b.). Other candidates reported difficulty renting meeting halls, closure of their local campaign offices by government officials, confiscation of campaign vehicles, and pressure on employees from directors of state-owned enterprises. Many opposition presidential candidates complained that the SBU overstepped its mandate and interfered in the campaign to the benefit of President Kuchma. These reports appear credible. There are confirmed reports that the SBU monitored NGO's engaged in nonpartisan political activity (see Sections 1.f. and 4). In August several Rada deputies released what appeared to be a secret SBU document addressed to an aide to President Kuchma. The document was an analysis of which publications and television and radio stations supported which presidential candidate in Mykolayiv oblast. Supporters of opposition presidential candidates were beaten by unknown assailants and one local campaign headquarters was burned down (see Section 1.c.).

Presidential candidate Oleksandr Moroz complained after the first round of voting about the presidential administration's dominance over the media and the illegal involvement of state officials in Kuchma's campaign. In response to this complaint, the Supreme Court declared on November 13 that it does not have the right to question the decision of the Central Election Committee or to declare an election null and void but that it could only order recounts in specific polling stations.

Women are active in political life but hold a disproportionately small percentage of offices. Women hold 28 of the 450 seats in the Rada. Only two women hold ministerial posts. The 18-member Constitutional Court has 2 female members.

Jews are well represented among the political elite and hold several parliamentary seats. Many Crimean Tatars are unable to participate fully in the political process, primarily due to citizenship problems (see Section 2.d.). The government requirement that a political party have representatives in at least half of the country's regions in order to register officially has limited the ability of Russian, Crimean Tatar, and Romanian minority groups to organize (see Section 2.b.).

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials generally are cooperative and responsive to their views. However, human rights groups reported more difficulties in investigating penal conditions, which are a significant human rights concern. There are confirmed reports that the SBU monitored NGO's engaged in nonpartisan political activity during the presidential election campaign (see Section 3).

In January 1998, the President signed the law creating the Parliamentary Commissioner on Human Rights, which is a constitutionally mandated independent human rights ombudsman. Parliament elected the first Ombudsman in April 1998. The Human Rights Ombudsman serves a 5-year term and, in principle, is invested by law with very broad powers. The extent of the Ombudsman's independence has not been established, and the Ombudsman's office has not yet released any reports.

The law provides the Ombudsman with unrestricted and unannounced access to any public official, including the President; unrestricted access to any government installation; and oversight of implementation of human rights treaties and agreements to which the country is a party. However, the law provides no penalties for those who obstruct the Ombudsman's investigations, nor does it create sufficient enforcement authority for the Ombudsman. The law required the Government to submit amendments to existing laws to provide the legal framework for the operation of the Ombudsman's office. The Ombudsman's office itself drafted some 70 amendments to this effect, but those amendments had not been enacted at year's end. All citizens and current residents can address their concerns to the Ombudsman. The Ombudsman also serves as the intermediary between citizens and the Constitutional Court, since citizens cannot address the Court directly. During the year, the Ombudsman made combating trafficking in persons a priority and personally traveled overseas to accompany women who were victims of trafficking back to the country (also see Section 6.f.).

Citizens have the right to file appeals with the European Court of Human Rights in Strasbourg about alleged human rights violations. According to one human rights expert, some 13,000 appeals were made to the Court in 1998 and some 200 cases were accepted by the Court for review.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of race, sex, and other grounds; however, due in part to the absence of an effective judicial system, the Government does not enforce these provisions effectively. The Government has not prosecuted anti-Semitic acts under the law forbidding the sowing of interethnic hatred.

Women

Violence against women is reportedly pervasive. While new statistics compiled by the U.N. Development Program show that the number of reported rapes and attempted rapes decreased during recent years, surveys indicate that the majority of rapes and other cases of physical abuse go unreported. Past surveys by women's groups indicated that between 10 and 15 percent of women had been raped, and over 25 percent physically abused, in their lifetimes.

The Criminal Code outlaws rape and "forced sex with a materially dependent person," which may allow prosecution for spousal rape. Spousal abuse also is illegal, but authorities often pressure women not to press charges against their husbands. Separate statistics on prosecutions for wife beating or on average sentences are not available. In 1997, the last year for which statistics are available, 1,510 criminal cases were opened for rape, 822 for sexual abuse, and 3 for sexual compulsion. Information on convictions was not available.

Violence against women does not receive extensive media coverage, despite the efforts of human rights groups to highlight the problem. Hot lines, shelters, and other practical support for victims of abuse are practically nonexistent, although there are some shelters run by private organizations. In 1998 Kiev municipal authorities opened the country's first state-funded women's center. The Government announced plans in 1998 to establish a network of shelters throughout the country but by year's end it had not yet begun to implement these plans.

Ukraine is an important source country of girls and women trafficked to Central and Western Europe and the Middle East for sexual exploitation (see Section 6.f.). An April 1998 amendment to the Criminal Code imposes harsh penalties for--among other offenses--trafficking in human beings, including for sexual exploitation and pornography; however, the effectiveness of this step has not yet been established. The authorities rarely

prosecute men for engaging women in the rapidly growing sector of sexually exploitative work.

Women's groups reported that there was widespread sexual harassment in the workplace, including coerced sex. Apart from the law that prohibits forced sex with a "materially dependent person," which applies to employees, there are inadequate legal safeguards against harassment. In the only known case of prosecution for sexual harassment in the workplace, Pravda Ukrayiny editor Oleksandr Horobets was convicted in May of sexual harassment of a subordinate and sentenced to 7 months' confinement. However, the fact that Horobets was the editor of an opposition newspaper calls into question the motives of the procuracy in prosecuting the case (see Section 2.a.).

Labor laws establish the legal equality of men and women, including equal pay for equal work, a principle that generally is observed. However, the economic crisis has harmed women disproportionately. Women are much more likely to be laid off than men. Women constitute approximately 60 percent of the unemployed population, and as much as 90 percent of newly unemployed persons. Industries that are dominated by female workers are also those industries with the lowest relative wages and the ones that are most likely to be affected by wage arrears problems.

The Constitution and the Law on Protection of Motherhood and Childhood prohibit the employment of women in jobs that are hazardous to their health, such as those that involve heavy lifting. However, despite implementation of a government program to combat dangerous labor, these laws remain poorly enforced. The Ministry of Labor estimated that 15 percent of working women are employed at hazardous jobs. Furthermore, human rights groups maintained that management selectively conforms to the law only as necessary to lay off or fire female workers. Many women's rights advocates fear that the law may be used to bar women from the best paying blue-collar jobs. By law pregnant women and mothers with small children enjoy paid maternity leave until their children reach the age of 3. However, this benefit is a disincentive for employers to hire women for responsible or career track jobs.

Few women attain top managerial positions in state and private industry. According to government statistics, 69.2 percent of the country's 213,000 state administration jobs are held by women, including 45.2 per cent of the managerial positions. However, of the highest "first" and "second" category offices, only 5.6 percent in central or local governments are filled by women. (These numbers do not include the "power ministries"--the Ministries of Defense, Internal Affairs, Foreign Affairs, and the SBU, which have substantially more male employees at all levels.)

Educational opportunities for women generally have been, and continue to be, equal to those enjoyed by men.

Children

The Government is committed publicly to the defense of children's rights, but the deep economic crisis severely limits its ability to ensure these rights. The low priority that both the public and the Government attach to children's rights is reflected in the absence of groups that aggressively promote children's rights. For example, the widely acknowledged problem of growing violence and crime in and outside schools, especially the notoriously violent vocational schools, largely is ignored by the public and the Government.

Free, universal education is compulsory until the age of 15. However, the public education system has deteriorated as a result of government financial disarray. Teachers often go unpaid for months. Increasing numbers of children from poor families drop out of school, and illiteracy, which was previously very rare, has become a problem. Health care is provided equally to girls and boys, but economic problems have worsened the overall quality of the health care system.

There were increased cases of homeless children, who usually fled poor orphanage or poor domestic conditions. Although statistics are unavailable, drug use and child prostitution among these children are widespread and received substantial media attention during the year. Several charity groups were formed to assist these children, but they have not been able to reduce the problem. In 1997 the All-Ukrainian Committee for Protection of Children released survey results that reveal that every fifth or sixth child of both sexes under age 18 suffers from sexual harassment (including every third girl), and every tenth girl is raped.

Deteriorating conditions in the state orphanages led the Government to encourage families to provide foster homes for orphans and to facilitate the establishment of private, government-supervised orphanages. Currently, there are 75 such orphanages with some 800 children. Public concern over the fate of children adopted by foreigners led to a 1997 amendment to the adoption law, which provided for thorough examination of each case and follow-up monitoring of the children's well-being. To curb illegal adoption, an April 1998 amendment to the Criminal Code prescribed up to 15 years' imprisonment for trafficking in children and illegal adoption (see Section 6.f.). However, there had been no known successful cases of its application by year's end.

People with Disabilities

The law prohibits discrimination against the disabled, but the Government has done little to support programs targeted at increasing opportunities for the disabled. The law mandates access to buildings and other public facilities for the disabled, but it is enforced poorly.

Religious Minorities

On April 30, a violent scuffle took place in the southeastern city of Mariupol between supporters of the Ukrainian Orthodox Church (Moscow Patriarchate) and the entourage of Patriarch Filaret of the Ukrainian Orthodox Church (Kiev Patriarchate). Filaret had come to Mariupol to consecrate a cross erected on the future site of a Kiev Patriarchate church. Although initial press reports indicated that Filaret was beaten severely and hospitalized, it later became known that he had escaped with only very minor injuries. The Patriarch's aide, Father Superior Dymytryi, and a local Kiev Patriarchate priest, Father Volodymyr, were taken to the hospital with concussions and minor injuries. Several members of the local Kiev Patriarchate parish also were beaten and taken to the hospital. At a press conference on May 6, Filaret showed videotape that confirmed much of his version of the April 30 events. It showed a group of Filaret's opponents pulling down a new cross installed at the construction site of the new church. At the conference he accused Donetsk regional authorities of complicity in the scuffle and of actively supporting the Moscow Patriarchate.

Anti-Semitism exists on an individual and societal basis. However, the central Government generally discouraged it. Some ultranationalist groups and newspapers continued to publish and distribute anti-Semitic tracts regularly. Anti-Semitic publications also are imported from Russia and distributed without the necessary state license. Presidential candidate Yuriy Karmazin, who according to polls was supported by less than 1 percent of voters, complained during his candidacy of "Jewish control of the media." However, during the year President Kuchma repeatedly and publicly spoke about the need for the peaceful coexistence of ethnic and religious groups. Also during the year, authorities opened a criminal case against the editor of the Lviv-based newspaper *Idealist* for fomenting interethnic hatred. Moreover, the Procuracy warned certain publications against publishing anti-Semitic material. Early in the year, the Shimon Dubnov Ukrainian Academy of Jewish History and Culture filed suit against the nationalist newspaper *Vechirniy Kiev* for publishing anti-Semitic diatribes about the Academy's collection of scholarly articles, "Judeophobia Against Ukraine," which was published in 1998. The case still was pending at year's end.

Anti-Semitic incidents continue to occur but, according to local Jewish organizations, have declined in number over recent years and were concentrated in western regions of the country.

During the year, there were no arrests made in the 1997 firebombing of the Kharkiv Israeli cultural center, nor have there been any prosecutions for the desecration of Jewish cemeteries in 1997.

There were occasional statements by Ukrainian Orthodox Church officials (both Moscow and Kiev Patriarchates) denouncing the spread of nonnative religions and sharply criticizing their missionary activities. Evangelical Christian missionaries reported some instances of societal discrimination against members of their churches, such as salary cuts, layoffs, and public criticism for betraying "native religions".

Native religious organizations, especially the Orthodox Church and the Greek Catholic Church, pressured local and regional officials not to register nonnative religious organizations or to allow them to rent or purchase property. Both these denominations also reportedly pressured officials to restrict the activities of the other (see Section 2.c.).

National/Racial/Ethnic Minorities

Frequent harassment of racial minorities is a problem. Police officials routinely detain dark-skinned persons for arbitrary document checks. In addition, there were increased reports of racially motivated violence against persons of African and Asian heritage. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them.

Roma face considerable societal discrimination. Opinion polls have shown that among all ethnic groups, the level of intolerance is highest toward Roma. In the Transcarpathian region in particular, Roma continue to be subject to violence and abuse by police (see Section 1.c.).

The Constitution provides for the "free development, use, and protection of the Russian language and other minority languages in Ukraine." This compromise builds on a 1991 law on national minorities, which played an instrumental role in preventing ethnic strife by allowing individual citizens to use their respective national languages in conducting personal business and by allowing minority groups to establish their own schools. Nonetheless, some pro-Russian organizations in eastern Ukraine complained about the increased use of Ukrainian in schools and in the media. They claim that their children are disadvantaged when taking academic entrance examinations, since all applicants are required to take a Ukrainian language test.

In Crimea Ukrainian and Crimean Tatar minorities credibly complain of discrimination by the Russian majority and demand that Ukrainian and Tatar languages be given equal treatment to Russian. According to Tatar leaders, unemployment is as high as 50 percent in their community. In January the office of the Tatar Assembly Mejlis (the unofficial Tatar parliament) was firebombed in Simferopol. No suspects were identified, but Tatars blamed Russian chauvinists. On May 18, some 35,000 Tatars demonstrated in Simferopol on the 55th anniversary of Stalin's deportation of the Tatars to Central Asia for official recognition of the Mejlis, Tatar representation in the Crimean parliament, and official status for the Tatar language. That same day President Kuchma created a presidential Tatar Advisory Committee that includes all members of the Mejlis. Tatar protestors then erected a tent camp in front of the Crimean government building. On May 24, the Tatars took down their tents after Crimean prime minister Serhiy Kunitsyn agreed to their demands for the creation of a council to represent Tatar interests in the Crimean government, for the right of Tatars returning from Central Asia to own land, and for the creation of Tatar schools.

While the Crimean government, pleading insufficient funds, did not assent to requests from the Crimean Tatar community for assistance in reestablishing its cultural heritage through Tatar language publications and educational institutions, the central Government is working with the UNHCR, OSCE, and the International Organization for Migration on support for the Crimean Tatar community.

Of the 260,000 Crimean Tatars who have returned to the country from exile in Central Asia, some 67,000 still lack citizenship. Crimean Tatar leaders have complained that their community has not received adequate assistance in resettling, and that the onerous process of acquiring citizenship has excluded many of them from participating in elections and from the right to take part in the privatization of land and state assets (see Section 2.d.).

Romanians are calling for university-level instruction in Romanian or the establishment of a Romanian technical college. There are 86 Romanian-language schools in the Chernivtsi oblast.

Rusyns (Ruthenians) are calling for status as an official ethnic group in the country. At a congress held in Uzhhorod on June 27, representatives of the Rusyn community called for Rusyn-language schools, a Rusyn-language department at Uzhhorod University, and for Rusyn to be included as one of the country's ethnic groups in the 2001 census. According to Rusyn leaders, more than 700,000 Rusyns live in the country.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right to join trade unions to defend "professional, social and economic interests." Under the Constitution, all trade unions have equal status, and no government permission is required to establish a trade union. The 1992 Law on Citizens' Organizations (which includes trade unions) stipulates noninterference by public authorities in the activities of these organizations, which have the right to establish and join federations on a voluntary basis. In principle all workers and civil servants (including members of the armed forces) are free to form unions. In practice the Government discourages certain categories of workers, for example, nuclear power plant employees, from doing so. A new trade union law designed to replace Soviet-era legislation was adopted by Parliament and signed into law by the President in September.

The successor to the Soviet trade unions, known as the Federation of Trade Unions (FPU), has begun to work independently of the Government and has been vocal in advocating workers' right to strike. The FPU has supported the protests of miners and other professions over unpaid wages. However, as during the Soviet era, most FPU affiliates work closely with management. Following President Kuchma's 1998 appointment of the head of the FPU-affiliated coal miners' union to be director of the national coal monopoly, the FPU ended support for striking miners. Enterprise managers are free to join the FPU. In 1997 the FPU leadership created a political party, the All-Ukrainian Party of Workers, which is virtually indistinguishable from the FPU.

Independent unions now provide an alternative to the official unions in many sectors of the economy. The Independent Miners' Union of Ukraine (NPGU), unions representing pilots, civil air traffic controllers, locomotive engineers, aviation ground crews, and other unions operate either independently or within one of three national confederations. While exact membership is unknown, estimates for independent union membership range from 100,000 to 300,000, while estimates for FPU-affiliated unions range from 17 to 23 million members. Independent unions have claimed unsuccessfully a share of the former Soviet trade unions' huge property and funds, especially the social insurance benefits fund, a Soviet-era legacy traditionally controlled by the official unions.

Independent unions claimed that the new trade union law is more restrictive than the old

Soviet legislation. To acquire national status, a union must have representation in more than half of the 14 regions of Kiev, or at one-third of the enterprises in a regionally based sector, or have a majority of union members in the sector. National status and registration confer the right to acquire space, property, to maintain bank accounts, and to enter legally binding agreements. These new requirements are likely to make it difficult for miners and sailors to organize. Another contentious requirement is mandatory registration by the Justice Ministry. Registration determines participation of a union in the national collective bargaining agreement with the Government, as well as membership on the Social Insurance Fund Board (see Section 6.b.). Independent unions are concerned that the Justice Ministry could deny registration to unions seen as undesirable. Additionally, management no longer is obligated to provide free accommodation and telephone lines to unions. However, the law gives unions a say in labor safety and division of newly built housing.

The Constitution provides for the right to strike "to defend one's economic and social interests." The Constitution states that strikes must not jeopardize national security, public health, or the rights and liberties of others. The law does not extend the right to strike to members of the procuracy, judiciary, armed forces, security services, law enforcement agencies, and public servants. However, a 1998 Law on Labor Disputes Resolution extends the right to strike to employees of "continuing process plants," for example, metallurgical factories, provided that they give 15 days' advance notice of their intent to strike. The law prohibits strikes that jeopardize life or health, the environment, or that can hinder disaster, accident, or epidemic-related operations.

The law does not prohibit specifically strikes based on political demands. The law prohibits strikes based on demands to change the constitutional order, state borders, or the administrative division of the country, as well as on demands that infringe on human rights. The Government has relied on the prosecutors and the courts to deal with strikes that it considered illegal. The law does not extend the immunity from discipline or dismissal to strikers who take part in strikes that later are declared illegal by the courts. A union that organizes an illegal strike is liable for strike-inflicted losses.

In February 500 nuclear plant workers camped in tents outside the country's 5 nuclear power plants to protest their unpaid wages and to demand that the Government allocate more money to the nuclear power industry. At that point wage arrears for nuclear power plant employees totaled \$42 million (150 million hryvnia), according to an atomic energy workers' union. The press reported on February 18 that six coal miners protesting wage arrears cut their wrists as a suicide threat in Lukansk oblast. In August the Independent Miners' Trade Union threatened to suspend coal supplies starting in September unless the Government began to pay back wages owed to miners. At that time some 2,000 coal miners were on strike in the Donetsk region and hundreds of spouses and children of miners were protesting in Luhansk. Union leaders reported that wage arrears to miners totaled more than \$435 million (2 billion hryvnia) as of August.

There are no official restrictions on the right of unions to affiliate with international trade union bodies. The NPGU is a member of the Federation of Chemical, Energy, Mine, and General Workers' Union.

b. The Right to Organize and Bargain Collectively

The Law on Enterprises states that joint worker-management commissions should resolve issues concerning wages, working conditions, and the rights and duties of management at the enterprise level. Overlapping spheres of responsibility frequently impede the collective bargaining process. The Government, in agreement with trade unions, establishes wages in each industrial sector and invites all unions to participate in the negotiations. The Law on Labor Disputes Resolution, which came into force in March 1998, provides for the establishment of an arbitration service and a National Mediation and Reconciliation Service to mediate labor disputes. However, these services have not yet been established.

The manner in which the collective bargaining law is applied prejudices the bargaining process against the independent unions and favors the official unions (affiliates of the FPU). Most workers never are informed that they are not obligated to join the official union. Renouncing membership in the official union and joining an independent union can be bureaucratically onerous and typically is discouraged by management. The collective bargaining law prohibits antiunion discrimination. Under the law, disputes should be resolved by the courts. There have been cases in which such disputes have not been settled in a fair and equitable manner.

Under the new trade union law, an independent union also can be removed easily from the collective bargaining process at the enterprise level. Under the old law, if several unions at an enterprise failed to agree on joint representation, the bigger union (i.e., the FPU) represented labor in the bargaining process. The new law failed to repair this grievance.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution and the Labor Code prohibit forced and compulsory labor, and it generally is not known to occur; however, the country is a major source of girls and women trafficked for sexual exploitation (see Section 6.f.). The Government does not prohibit specifically forced and bonded labor by children; however, there were no reports of such practices, apart from victims of traffickers. The country is an important source of girls and women trafficked for sexual exploitation (see Section 6.f.).

Human rights groups described as compulsory labor the common use of army conscripts and youths in the alternative service for refurbishing and building private houses for army and government officials. In 1998 student groups protested against a presidential decree obliging college and university graduates, whose studies have been paid for by the Government, to work in the public sector at government-designated jobs for 3 years or to repay fully the cost of their education. Students described the decree as an anticonstitutional attempt to introduce compulsory labor, as the Constitution provides for free choice of job and one's agreement to work. The Government stated that the decree would cover only students who entered higher education institutions in 1997 and thereafter. The extent of enforcement of the decree is unknown. However, human rights groups reported complaints from medical and law students that they had been forced to accept government-assigned jobs for 3 years in repayment for the cost of their education or not receive their diplomas.

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum employment age is 17; however, in certain nonhazardous industries enterprises may negotiate with the Government to hire employees between 14 and 17 years of age, with the consent of one parent. The Constitution provides for general secondary education. School attendance is compulsory to the age of 15, a regulation vigorously enforced by the Ministry of Education. However, since the Soviet era the number of dropouts has increased significantly, mostly because of rising poverty. The Criminal Code prescribes up to 5 years in prison for involving children in criminal activities, drinking, begging, prostitution, gambling, or other exploitation. The Government does not prohibit specifically forced and bonded labor by children, but there were no reports that it occurred, apart from victims of traffickers (see Sections 6.c. and 6.f.).

e. Acceptable Conditions of Work

The minimum monthly wage and pension is about \$16.37 (73.7 hryvnia), and the officially reported average monthly wage is about \$34.55 (155.5 hryvnia), which does not provide a decent standard of living for a worker and family. Moreover, millions of persons

go unpaid for many months because of shrinking budget revenue. As of October, the official poverty line is about \$26.30 (118.3 hryvnia) per month, which does not correspond to the real subsistence level. It is estimated that some 50 percent of the population officially lives below that line, although the practice of underreporting sources of income is widespread. On September 17, the Rada adopted a new minimum old age pension of \$12.22 (55 hryvnia), but the President vetoed it on October 1, stating that the budget could not fund such pensions.

The Labor Code provides for a maximum 40-hour workweek, a 24-hour period of rest per week, and at least 24 days of paid vacation per year. Stagnation in some industries, for example, defense, significantly reduced the workweek for some categories of workers.

The law contains occupational safety and health standards, but these frequently are ignored in practice. Lax safety standards and aging equipment caused many serious accidents, resulting in over 18,000 persons injured and 913 killed in work-related accidents during the first half of the year. According to the Coal Mining Ministry, in the first half of the year there were 12 major mine accidents in which 11,152 persons were injured. During the first 7 months of this year, 190 miners were killed in mining accidents. In theory workers have a legal right to remove themselves from dangerous work situations without jeopardizing continued employment. In reality, however, independent trade unionists reported that asserting this right would result in retaliation or perhaps dismissal by management.

f. Trafficking in Persons

The country is a major source country of women and girls trafficked to Central and Western Europe and the Middle East for sexual exploitation. The International Organization for Migration estimated in 1998 that 100,000 citizens had been trafficked abroad for this purpose since 1991. Italian officials estimate that at least 30,000 Ukrainian women are employed in Italy; and between 1991 and 1997 Israeli authorities deported 1,500 Russian and Ukrainian women who had been trafficked there. The Parliament passed an amendment to the Criminal Code in April 1998 that imposes harsh penalties for--among other offenses--trafficking in human beings, including for sexual exploitation and pornography. Also, during the year the Government established special police units to investigate trafficking crimes. However, the effectiveness of these steps has not yet been established. In June the Human Rights Ombudsman established a National Coordinating Council for the Prevention of Trafficking in Human Beings. The organization has yet to demonstrate its effectiveness. Trafficking is becoming a higher priority for law enforcement agencies, but these agencies often lack the financial and personnel resources to combat well established criminal organizations that run trafficking operations.

The authorities do not prosecute routinely men for engaging women in the rapidly growing sector of sexually exploitative work. There were several recent cases of criminal prosecution on such charges; however, the sentences were not severe. In September two women were sentenced to 5-year suspended sentences and fined about \$150 (680 hryvnia) for trafficking women to brothels in the former Yugoslavia. A man in Kherson was given a suspended sentence and a fine for engaging women in prostitution in September. In March authorities in Sevastopol arrested three individuals on suspicion of selling some 200 young women and girls to be used as forced labor in night clubs or as prostitutes in Turkey, Greece, and Cyprus. In August police in the Netherlands arrested a Ukrainian man along with three Dutch citizens for their role in a major network trafficking in women. The four were accused of forcing women from Eastern Europe and countries of the former Soviet Union to work in sex clubs in the southern part of the Netherlands. Some of the trafficked women were from Ukraine, according to authorities.

NGO's claim that the local militia receives bribes in return for ignoring this problem. Moreover, some reports alleged that local public officials abetted or assisted organized criminal groups in trafficking women abroad.

Women who are trafficked out of the country often are recruited by firms operating abroad and subsequently are taken out of the country with legal documentation. Once abroad the women find the work to be very different from what was represented to them initially.

The Government, primarily due to lack of funds, is unable to assist victims effectively. Some NGO's, such as the domestic NGO La Strada, began offering some support services for victims of trafficking but also suffered from a shortage of funds. With foreign assistance, three regional trafficking prevention centers have been established in Donetsk, Lviv, and Dnipropetrovsk. The centers offer job-skill training, run telephone hot lines, and serve as referral centers for health, legal, and psychological counseling. La Strada hotlines served 700 women from June 1998 through January.

In August authorities in the Netherlands arrested a Ukrainian national and three Dutch nationals for trafficking women to sex clubs in the southern Netherlands from Ukraine, Belarus, Poland, and Romania.

In September the Cabinet of Ministers adopted a national program for the prevention of trafficking in women and children, involving 20 ministries, local governments, international organizations, donors, and domestic and international NGO's. The program is to combat trafficking as well as to assist victims. However, severe budget restraints may limit the ability of the Government to implement the program effectively. The Ombudsman made trafficking a priority (see Section 4). The Ministry of Education approved a curriculum on trafficking prevention and awareness in all high schools.

Public concern over the fate of children adopted by foreigners led to a 1997 amendment to the adoption law, which provided for thorough court examination of each case and follow-up monitoring of the children's well-being. To curb illegal adoption, an April 1998 amendment to the Criminal Code prescribed up to 15 years' imprisonment for trafficking in children and illegal adoption. However, there have been no known successful cases of its application (see Section 5).

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