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UKRAINE

COUNTRY ASSESSMENT

Country Information and Policy Unit

April 2002

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1. Scope of Document

1.1. This assessment has been produced by the Country Information & Policy Unit of the Immigration & Nationality Directorate, Home Office, from information obtained from a variety of sources.

1.2. The assessment has been prepared for background purposes, for those involved in the asylum determination process. The information it contains is not exhaustive, nor is it intended to catalogue all human rights violations. It concentrates on the issues most commonly raised in asylum claims made in the United Kingdom.

1.3. The assessment is sourced throughout. It is intended to be used by caseworkers as a signpost to the source material, which has been made available to them. The vast majority of the source material is readily available in the public domain.

1.4. It is intended to revise the assessment on a six-monthly basis, while the country remains within the top 35 asylum-producing countries in the United Kingdom.

1.5. An electronic copy of the assessment has been made available to the following organisations:

Amnesty International UK

Immigration Advisory Service

Immigration Appellate Authority

Immigration Law Practitioners' Association

Joint Council for the Welfare of Immigrants

JUSTICE

Medical Foundation for the Care of Victims of Torture

Refugee Council

Refugee Legal Centre

UN High Commissioner for Refugees

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2. GEOGRAPHY

Location and Climate

2.1. The Republic of Ukraine (formerly the Ukrainian Soviet Socialist Republic) is situated in east-central Europe. It is bordered by Poland, Slovakia, Hungary, Romania and Moldova to the west, by Belarus to the north and by the Russian Federation to the north-east and east. To the south lie the Black Sea and the Sea of Azov. Ukraine is comprised of approximately 233,090 square miles.[1] and after Russia, is the second-largest country in Europe. Except for the Carpathian Mountains in the west and the small Crimean range in the south, 95% of Ukraine's territory is a plain that gradually slopes from the north-west to the south.[3]

2.2. The climate is temperate, especially in the south. The north and north-west share many of the continental climatic features of Poland or Belarus, but the Black Sea Coast is noted for its mild winters. Droughts are not infrequent in southern areas.[1]

Population

2.3. The Ukrainian people belong to the southern branch of the Eastern Slavs. The name "Ukraina", which originated in the twelfth century, denotes border-land: the area lacks natural frontiers and has a troubled history.[7a] Located across the main routes between Europe and Asia, Ukraine was repeatedly exposed to various and frequently competing cultures.[3] The capital of Ukraine is Kiev (Kyiv), which has an estimated population of 2,635,000.[1]

2.4. At the beginning of 1998, the population of Ukraine was officially estimated at 50.5 million. Of this number, approximately 74% are ethnic Ukrainians, 22% are ethnic Russians, while the remainder is made up of ethnic Jews, Belarusians, Moldovans, Bulgarians, Poles, Hungarians, Romanians, Greeks, Tatars, Roma (Gypsy), Crimean Tatars, Armenians and others.[1] More than 100 different ethnic groups live in Ukraine.

Language and Religion

2.5. The official state language is Ukrainian, an Eastern Slavonic language written in the Cyrillic script.[1]

2.6. Most of the population are adherents of Christianity, the major denominations being the Ukrainian Orthodox Church (Moscow Patriarchate), the Ukrainian Orthodox Church (Kievan Patriarchate), and the Roman Catholic Church (mostly 'Greek' Catholics, followers of the Uniate or Eastern rite). There are also a number of Protestant churches and small communities of Jews and Muslims.[1]

Economy

2.7. Ukraine became a member of the IMF and the World Bank in 1992, and in June 1994 signed an agreement of partnership and co-operation with the European Union. Ukraine is also a member of the Black Sea Economic Co-operation Group. In late 1994, a programme of economic reforms was initiated, with the aim of narrowing the budget deficit and reducing the rate of inflation.[1]

2.8. By 1996, the reform programme had achieved some success, with a significant reduction in the rate of inflation contributing to the stabilisation of the economy. The second stage of the economic reform process was launched in late 1996 and aimed to accelerate the privatisation programme, to remove the remaining price controls and to restructure the energy sector.[1]

2.9. The introduction of a new currency, the hryvnya, in September 1996, was an indication of Ukraine's increased financial stability. Progress continued towards economic stabilisation during 1998, with inflation decreased to a negligible level by mid-year and the budget deficit significantly reduced. However, as the Russian financial crisis escalated, Ukraine was adversely affected by the declining fortunes of its principal trading partner. The IMF reached agreement with Ukraine in July 1998 on a three-year stabilisation and structural reform programme, which was to be supported by a US \$2,200 million loan. However, wage arrears remained at a critical level and in 1999, even with overseas financial aid, Ukraine was severely encumbered by the magnitude of its domestic and external debt commitments in relation to the level of its foreign reserves.[1]

2.10. Ukraine has the second largest economy among the former Soviet Union states, Russia's being the largest. While Ukraine's gross national product has contracted sharply since independence (official figures suggested a fall of around 40% between 1991 and 1997), the reality is probably less dramatic, as it is widely believed that the black economy is around the same size as the official economy. Living standards have also declined, but have been cushioned by food supplies from ubiquitous private plots of land. Meanwhile, wages and pensions remain unpaid in many areas.[7a]



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3. HISTORY

Ukrainian Independence

3.1. The advent of parliamentary politics in 1990 publicised the names of former political prisoners, who became the leaders of democratic groups, increasing their public profile.^[2] In a climate of unprecedented activism, Ukraine held its first relatively free elections^[3] in March 1990, in which Rukh and other groups, with similar views gained around 170 seats. However, in the Russian-speaking communities of eastern Ukraine and in rural regions, there was stronger support for the Communist Party Ukraine (CPU), which won an estimated 280 seats. Despite Rukh's support for independence, the government signed the protocol to a new draft union treaty with the USSR in March 1991.^[1]

3.2. When, on 19 August 1991, the State Committee for the State of Emergency (SCSE) attempted to stage a *coup d'état* in Moscow, there was an initially cautious response from the Ukrainian leadership. A declaration which effectively denounced the SCSE was adopted by the Presidium and the Ukrainian Supreme Soviet on 20 August 1991, but opposition leaders protested that the leadership had been indecisive in its response. The collapse of the *coup* and the subsequent banning of the CPU led to significant changes in the politics of Ukraine.^[1]

3.3. On 24 August 1991, the Supreme Soviet adopted a declaration of independence, pending confirmation by a referendum on 1 December 1991. Despite his past record as a loyal communist official, Leonid Kravchuk's experience and support for Ukrainian independence ensured his election as President on 1 December 1991,[1] when the declaration of independence was overwhelmingly approved by 90% of the population.[2] This was followed by measures aimed at consolidating independence, including the establishment of the Ukrainian armed forces and new national symbols by early 1992.[1]

3.4. The lack of a recent tradition of statehood brought many problems in the early days of Ukrainian independence.^[2] By early 1993, disputes concerning economic policy were dominating domestic politics, which led to growing conflict between President Kravchuk and the Prime Minister, Leonid Kuchma, who subsequently resigned in September 1993, after which Kravchuk assumed direct control of the government and announced early elections to a new 450-member parliament, the Verkhovna Rada (Supreme Council), in March and April 1994.^[1]

3.5. In July 1994, Kuchma was elected President on a platform of better relations

with Russia and economic reform,[7a] defeating Kravchuk, who had emphasised Ukraine's independence from Russia and secured a majority of votes in western Ukraine.[1]

3.6. The Rada approved a new constitution on 28 June 1996. It confirmed extensive new powers of appointment granted to the President, including the right to nominate the Prime Minister, and guaranteed the right to private ownership. Meanwhile, unrest in the coal-mining industry led to one-fifth of the mining community striking in July 1996. The matter was only settled when the government pledged to settle wage-arrears. Protest at the government's failure to pay public sector wages re-emerged in October 1996, when some 15,000 teachers went on strike in Kiev. This was followed by mass rallies and strikes in other cities later that month. The economic crisis continued and in February 1997 the Ministers of Finance and Statistics were dismissed by the President. Nationwide demonstrations took place in March 1997, because of the government's continued failure to pay wage arrears, and the issue continued to provoke social unrest.[1]

3.7. A total of thirty parties and electoral blocs contested the parliamentary elections to the Rada on 29 March 1998. The result of the elections demonstrated widespread support for left-wing parties, primarily the CPU (re-registered in 1993),[1] which gained a total of 122 seats,[6] to become the largest party in the legislature, although it was far short of an overall majority. Eight parties exceeded the 4% threshold required to secure representation: the CPU,[1] the People's Democratic Party of Ukraine (77 seats), Rukh (48 seats), Hromada (45 seats), the Green Party of Ukraine (26 seats), the Socialist Party of Ukraine and Peasants' Party of Ukraine Bloc (25 seats), the United Social Democratic Party of Ukraine (23 seats), and the Progressive Socialist Party (14 seats).[6] In addition, of the directly-elected seats, the greatest number were won by independent candidates, many of whom were reformist business executives, who, it was believed, would support the government's economic programme. While voter turnout was 70.8%, several serious violations of electoral law were reported by independent observers; in particular, restrictions were imposed on the opposition media in the period prior to the elections.[1]

3.8. President Kuchma was re-elected after two rounds of voting on 31 October and 14 November 1999. While there were some irregularities during the election campaign and the balloting, almost all observers agreed that the election results reflected the will of the electorate.[11] A total of thirty-three parties and electoral blocs contested the parliamentary elections to the Rada on 31 March 2002. For preliminary results, see para 4.5.

Crimea

3.9. Crimea is an autonomous region within Ukraine, which was transferred from Russian to Ukrainian territory by the Soviet authorities in 1954. Ethnic Russians constitute approximately 70% of its population. In 1992, under pressure from Kiev, the Crimean authorities renounced the idea of political independence in return for broad autonomy. Crimea has its own government and parliament,[1] but disagreement between Kiev and the Crimean authorities over the degree of autonomy which Crimea should enjoy has caused tensions since Ukrainian independence. These have so far been managed through negotiations.[7a]

3.10. Following the return by late 1992 of some 250,000 Crimean Tatars to their homeland from Soviet Central Asia (where they had previously been deported *en masse* in 1944 for alleged collaboration with the Germans[2]), relations between the local leadership and Crimean Tatars deteriorated steadily. In October 1992, a Tatar encampment was dispersed on the orders of the Crimean government, and in response some 6,000 Tatars stormed the Crimean parliament building.[1]

3.11. In 1994-5, President Kuchma and his government reacted firmly to Crimean

attempts to go beyond the bounds of the Ukrainian Constitution. The Crimean authorities eventually yielded to pressure, and agreed to Ukrainian demands that they prepare a new Constitution. This they had done by October 1995, but its adoption prompted mass rallies and hunger strikes by Crimean Tatars, who claimed that it ignored their interests, in particular by failing to provide adequate status for the Crimean Tatar language. It was substantially amended before being finally adopted in December 1996.[1]

3.12. Elections to the Crimean parliament, held simultaneously with the central parliamentary elections in March 1998, brought the issue of the status of Crimean Tatars to the fore, when demonstrations were staged by Tatars appealing for the right of suffrage. It was estimated that about half of the Tatars then resident in Crimea did not have Ukrainian citizenship, and were therefore ineligible to vote. (also see para 5.36) The Ukrainian Rada rejected a proposal by Kuchma to allow those Crimean Tatars who had not yet received Ukrainian citizenship, but whose applications were pending, to participate in the elections. The results of the elections demonstrated a similar support for left-wing parties in Crimea as had been shown in Ukraine. Leonid Hrach, leader of the Communist Party of Crimea, was elected Chairman of the new Supreme Council, and upon the expiry of the Crimean government's mandate in May, a new Council of Ministers was appointed, with Serhiy Kunitsyn as Prime Minister. The appointment was subsequently approved by Kuchma. In January 1999, a new Crimean Constitution came into effect, establishing relations between Kiev and Crimea and giving Crimea the right to manage its own property and form a budget. In February 1999, the first Crimean Tatars received Ukrainian passports and citizenship.[1]

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4. State Structures

The Constitution

4.1. The Constitution of the Republic of Ukraine was adopted at the fifth session of its parliament, the Verkhovna Rada (Supreme Council) of Ukraine, on 28 June 1996. It replaced the Soviet-era Constitution (Fundamental Law), originally passed on 12 April 1978 but amended several times after Ukraine gained independence in 1991.[1]

4.2. The fundamental principles of the Constitution are: the Republic of Ukraine is a sovereign and independent, unitary and law-based state, in which power is exercised directly by the people, through the bodies of state power and local self-government. The life, honour, dignity and health of the individual are recognised as the highest social value. The Constitution is the highest legal authority; the power of the state is divided between the legislative, the executive and the judicial branches. The state language is the Ukrainian language. The use and protection of Russian and other languages of national minorities, and the development of minorities' ethnic and cultural traditions is guaranteed. The state ensures protection of all forms of ownership rights and management, as well as the social orientation of the economy. The state symbols of Ukraine, its flag, coat of arms and anthem, are established.[1]

4.3. In addition, the Constitution declares the rights and freedoms of individuals to be unalienable and inviolable regardless of race, sex, political or religious affiliation, wealth, social origin or other characteristics. Fundamental rights, such as the freedoms of speech and association and the right to private property, are guaranteed. Citizens have the right to engage in political activity, and all individuals are entitled to work and to join professional unions to protect their employment rights. The Constitution commits the state to the provision of health care, housing, social security and education. All citizens have the right to legal assistance. Obligations of the citizenry include military service and taxes. The age of enfranchisement for Ukrainian citizens is 18 years, and elections to organs of the state are declared to be free and conducted on the basis of universal, equal and direct suffrage by secret ballot.[1]

Political System

4.4. Ukraine is governed by a directly-elected president and a unicameral parliament, the Verkhovna Rada, which is elected partially according to proportional representation and partially by direct constituency mandate.[1]

Executive power is vested in the President and the Prime Minister, while legislative power is the prerogative of the 450-member Verkhovna Rada. The President is elected by direct, popular vote for a mandate of five years. President Leonid Kuchma, first elected in 1994,[1] was re-elected after two rounds of voting on 31 October and 14 November 1999. While there were some irregularities during the election campaign and the balloting, almost all observers agreed that the election results reflected the will of the electorate. The current Rada was elected for a four-year term in March 1998, and despite numerous flaws and irregularities, that election is also regarded as having generally reflected the will of the electorate.[11] The President appoints the Prime Minister and the members of the Cabinet of Ministers. Ukraine is a unitary state, divided for administrative purposes into 24 oblasts (provinces), one Autonomous Republic (Crimea), and two metropolitan areas (Kiev and Sevastopol). The Constitution guarantees local self-government to regions, cities, settlements and villages.[1]

4.5. Parliamentary elections were held on 31 March 2002. The full impact of the elections was still unclear when this assessment was published. The pro-presidential 'For a United Ukraine' bloc claimed a narrow lead (119 seats), ahead of Viktor Yushchenko's 'Our Ukraine' bloc (112 seats) and the Communist Party. The Communist Party saw its parliamentary representation cut nearly in half, falling from 113 deputies in the outgoing assembly to 66 members in the new one. The anti-presidential 'Yulia Tymoshenko' bloc, the Democratic Party (United) were the only other parties crossing the 4% barrier and winning seats in the new parliament.[33] OSCE observers reported some progress towards the observance of international electoral standards concerning the elections but noted that important flaws persisted.[34]

Judiciary

4.6. The Constitution provides for an independent judiciary, but in practice the judiciary remains subject to considerable political interference. The courts are funded through the Ministry of Justice, which allows the government to influence the judicial process. The Constitution provides for a thorough restructuring of the court system by June 2001. In an effort to meet the June 2001 deadline, the President established a council on judicial reform in August 2000; however, the council has had little impact and Parliament has not yet passed a new law on the judiciary. While the establishment of an independent judicial system awaits the passage of implementing legislation, the judiciary continues to operate according to Soviet principles. Most judges and prosecutors were appointed during the Soviet era, and court officials are closely attuned to government interests, the influence of which is particularly strong at regional and local levels. The authority and independence of the judicial system are also undermined by a lack of sufficient staff and funds, which engenders inefficiency and corruption.[11]

4.7. The existing court system consists of the Constitutional Court, general jurisdiction courts and arbitration, or commercial, courts. The courts of general jurisdiction are divided into criminal and civil sections. These and the arbitration courts are organised on three levels: district (rayon) courts, regional (oblast) courts, and finally, at national level, the Supreme Court and Supreme Arbitration Court. Military courts only hear cases involving military personnel. The Constitutional Court 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 Constitutional Court hears cases at the request of the President, at least 45 Parliamentarians, the Supreme Court, the Parliament's Human Rights Ombudsman, or the Crimean legislature. Citizens may only apply to the Constitutional Court through the Human Rights Ombudsman, although in practice the Ombudsman has yet to exercise this right.[11]

4.8. The judiciary is overburdened and inefficient, which undermines the citizens' right to a fair trial. By law, a trial must begin no later than three weeks after indictment, but this requirement is rarely met by the overburdened court system

and there can be long delays. Lengthy pre-trial detention in very poor conditions is common, and detainees often spend months in pre-trial detention for offences that involved little or no prison time if convicted. While months may pass before some defendants are finally brought to trial, complicated cases can take years to get to trial. The 1996 amendment to the Criminal Procedures Code provides for bail, but this has rarely been used. Meanwhile, restrictions on travel outside of a given area are sometimes employed. The law stipulates that a defence lawyer be provided without charge to the accused from the moment of detention or the filing of charges, whichever comes first. However, insufficient numbers of defence lawyers, the low government fee they receive, and a lack of awareness of their rights on the part of detainees mean that this provision is often undermined.[11]

4.9. The Constitution provides for compensation for unlawful or arbitrary arrest, detention or conviction, but there are no known cases where this provision has been invoked, which, on the evidence, indicates a lack of faith in the judiciary, rather than the absence of unlawful detentions. The Constitution also includes procedural provisions to ensure a fair trial, but pending the passage of legislation to implement these constitutional provisions, a largely Soviet-era criminal justice system remains in place, which is reflected in the sustained level of conviction rates: almost all completed cases result in convictions.[11]

4.10. Organised crime elements are also widely alleged to influence court decisions. The Justice Ministry reported that in 1997, 135 judges were disciplined, 22 dismissed, and 5 prosecuted for bribery. Evidence indicates that suspects often bribe court officials to drop charges before cases go to trial, to reduce sentences or to commute them. Meanwhile, 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, but this has not yet been formed and trial participants remain vulnerable to pressure.[11]

Military Service

4.11. Military service is compulsory for males over eighteen years of age, for a period of twelve months in the ground forces and air forces, and fifteen months in the navy.[1] The upper age limit for conscripts is 25 years.[23]

4.12. Conditions for conscripts and other military personnel have caused concern. The military have revealed that 107 servicemen committed suicide in 1997, while the use of force against subordinates and other breaches of military conduct resulted in 800 cases of injury during that year, including five dead and forty-four permanently crippled. Meanwhile, 788 cases of draft evasion were recorded, due to "lack of law and order" in the army: 3,300 crimes were committed in the armed forces in 1997, 38% involving felonies and 11% involving the use of arms.[7b] During 1999, violence against conscripts by fellow-soldiers continued and sometimes resulted in death. There were reports of harsh conditions and beatings, and punishment administered for committing or condoning such practices did not serve as an effective deterrent to further abuses. Between 1991 and 1998, 450 soldiers were convicted of violent harassment of their colleagues. In 1998, approximately 200 military personnel were prosecuted for violent bullying; between ten and twelve conscripts were beaten to death, and twenty to thirty died from injuries relating to bullying.[11]

4.13. A law on **alternative service** was adopted by the Rada in December 1991. [13] It allows people who object to military service on religious grounds to "perform works for the public good" instead. However, a radio report the following November suggested that the law was not enforced until the end of 1992. At present, the percentage of males allowed to undertake alternative military service is low, at around the region of between 1.2 and 1.5%.[7b] In March 1999, an amendment to the alternative service law reduced the period of alternative service from 36 months (24 for those with a full higher education) to 27 months

(18 months for those with a full higher education and a master's degree, or specialists). Alternative service can be undertaken only when the authenticity of an individual's religious convictions has been established by a military commission.[22]

Internal Security

4.14. The Security Service of Ukraine (SBU), the Ministry of Internal Affairs (which controls the various police forces), and the Ministry of Defence all have equal responsibility for internal security and report to the President through the Cabinet. While the armed forces have largely remained outside of politics and the civilian authorities generally maintain effective control of the security forces, institutional government corruption can sometimes lead to their improper use. The SBU, police, and Prosecutor's Office have attracted domestic and international criticism for their failure to take adequate action to curb institutional corruption and abuse in the government. Meanwhile, the SBU and other government agencies have interfered indirectly in the political process, through criminal investigations of politicians, journalists and influential businessmen.[11]

4.15. Law enforcement personnel are believed to be responsible for a large proportion of the human rights violations reported. Some remnants of Soviet control mechanisms survive in many guises and official corruption is widespread. In particular, police corruption remains a serious problem. Police and prison officials regularly beat detainees and prisoners, and there are numerous reports of torture, sometimes resulting in death. For those who have suffered human rights abuses by members of the security forces, there is no effective mechanism for registering complaints about mistreatment or for obtaining redress. Meanwhile, the government has made little effort to end such practices or to punish officials who have committed or abetted the abuses (see V. Human Rights).[11]

4.16. Police officials and militia personnel have the right to stop persons and vehicles arbitrarily to initiate extensive document checks and vehicle inspections, and police may detain a person arbitrarily for up to three hours to verify identity. Arbitrary arrest and detention for longer periods remain problematic. The law provides that the authorities may detain a suspect for three 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 eighteen months, but the law does not limit the aggregate time of detention before and during a trial. In addition, 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 it uses its authority to monitor SBU activities and to curb excesses by security officials is unknown.[11]

Legal Rights/Detention

4.17. The Constitution prohibits arbitrary arrest and detention; however, arbitrary arrest and detention remained problems. The Constitution provides for compensation for unlawful conviction and the law allows compensation for illegal arrests; although, these provisions are rarely invoked.[11]

4.18. The law permits citizens to contest an arrest in court or appeal to the prosecutor. The Constitution requires immediate notification of family members concerning an arrest, but this action often is not taken in practice.[11]

Prisons

4.19 Abuse of prisoners and detainees along with harsh prison conditions have, at times, led to death. During the first six months of 2001, there were 865 deaths in prison and detention facilities, many due to harsh conditions (see Prison Conditions section V.B).[11]

Medical

4.20. Medications and treatment is available for most conditions within Ukraine. The constitution provides for health care to all citizens, but most of the drugs have to be paid for by the patients.

Educational System

4.21. While the major universities in Ukraine are state-owned, they operate for the most part under full autonomy. However, academic freedom within universities is an underdeveloped and poorly understood concept. University administrators 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. All private and religiously affiliated universities operate without any reported state interference or harassment.[11]

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5. HUMAN RIGHTS

5A Human Rights Issues

Overview

5.1. The 1996 Constitution provides a legal framework for protecting civil and human rights,[11] which reflects Ukraine's commitments as a member of the Council of Europe (since November 1995)[9b] and signatory to a number of international human rights instruments,[9a] including the European Convention on Human Rights.[9b] However, many constitutional provisions still await the passage of enabling legislation, while many areas of life are still regulated by Soviet law and practices, which means that actual human rights practices often do not conform to constitutional requirements. During 1999, there was limited progress in some areas of Ukraine's human rights record, although serious problems persist. The government has made little effort to punish officials who have committed or abetted human rights abuses or to end such abuses.[11]

5.2. A wide variety of domestic and international human rights groups operate in Ukraine without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally co-operative and responsive to their views, but enquiries into penal conditions, which are a significant human rights concern, are limited by their status as state secrets, and human rights groups have reported increased difficulties in investigating in this area. In January 1998, the President signed the law creating the Parliamentary Commissioner on Human Rights, which is a constitutionally mandated independent human rights ombudsman, and parliament elected the first Ombudsman in April 1998. However, the law does not provide any significant enforcement authority or provide for penalties for obstructing the Ombudsman's enquiries. Nevertheless, the Office of the Human Rights Ombudsman has still been active in investigating human rights violations, and states that most of the complaints it has received involve abuses by law enforcement personnel. Citizens have the right to file appeals about alleged human rights violations with the European Court of Human Rights in Strasbourg. According to one human rights expert, some 13,000 appeals were made to the Court in 1998 and some 200 cases were accepted for review.[11]

5.3. The Constitution prohibits torture, but there have been numerous reports of torture and ill-treatment of suspects in police custody and prisons throughout Ukraine, in contravention of its commitments as a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the International Covenant on Civil and Political Rights.[4b] Police and

prison officials regularly beat detainees and prisoners, and there have been persistent reports that Berkut (special militia units or riot police) troops beat and torture inmates as part of regular training exercises. Two forms of torture reported are the "swallow" method, whereby the detainee is placed on his stomach and his feet are tied to his hands behind him, forcing his back to arch, and the "baby elephant" method, whereby a gas mask is placed on the victim's head and the flow of oxygen is slowly reduced. Another form of torture employed is called the "monument" method, whereby the detainee is suspended from his hands on a rope and beaten. Some detainees are beaten until they waive their right to a lawyer. 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, who has received widespread reports of torture in pre-trial detention, but this avenue is limited by the Ombudsman's lack of enforcement authority, prisoners' fears of punishment for initiating complaints, and insufficient effort on the part of the government to end such practices or to punish those responsible. One positive step came in December 1999, when the Rada passed an amendment to the Criminal Code that prescribes up to fifteen years' imprisonment for torture.^[11]

5.4. Ukraine committed itself to a moratorium on the death penalty on joining the Council of Europe in November 1995. However, subsequent reports indicated that at least 212 people were executed between then and March 1997, which led the Council of Europe to adopt a third resolution, in January 1998, condemning the continuing executions in Ukraine and threatening it with expulsion should more executions be carried out. Reports indicated that at least 345 prisoners remained under sentence of death at the end of 1998, which caused further international concern and doubts over Ukraine's commitment to ending the death penalty.^{[4a],[4c]} However, in February 2000, the Rada passed amendments to the Criminal Code which abolish the death penalty in Ukraine. Crimes previously punished by the death penalty are now punishable by life imprisonment.^[14]

5.5. Citizens have the right and ability to change their government peacefully. The Constitution provides universal suffrage for citizens of at least 18 years of age, and for periodic elections every four years for the parliament and every five years for the president. Parliamentary elections took place in 1994 and March 1998, and a presidential election took place on 31 October and 14 November 1999. In the presidential election, international observers noted violations of election procedures in both the 31 October voting and the 14 November runoff, but these violations were not considered to be widespread or systematic. The most serious problems were unbalanced media coverage and the co-ordinated and inappropriate involvement of government officials in both rounds of the election on behalf of President Kuchma. There were also various forms of government pressure on the media prior to the elections, which served to limit the independence of the press. The government is alleged to have used government agencies, in particular the Tax Inspectorate, to disrupt or eliminate the businesses of political opponents.[11]

5.6. The Constitution, law and government regulations restrict freedom of association to varying degrees. These restrictions generally apply to organisations that are considered dangerous, such as those which advocate violence or racial and religious violence, or which threaten the public order or health. The law prohibits members of the police, SBU and armed forces from joining political parties (see **Annex B: Main Political Organisations**).^[11]

Freedom of Speech and the Media

5.7. The Constitution and a 1991 law provide for freedom of speech and the press, but in practice the government partially limits freedom of the press through tax inspections, libel cases, subsidisation and intimidation of journalists, that leads many to practice self-censorship. While the government owns or controls most of the national radio and television channels, there is a wide variety of

Religion

Freedom of Assembly & Association

5.10. The Constitution and law provide for freedom of assembly, and the government generally respects this right in practice. However, the 1988 Law on Public Assembly circumscribes freedom of assembly by stipulating that organisations must apply for permission to their respective local administration at least ten days before a planned event or demonstration. Under that law, participants in demonstrations are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. The Criminal Code prescribes up to six months in prison, one year of corrective labour or a fine, for repeatedly staging unauthorised demonstrations. In practice, however, unlicensed demonstrations are common, and most occur without police interference or harassment. [11]

5.11. The Constitution and Labour Code prohibit forced and compulsory labour. The minimum employment age is 17; however, in certain non-hazardous industries, enterprises may negotiate with the Government to hire employees between 14 and 17 years of age.^[11]

5.12. Work conditions and pay levels were impacted adversely by the overall poor state of the economy. The minimum monthly wage is approximately \$22. The minimum wage is enforced in the official economy for employees who work full time; although, Parliament declared that the official subsistence level for the year was approximately \$58.[11]

5.13. The Labour Code provides for a maximum 40 hour week, a 24 hour period of rest per week and at least 24 days of paid vacation per year. Stagnation in some industries, such as in defence, significantly reduce the workweek for some categories of workers.[11]

5.14. The law contains occupational safety and health standards; however, these frequently are ignored in practice. Lax safety standards and ageing equipment have caused many serious accidents and even some deaths. In theory workers have a legal right to remove themselves from dangerous work situations without jeopardising continued employment, in reality, independent trade unionists reported that asserting this right would result in retaliation or perhaps dismissal by management.[11]

People Trafficking

5.15. The law prohibits trafficking in persons; however trafficking in women and girls is a significant problem. Ukraine is a major country of origin and transit country for women and girls trafficked abroad for sexual exploitation. They are solicited with promises of work but once abroad the women find the work to be very different from what was represented to them initially.[11]

5.16. A 1998 amendment to the criminal code imposes harsh penalties for, among other offences, trafficking in human beings, including sexual exploitation and pornography. The new Criminal Code that became effective on September 1 also contains anti-trafficking provisions; Article 149 mandates 3 to 15 years of imprisonment for trafficking. Under some circumstances, for example, trafficking of children or groups of victims, traffickers can be sentenced to prison terms of up to 10 years. The Government does not routinely prosecute suspected traffickers, although the number of such cases has increased in the last year.[11]

5.17. Trafficking is becoming a higher priority for law enforcement agencies, but often these agencies lack the financial and personnel resources to combat criminal organisations that run trafficking operations. The Government generally co-operates with other governments in the investigation and prosecution of trafficking cases; however, efforts are hampered by a number of factors, including insufficient investigative resources, the reluctance of victims to give evidence against traffickers, and in some cases, lack of co-operation from officials in destination countries. [11]

Freedom of Movement

5.18. The Constitution provides for freedom of movement within the country, foreign travel, emigration and repatriation, and, with some limits, these freedoms are respected in practice. Until November 2001, the propyska system, a nationwide requirement to register at the workplace and place of residence in order to be eligible for social benefits, remained in place. Access to certain social benefits was limited to the place where one was registered, for example, persons who moved to other regions for work in the private sector could be denied formal access to free medical care and other services provided by the Government. In November the Constitutional Court ruled that the propyska system was unconstitutional. The Government had not yet implemented a substitute informational register by year's end and while fines for residence were no longer applied, information was insufficient to determine whether individuals who had not been registered had access to social benefits they had been denied previously. During 2000, human rights groups reported a number of cases of

people being stripped of their residence registration, evicted from their homes, and made homeless through criminal fraud or court error.[11]

5.19. Ukrainian citizens are required to carry internal passports, which contain a stamp indicating residence and matrimonial status.[11] It is not possible for persons abroad to obtain copies of internal passports, but birth certificates can be obtained by relatives and posted to a person outside of Ukraine. Without a photograph, however, the authorities cannot identify the person in the documentation and can only provide confirmation that the person in question exists.[8b]

5.20. Citizens who wish to travel abroad are able to do so freely, although exit visas are required for citizens who wish to take up permanent residence in another country. There were no known cases of exit visas being denied during 1999.[11] Under Ukrainian law, a citizen requires an external passport to leave the country and this is not difficult to obtain. The Ministry of Internal Affairs retains information on people who have external passports, and if another country needs to know whether a person is a Ukrainian citizen, it can contact the Ukrainian Embassy which, after making enquiries, should be able to verify whether the person is a citizen.[8b] The government may deny passports to individuals in possession of state secrets, but denials may be appealed.[11]

5.21. As of 1 January 1998, following an announcement made in October 1997, Soviet passports ceased to be valid for departure from Ukraine and all citizens wishing to travel are required to hold Ukrainian passports. This applies regardless of the term left in the old Soviet passports. Returning Ukrainians who are Soviet passport holders are allowed entry, but are required to change their passports prior to their next departure (although some flexibility is being allowed in a limited number of individual cases). Ukrainian Embassies abroad are issuing new passports on request.[7b]

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5B Human Rights - Specific Groups

Women

5.22. Violence against women is reportedly pervasive. According to new statistics compiled by the United Nations Development Programme, the number of reported rapes and attempted rapes have decreased during recent years, but surveys indicate that the majority of rapes and other cases of physical abuse go unreported. The Criminal Code outlaws rape, including within marriage, but the authorities often pressure women not to press charges against their husbands. Violence against women does not receive extensive media coverage, despite the efforts of human rights groups to highlight the problem. Hotlines, shelters and other practical support for victims of sexual abuse are practically non-existent. In 1998, the Kiev municipal authorities opened the country's first state-funded women's centre, and the government announced plans to establish a network of shelters throughout the country, but it does not appear to have begun to implement these plans yet.[11]

5.23. Ukraine is an important source country of girls and women trafficked to western and central Europe and the Middle East for sexual exploitation. The International Organisation for Migration estimated in 1998 that 100,000 Ukrainians had been trafficked abroad for this purpose since 1991. The government took steps to address the problem in April 1998, with an amendment to the Criminal Code that imposes harsh penalties on those who traffic human beings, including for sexual exploitation, but the effectiveness of these steps remains unclear. The authorities rarely prosecute men for engaging women in sexually exploitative work, and there are reports that the militia receives bribes in return for ignoring this problem, and even that public officials have abetted or assisted organised criminal groups in trafficking women abroad. The government is unable to assist the victims effectively, primarily due to a lack of funds, and other support services also suffer from a shortage of money.[11]

5.24. Labour laws establish the legal equality of men and women, including equal pay for equal work, a principle that is generally observed. However, the economic crisis has harmed women disproportionately, and women are much more likely to be dismissed than men. The Constitution and the Law on Protection of Motherhood and Childhood prohibit the employment of women in jobs that are hazardous to their health, for example, jobs that involve heavy lifting. However, despite implementation of a government programme to combat dangerous labour, these laws remain poorly enforced and the Ministry of Labour has estimated that 15% of working women are employed at hazardous jobs.[11]

5.25. Few women attain top managerial positions in state and private industry.

By law, pregnant women and mothers with small children enjoy paid maternity leave until their children reach the age of three, a benefit which is a disincentive for employers to hire women for responsible or career track jobs. However, educational opportunities for women have generally been equal to those enjoyed by men. Women are active in political life, but hold a disproportionately small percentage of offices. While women hold 28 of the 450 seats in the Rada, only two women hold ministerial posts. The eighteen-member Constitutional Court has two female members.[11]

Children

5.26. The government is publicly committed to the defence of children's rights, but the deep economic crisis severely limits its ability to ensure these rights. The widely acknowledged problem of growing violence and crime in and outside of schools, especially the notoriously violent vocational schools, is largely ignored by the public and the government. The government does provide free, universal education for children, which is compulsory until the age of fifteen. However, the public educational system has deteriorated as a result of government financial disarray. Teachers often go unpaid for months, while 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 for children, but economic problems have worsened the overall quality of the system.[11]

5.27. There have been increased cases of homeless children, who usually flee poor orphanage or domestic conditions, and drug use and child prostitution among these children are widespread. Several charity groups have been formed to assist these children, but they have failed to reduce the problem. Deteriorating conditions in state orphanages led to government encouragement of families to provide foster homes for orphans, and of the establishment of private government-supervised orphanages. Currently, there are seventy-five such orphanages, with some 800 children. To curb illegal adoption, the April 1998 amendment to the Criminal Code prescribed up to fifteen years' imprisonment for trafficking in children and illegal adoption, although there have been no known successful cases of its application.[11]

Ethnic Groups

5.28. Although Ukraine did not experience the inter-ethnic violence that occurred in some other Soviet republics in the late 1980s and early 1990s, the ethnic diversity of the country has caused some serious problems.[1] Throughout his mandate, President Kuchma has taken a clear public stance against xenophobia and has spoken of a need for systematic, considered and constructive steps to strengthen intra-national relations,[8c] and of a need for the peaceful co-existence of ethnic and religious groups.[11] With an estimated 130 minority groups,[8c] which make up approximately 27% of the population, [1] Ukraine is viewed as a melting pot for different peoples and cultures, rather than as an ethnically defined state. The maintenance of inter-ethnic calm there has been attributed to the consistent government stance, aimed at reassuring ethnic minorities concerning their legal status and cultural freedom.[8c] As a sign of its willingness to support ethnic minorities, the government of Ukraine has encouraged ethnic groups expelled by Stalin to return to Ukraine, including Crimean Tatars, Germans and Poles from Central Asia.[8a]

5.29. Several laws guarantee protection of the rights of minorities in Ukraine. These include the 1989 Law on Languages, the 1991 Law on Freedom of Conscience and Religion, the 1992 Law on National Minorities, as well as the 1996 Constitution, which assures their right to receive instruction in their native language, and to study their native language in state and communal educational establishments and through national cultural societies. Several sources indicate that these rights are generally respected in Ukraine, but also

suggest that the enforcement of laws protecting minorities is a problem, due to the lack of an effective legal system.[8c]

Africans and Asians

5.30. There are reports of discrimination and frequent harassment of ethnic minorities and, increasingly, of racially motivated violence against those of Asian and African origin. Police officials harass and abuse dark-skinned people, who are routinely detained for arbitrary document checks. Representatives of these groups have claimed that police officials also routinely ignored, and sometimes abetted, violence against them.[11]

Carpathians (Rusyns)

5.31. In the western region of Transcarpathia, which had formed parts of Czechoslovakia and Hungary before the Second World War, the independence referendum of 1 December 1991 included a separate question on the introduction of an autonomous status for the region. Demands for the establishment of a Transcarpathian Autonomous Republic have been made especially strongly by the Society of Carpathian Ruthenians (Rusyns), who consider themselves ethnically distinct from Ukrainians. In March 1992, they established the Subcarpathian Republican Party.[1] As part of their efforts to obtain official status as a distinct ethnic group in Ukraine, a congress was held in June 1999, when representatives of the Rusyn community called for Rusyn-language schools and for Rusyn to be included as one of the country's ethnic groups in the 2001 census. According to Rusyn leaders, there are more than 700,000 Rusyns in the country.[11]

Hungarians

5.32. Estimated at approximately 163,100 by the 1989 census,[1] the Hungarian population of Ukraine is largely concentrated in the multi-ethnic Transcarpathia. No agreement could be reached on an autonomous Hungarian district for the Berehovo region, as requested by the inhabitants. High-level Ukrainian political figures have ruled that only self-government and cultural autonomy would be acceptable, but even so, permission was not granted to make bilingual Ukrainian-Hungarian signs mandatory in minority-inhabited areas. Nonetheless, bilingual road signs were in evidence in the area in 1991. [8a]

5.33. Despite Ukrainian reluctance to grant ethnic Hungarians full territorial autonomy, Hungary has described their treatment by Ukraine as exemplary. Ukraine and Hungary have established co-operation on minority rights which, according to a high-ranking Hungarian official, could serve "as an example for the entire region, as well as for Europe." [8a]

Roma (Gypsies)

5.34. There are almost 48,000 Roma residing in Ukraine.[1] They face considerable societal discrimination and opinion polls have shown that, among all ethnic groups, the level of intolerance is highest towards the Roma. In the Transcarpathian region in particular, the Roma have been subject to violence and abuse by police.[11]

Romanians

5.35. Estimated at approximately 134,800 by the 1989 census, ethnic Romanians constitute another significant element of Ukraine's ethnic minority population.[1] Some ethnic Romanians living in the Chernivtsy oblast of south-

western Ukraine have accused the Ukrainian authorities of curbing some of their rights, specifically on travel and other contacts with Romania. Ukraine has dismissed these accusations and pointed to the cultural freedoms and facilities enjoyed by the Romanian minority. In 1992, the then chairman of Ukraine's State Committee on Nationality Affairs, Yuri Olenenko, noted that in Chernivtsy oblast, where 20% of the population is Romanian, 86 out of the 420 schools use the Romanian language.[8a] However, in September 1998, the Romanian government accused the authorities in Ukraine of practising discrimination, when eighteen Romanian schools were closed, and spoke of a need to check the way in which Romanians in Ukraine can exercise their rights as laid down in the basic treaty between the two countries.[19]

Russians

5.36. Russians constitute the largest ethnic minority in Ukraine, numbering over 11 million, comprising 22% of the population as a whole, and 70% in Crimea.[1] These high numbers are largely a reflection of the Soviet policy of in-migration of Russians to Ukraine, as part of its Russification programme throughout the Soviet Union. For Russians, Ukraine was a particularly attractive destination, with its good climate and high level of socio-economic and cultural development, together with a familiar linguistic and cultural heritage. With the number of Russians in Ukraine growing from just three million in 1926 to almost ten million in 1979, there was a high rate of intermarriage between Russians and Ukrainians, which further contributed to the Russification of Ukraine.[3]

5.37. Although large numbers of Russians can be found throughout the country, they are heavily concentrated in the industrial regions of eastern and southern Ukraine, bordering on Russia. Under the Soviet regime, the Russian population of Ukraine had been provided with a full range of Russian language facilities to satisfy its cultural and educational needs. Since independence, there has been an increasing Russian resistance to perceived Ukrainianisation measures, not the least of which has been the rapid growth in the use of the Ukrainian language, which had been widely regarded as inferior under the Soviet regime. [8a] While the Constitution provides for "the free development, use and protection of the Russian language and other minority languages in Ukraine," some pro-Russian organisations in eastern Ukraine have complained about the increased use of the Ukrainian language in schools and the media. They claim that their children are disadvantaged when taking academic entrance examinations, since all entrants are required to take a Ukrainian language test. In addition, a government requirement for political organisations to have representatives in at least half of the country's regions as a prerequisite for registration as a political party has limited the ability of some Russian groups to organise.[11]

5.38. However, while there have been claims of discrimination against Russians in Ukraine, there is no evidence of serious Russian-Ukrainian ethnic tension. [8a] Opinion polls indicate that almost half the number of Russians would prefer to be citizens of Russia or the Soviet Union, rather than of Ukraine.[6] Since independence, over 1 million people, mostly ethnic Russians, have left the country.[11]

5.39. Dissatisfaction among ethnic Russians with the policies of the Ukrainian government has been encouraged by the worsening economic situation, and has tended to increase the demands that Russian be granted the status of second official language, accompanied by calls for dual Ukrainian-Russian citizenship, a federated structure for Ukraine, and closer ties to Russia.[8a] However, although Ukrainian officials may speak of a strategic partnership with Russia, the official view in the country is that Ukraine, unlike Russia, is historically a European state that came under Russian imperial domination for many centuries and is now striving to rejoin its true cultural world of Europe.[5] Russia's ratification of the controversial Russia-Ukraine Treaty of Friendship,

Co-operation and Partnership in February 1999, in which Russia finally recognised the territorial integrity of Ukraine within its current borders, met with strong opposition from those who argued that it would deprive Russia of Crimea, worsen the situation of ethnic Russians living in Ukraine, and open the way for Ukraine to join NATO.[20]

Crimean Tatars

5.40. Following the return by late 1992 of some 250,000 Crimean Tatars to their historic homeland from Soviet Central Asia (where they had previously been deported *en masse* in 1944 for alleged collaboration with the Germans[2]), relations between the local leadership and Crimean Tatars deteriorated steadily.[1] While the Ukrainian Government provided some financial assistance, the Tatars' return has caused tension with other residents in Crimea. The Tatars allege that they are discriminated against by local employers, that they have difficulty securing land, and that in some instances their temporary shelters have been destroyed by local militia. The Russian majority in the peninsula has resisted acknowledging the rights of the Tatars. Crimean Tatars generally support Ukrainian sovereignty over Crimea, but have called for the renewal of their national-territorial status on the peninsula.[8a]

5.41. Crimean Tatar leaders have complained that their community (now numbering about 300,000[6]) has not received adequate assistance in resettling and that an onerous process for acquiring citizenship has excluded many of them from participating in elections and from the right to take part in the privatisation of land and state assets. However, a 1997 amendment to the citizenship law waives some of the usual residence and language requirements for returning deportees and expedites the acquisition of citizenship, including for those Crimean Tatars who were the deported victims of political oppression. The amendment allows deported persons to acquire Ukrainian citizenship without the mandatory five-year term of residence in Ukraine and without Ukrainian language proficiency. In July 1999, the Rada further amended the citizenship law to allow deported persons or their descendants living in the country for five years to acquire automatically Ukrainian citizenship without having to renounce any foreign citizenship they may possess. Previously, Crimean Tatars had difficulty in obtaining documents from Uzbekistan to confirm that they had relinquished their Uzbek citizenship.[11]

5.42. A government requirement for political organisations to have representatives in at least half of the country's regions as a prerequisite for registration as a political party has limited the ability of Crimean Tatar groups to organise.[11] While the approval of a new Constitution for Crimea in December 1998 defused tensions between the central Ukrainian government and the autonomous republic's predominantly ethnic Russian leadership, it still failed to meet the demands of the Tatars, who are seeking a guaranteed quota of deputies in parliament and official status for the Tatar language.[6] In May 1999, the Crimean prime minister, Serhiy Kunitsyn, agreed to Tatar 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.[11]

5.43. Both Crimean Tatar and Ukrainian minorities in Crimea credibly complain of discrimination by the Russian majority and demand that the Ukrainian and Tatar languages be given equal treatment to Russian. While the Crimean government, pleading insufficient funds, did not assent to requests from the Crimean Tatar community for assistance in re-establishing its cultural heritage through Tatar language publications and educational institutions, the central government is working with the UNHCR (United Nations High Commissioner for Refugees), the OSCE (Organisation for Security and Co-operation in Europe), and the International Organisation for Migration on support for the Crimean Tatar community.[11]

Other Ethnic Minorities

5.44. Other minorities in Ukraine include Belarusians (440,045), Moldovans (324,525), Bulgarians (233,800), Poles (219,179),^[8a] Greeks (98,600), Armenians (38,600), and others amounting to a further 356,800 at the time of the 1989 census.^[1] These minorities are relatively small in number, but in a few cases they are heavily concentrated in territories adjacent to states dominated by the same ethnic group.^[8a] In early 1999, about fifty ethnic groups from eight regions of western Ukraine formed a confederation, comprising Russians, Poles, Romanians, Hungarians, Jews and Roma. It claimed that ethnic minorities were often prevented from holding important posts in virtually every western region, while the number of schools where ethnic languages are taught had been reduced. It announced its intention to increase the influence of ethnic groups on the local authorities and to improve its dialogue with them.^[15]

Religious Groups

Christianity

5.45. The predominant religion in Ukraine is Christianity. Adherents are fragmented between the Ukrainian Orthodox Church (Moscow Patriarchate), the the Ukrainian Orthodox Church (Kievan Patriarchate), the Ukrainian Autocephalous Orthodox Church, and the Roman Catholic Church (also known as Ukrainian Catholic, 'Greek' Catholic or Uniate, who follow the Eastern rite).^[1] At the first All-Ukrainian Christian Congress, held in September 1999, President Kuchma stated that during eight years of independence, the Ukrainian government had created an "atmosphere of trust, respect, mutual understanding and co-operation" in its relations with the Church, which had a positive impact on religious and church life in Ukraine.^[17]

5.46. All Orthodox churches were part of the Ukrainian branch of the Russian Orthodox Church until 1990, when the Russian Orthodox Church in Ukraine was renamed the Ukrainian Orthodox Church (UOC), partly to counter the growing influence of the Ukrainian Autocephalous Orthodox Church (UAOC). Established in 1921 as part of the wider movement for Ukrainian autonomy, the UAOC was forcibly incorporated into the Russian Orthodox Church in 1930. It continued to operate clandestinely and among Ukrainian exiles, and was formally revived in Ukraine in 1990. By 1995, it had approximately 1,000 parishes. In the early 1990s, there was considerable tension between the UOC and the UAOC over the issue of church property seized in 1930. The Kievan Patriarchate of the Ukrainian Orthodox Church was formed in 1992, when factions of the UOC and the UAOC united, and by 1995, that Church had approximately 2,000 parishes. The Ukrainian Orthodox Church of the Moscow Patriarchate remains part of the Russian Orthodox Church and owes its allegiance to the Moscow Patriarchate. In 1995, that Church had approximately 6,600 parishes.^[1]

5.15. Most Roman Catholics in Ukraine are adherents of the Byzantine or Eastern rite, the so-called Uniate ('Greek' Catholic) Church, which is based principally in western Ukraine and Transcarpathia. The Ukrainian Catholic (Uniate) Church was established in 1596 by the Union of Brest, which permitted Orthodox clergymen to retain the Eastern rite, while transferring their allegiance to the Pope. In 1946, at the Synod of Lvov (Lviv Sobor), the Uniates were forcibly integrated into the Russian Orthodox Church, but continued to function in an 'underground' capacity.^[1] As a result, they suffered fierce persecution, with the arrests of many activists, but experienced a strong revival in the 1980s.^[3] Together with the UAOC, the Uniate Church was a prominent campaigner for official recognition in 1989, when it was finally granted legalisation. In June 1992, there were 2,700 Uniate churches in Ukraine and 452 Roman Catholic churches of the Latin rite. At 31 December 1997, there were an estimated

5,332,267 adherents. Adherents of Latin rite Catholicism in Ukraine are predominately ethnic Poles.[1]

Judaism

5.47. In the mid-1990s, there were an estimated 500,000 Jews in Ukraine, despite high levels of emigration since the 1980s.[1] Jews in Ukraine represent the fourth or fifth largest Jewish community in the world, and the second largest minority group in Ukraine itself. Concerned about an ageing Jewish population and the exodus of young Jews, Ukrainian Jewish communities have set up numerous cultural, religious and welfare programmes since independence in 1991, with help from overseas aid organisations, mainly in Israel and the United States, which have sparked a Jewish revival in Ukraine. That revival is evident in the opening of many Jewish educational establishments, including a University in Kiev, Jewish religious societies, cultural associations, synagogues, as well as three Jewish newspapers. The revival has also been manifested in the resumption of the annual Hasidic Jewish pilgrimage, marking the Jewish new year at the end of September, to the grave of Rabbi Nakhman of Bratzlav in the town of Uman, south of Kiev, where the government plans to build a large synagogue, to accommodate the pilgrims.[8c]

5.48. Sources widely acknowledge that there is no state-sponsored anti-Semitism in Ukraine today. President Kuchma has taken a clear public stance against anti-Semitism, and has been co-operative in supporting the Jewish cultural and religious revival. In the March 1998 parliamentary elections, Jews, representing a variety of parties, reportedly won twenty seats, five times the number held by Jews prior to that election. However, while sources differ on the extent of the problem,[8c] anti-Semitism does exist on an individual and societal basis, and some ultra-nationalist groups and newspapers continue to publish and distribute anti-Semitic tracts regularly. Anti-Semitic incidents continue to occur but, according to local Jewish organisations, have declined in number over recent years.[11]

5.49. Numerous Jewish congregations have successfully negotiated with local authorities for worship space. In 1996, a Kiev arbitration court decided in favour of transferring the title of the former Kiev Central Synagogue, which in Soviet times was used as a puppet theatre, to a Chabad Hasidic congregation. By December 1997, the puppet theatre had vacated the premises, and in the spring of 1998 the building reopened once again as a synagogue. According to Jewish community representatives, progress on restitution was frozen for the first few months of 1999, but resumed thereafter at a rate satisfactory to Jewish community leaders.[11]

Non-Native Religious Organisations

5.50. The government's protection of religious freedom has deteriorated for non-native religious organisations (defined as all organisations other than Orthodox, Greek Catholic and Jewish).[11] There are a number of Protestant churches,[1] including the Baptists and other Protestant sects, such as Pentecostals, Adventists and Jehovah's Witnesses. They practice their faith in autonomous congregations, educate their children according to the rules of their religions, and sometimes refuse to register with the government, thereby making it difficult for the authorities to control them. They suffered severe persecution under the Soviet regime, and won many converts, particularly in eastern Ukraine.[3] The current government does not discriminate against individual believers of non-native religions, but their organisations face ongoing difficulty in carrying out their activities. Through burdensome licensing requirements and informal means, local authorities restrict non-native religions, including Christian denominations other than Orthodox and Greek Catholic. However, during 1999, non-native religions reported less difficulty in obtaining visas and registration.[11]

5.51. A 1993 amendment to the 1991 Law on Freedom of Conscience and Religion restricts the activities of non-native, foreign-based, religious organisations. It permits members of the clergy, preachers, teachers and other foreign citizen representatives of foreign organisations to preach, administer religious ordinances or practice other canonical activities "only in those religious organisations which invited them to Ukraine and with official approval of the governmental body that registered the statutes and the articles of the pertinent religious organisation." 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 1999 church leaders reported no difficulties in transferring missionaries between cities.[11]

5.52. All religious organisations are required by the 1991 Law on Freedom of Conscience and Religion to register with the State Committee for Religious Affairs and the Committee's local office in the region where they are located, a process that generally takes about one month. The regional offices also supervise the compliance of religious organisations with the provisions of the law. Some non-native religious organisations have reported that, especially at local or regional levels, officials of the State Committee have refused to register their organisations for protracted periods thus effectively delaying their activities, although there have been fewer reports of such registration difficulties in recent years. In addition, Evangelical Christian missionaries have reported some instances of societal discrimination against members of their churches, such as salary cuts and public criticism for betraying the indigenous religions. [11]

5.53. Ukraine's small Islamic communities are led by the Spiritual Administration of Muslims in Ukraine, based in Kiev. There is also the Association of Independent Muslim Communities of Ukraine, formed in 1994, and based in Donetsk.[1] In September 1999, a mosque and Ukraine's first Islamic university were opened in Donetsk. The university will train imams, or preachers, of Islam, and students will study the Arabic language and the Koran. At the opening ceremony, the local governor stated that all religious congregations in Ukraine, numbering over 800, live in peace and accord.[16]

Conscientious Objectors & Deserters

5.54. Draft evasion, which became a common feature in Ukraine following independence in 1991, has since become widespread. This reflects less fear of the consequences on the part of draft evaders in a country more democratic and aware of human rights, and their belief that the newly-formed Ukrainian military machine is less able than its Soviet predecessor to punish them. In theory, males avoiding military recruitment can be sentenced to up to three years' imprisonment. However, in July 1993, media reports cited a study, commissioned by the Ukrainian Procurator General, which predicted that only one-third of conscription aged men would actually serve in the Ukrainian armed forces. The study also revealed that evasion of military service, failure to turn up for military registration and absence without leave had become "unprecedentedly widespread." It stated that very rarely were officials and citizens of call-up age punished for violating the law. The study criticised existing legislation, and the Procurator General urged the Ukrainian Minister of Defence to take necessary measures.[7b]

5.55. A law on alternative service was adopted by the Rada in December 1991.[13] It allows people who object to military service on religious grounds to "perform works for the public good" instead. However, a radio report the following November suggested that the law was not enforced until the end of 1992. At present, the percentage of males allowed to undertake alternative military service is low, at around the region of between 1.2 and 1.5%.[7b] In March 1999, an amendment to the alternative service law reduced the period of alternative service from 36 months (24 for those with a full higher education) to

27 months (18 months for those with a full higher education and a master's degree, or specialists). Alternative service can be undertaken only when the authenticity of an individual's religious convictions has been established by a military commission.[22]

Homosexuals

5.56. There is no official discrimination against homosexuals in Ukraine. The Rada adopted a law in 1991, which decriminalised homosexuality, making Ukraine the first republic in the former Soviet Union where homosexuality was not a criminal offence. Homosexuality between consenting males over the age of sixteen has been legal in Ukraine since then. It is therefore also unlikely that a woman would be persecuted in Ukraine because of her sexuality.[7b]

Political Activists

5.57. High profile opposition leaders, journalists who write anti-government articles and leading organisers of anti-government demonstrations *may* have reasons to claim persecution. See Annex B and C for a list of political parties and prominent people.

Journalists

5.58. Government officials frequently use criminal libel cases or civil suits based on alleged damage to a person's reputation to punish critics. Consequently, any journalist who publishes an article critical of a public official risks being sued for damages. Journalists complain that because the law does not limit damages, it is biased against them and can be used to drive opposition newspapers out of business. In addition, journalists are sometimes subject to physical attack related to their professional activities, and some journalists have reported threats of arrest or assaults when investigating crime and official corruption. Complaints made to President Kuchma regarding attacks on journalists after the death of Igor Alexandrov on July 3 and an attack on Oleg Velichko, chief of the Avers media corporation on July 11, police claim it was a robbery. [31]. [31A] The intermeshing of organised crime and many public officials makes it difficult to assess whether these attacks and threats are politically motivated (see VI.B. Organised Crime).[11]

Prison Conditions

5.59. Prison conditions are harsh and do not meet minimum international standards. In addition, prison officials intimidate and mistreat inmates, who are subject to regular beatings as well as torture, which has sometimes led to death. Due in part to the severe economic crisis, prisons and detention centres are severely overcrowded and lack adequate sanitation and medical facilities. In June 1999, official statistics put the prison population at 223,900, including 42,600 in pre-trial detention, twice that of 1992. Because the country lacks a well-developed system of suspended sentences and the law does not differentiate between misdemeanours and felonies, at least one-third of inmates have been convicted of only minor offences. In response to the overcrowding, a mass amnesty in July 1999 released some 40,000 inmates.[11]

5.60. There were 1,901 deaths in prison and detention facilities during 1998, which represents more than three 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, as well as suicide. Diplomatic representatives and human rights monitors have reported that it has become more difficult to obtain access to prisons. In addition, cases were reported of prisoners being denied correspondence, and limited to one family visit per year. Prisoners may

complain to the Human Rights Ombudsman about the conditions of detention, but human rights groups have reported that inmates were subsequently punished for initiating complaints.[11]

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5C. Human Rights - Other Issues

Organised Crime

5.61. Since independence, the level of organised crime and corruption within Ukraine has risen sharply. This can be attributed largely to Ukraine's geographical location as a potential transit route for narcotics, laundered money and weapons to central and western Europe. A law on measures to counter illegal trafficking in, and abuse of, drugs was adopted in February 1995, the first occasion when illegal drugs were defined in law, a law which instructed financial institutions to provide information on banking and other activities of people known to be involved in narcotics trafficking. [18]

5.62. Besides narcotics, there is a close working relationship between corrupt officials and organised crime. Covering corruption and organised crime within the Ukrainian media has resulted in assassination attempts against journalists, in particular in Crimea, a region most heavily affected by organised crime, where the intermingling of officials and organised crime figures is stronger than anywhere else in Ukraine, and where the security service has openly displayed its hostility to ethnic Russian journalists, who are accused of biased reporting. Others at risk include businessmen, tax inspectors and politicians who refuse to co-operate with organised crime figures. The areas most affected, in addition to Crimea, are Donetsk and Dnipropetrovsk. [18]

5.63. The Ukrainian mafia can be divided into three groups: black market criminals who pose no security threat to the state; the commercial mafia, which came into being under the favourable conditions created by the state monopoly within the economy; and the political mafia, who have set up their own enterprises, trading in state goods sold to them at low prices and resold for a large profit, which is used to create support groups within the higher echelons of the state. The government is unable to liquidate the mafia, and its ability to limit mafia activities is hampered by a lack of security personnel and equipment, which often fails to meet the standards of that possessed by the mafia. In addition, the fusion of corrupt state officials with criminal formations is so strong that the measures taken against them frequently encounter resistance on the part of the violators and their highly-placed protectors. [18]

5.64. There is no doubt that the authorities are alarmed at the growth of organised crime and corruption, and regard it as a threat to national security. President Kuchma has described organised crime as the 'fifth estate' and noted the failure of earlier anti-crime campaigns launched in 1994 and 1995. A new decree, issued in August 1996, came a month after the attempted assassination

of the then Prime Minister, Pavlo Lazarenko, and called for the development of a comprehensive crime-fighting programme for 1996-2000.[18] However, the pervasiveness of corruption, connections between government officials and organised crime, and the political activities of organised crime figures continued during 1999 and often blurred the distinction between political and criminal acts. The 'Kuchmagate' tapes, if authentic, would confirm that the ties between the political and the financial spheres reached to the highest level of the state. Politicians, politically connected businessmen, and journalists, such as in the Georgi Gongadze case, were all victims of attacks, which were sometimes fatal. [11] In January 1999, the Prosecutor General accused members of parliament of trying to protect criminals and of hindering the state's fight against organised crime and corruption. Following an intensified fight against organised crime and corruption, there was an 11% increase in the number of bribery cases leading to criminal proceedings in 1998 compared to 1997.[21] However, many high-profile corruption cases have been dropped, ostensibly because of lack of incriminating evidence, and anti-corruption legislation has been enforced selectively, mostly against government opponents and low-level officials.[11]

Citizenship

5.65. Since becoming independent in 1991, Ukraine has struggled to manage a complex and unprecedented migration phenomenon. The country now hosts some 1.4 million returnees, primarily ethnic Ukrainians from other countries of the former Soviet Union.[10c] Ukraine passed its nationality law on 8 October 1991 and published it on 14 November 1991.[12] The law entered into force on the day of publication. According to Article 2,[12] all persons resident in Ukraine on the date of entry into force of the law (14 November 1991), who are not nationals of another state, are considered to be Ukrainian citizens, provided they do not object to it. It is unclear if such a formulation includes temporary residents and, among others, former Soviet military personnel situated in Ukraine.[10a]

5.67. According to Article 2.2 of the law,[12] certain persons of Ukrainian origin who were not residing in Ukraine on 14 November 1991 were able to acquire Ukrainian nationality provided that they were not citizens of another state, were born or permanently resided in Ukraine, and expressed within one year from the entry into force of the law, the desire to become a Ukrainian national. However, Ukrainians resident outside the country had to be either performing military service, studying or working abroad on behalf of the Ukrainian state in order to qualify under this provision.[10a]

5.68. Ukrainian nationality can also be obtained through birth. According to Article 13 of the law,[12] children both of whose parents are Ukrainian nationals automatically acquire the nationality of their parents, regardless of the place of birth. This is also the case for children of a Ukrainian national and a stateless or unknown person (Article 14.3[12]). Children of a Ukrainian national and a foreign national acquire Ukrainian nationality automatically, if born on Ukrainian territory. Such children may also acquire Ukrainian nationality automatically if, at the time of birth, one of their parents is permanently residing in Ukraine. In all other cases, Ukrainian nationality of the child is determined by a written declaration of both parents (Article 14 [12]). Children of stateless persons born in Ukraine acquire Ukrainian nationality, provided that the parents are permanently resident in Ukraine (Article 15 [12]). Nationality is automatically acquired by children of unknown parents found on Ukrainian territory (Article 16 [12]).[10a]

5.69. Ukrainian nationality can also be acquired through naturalisation. Foreign citizens and stateless persons may apply for Ukrainian nationality if they fulfil the conditions laid down in Article 17.2.[12] Under this provision, applicants must: renounce foreign nationality, unless otherwise provided in bilateral conventions; have permanently resided on the territory of Ukraine for the previous five years; have a legal source of income in Ukraine; know the Ukrainian language as necessary "for communication"; and recognise and obey the Constitution of

Ukraine. However, under Article 17.3 and 4,[12] these requirements may be waived or softened for women married to a Ukrainian national, provided they renounce their former nationality and submit an application, or for individuals who have rendered special services to the Ukrainian state. Finally, under Article 17.2, [12] the residence requirement does not apply to those who were born on the territory of Ukraine or who had at least one parent or grandparent that was born on that territory and who are not citizens of other states.[10a]

5.70. The citizenship law was subject to amendment in 1997.[10c] While the law provides the right to Ukrainian citizenship for all individuals who were born or lived in Ukraine before independence and to their descendants who lived outside Ukraine as of 14 November 1991, provided those persons are not citizens of other countries, they must have submitted their application by the year 2000. The amended law also provides the right to citizenship for deported victims of political oppression, like the Crimean Tatars (see 5.36. Crimean Tatars). In addition, refugees can acquire Ukrainian citizenship if they have lived legally in Ukraine for five years and can communicate in the Ukrainian language.[11]

Refugees

5.71. Ukraine is not a signatory to the 1951 United Nations' Convention relating to the Status of Refugees nor its 1967 Protocol, and it has not acceded to any other international refugee instrument.[10b] Its treatment of refugees is governed by the 1993 Law on Refugees, which entitles recognised refugees to all the benefits accorded to citizens,[11] but which has been criticised for failing to meet international standards, for example, in not securing the principle of family unity. Of particular concern is the notion of first country of asylum, which, under the 1993 law, means that a person cannot be recognised as a refugee if he has stayed in a country where asylum could have been granted. The UNHCR has criticised the indiscriminate use of this regulation in Ukraine, which it claims has led to the exclusion from refugee status of a large number of people in need of international protection. The safe third country regulation, though not applied to Afghan asylum seekers who entered Ukraine via Russia before 1 January 1995, is frequently applied to people who arrived in Ukraine after that date, for example, example, Iraqis who have travelled via Turkey.[10b]

5.72. Also of concern is that under the 1993 law, the principle of *non-refoulement* applies to recognised refugees only, and the principle is not reflected elsewhere in Ukrainian legislation. In addition, lengthy determination and inadequate appeal procedures have led to further problems for asylum seekers. Those who are unable to access the refugee determination procedure immediately due to an overburdened system, as well as many who have an appeal outstanding against the refusal of asylum, are unable to work, access accommodation or health care, and can be subject to fines, detention and harassment by the police. In view of its concerns, the UNHCR has advised states, in principle, not to apply the safe third country notion to asylum seekers who have stayed in or travelled through Ukraine.[10b]

5.73. The government has, however, taken significant steps in developing institutions and structures to protect refugees in Ukraine and the UNHCR has committed its support for this capacity-building process.[10b] Refugee certificates began to be issued in February 1996 by the Ministry of Nationalities, which determines refugee status,[8b] and the UNHCR has noted further significant progress since then. In particular, status determination and appeal procedures have now been introduced throughout Ukraine. However, a number of gaps remain in the coverage of relevant legislation and further implementation of procedures, deficiencies which should be partially addressed by the revision of refugee legislation, which is expected to be approved by parliament during 1999. At present, refugee status is given for an initial period of three months, which may subsequently be extended.[10c] While refugees are entitled to material assistance under the refugee law,[11] the three-month rule has been criticised by

the UNHCR for restricting opportunities for employment and secure accommodation. However, the UNHCR remains committed to working with the government on capacity-building measures.[10c] In 1997, the government, in co-operation with the UNHCR, established a refugee receiving centre for 200 people in Vinnytsya and it plans to open another four centres elsewhere.[11]

5.74. By October 1999, there were 3,500 people officially registered as refugees in Ukraine, some 70% of whom are Afghans. A commitment has been made to award refugee status to all Afghans who arrived in Ukraine before 1995,[11] and most of those who qualify had been studying in Ukraine and did not wish to return to Afghanistan.[8b] The other major refugee-producing countries for Ukraine are Angola, the Central African Republic, Iran and Iraq,[10c] with Kurds forming a large number.[8b] Under the citizenship law, legally registered refugees may apply for citizenship after five years of permanent residence.[11] However, large numbers of potential asylum seekers do not register with the authorities or with the UNHCR, as their ultimate objective is to transit Ukraine and obtain refugee status in western Europe. This trend is encouraged by Ukraine's safe third country regulation, which has led to the majority of asylum seekers being rejected on the grounds that they travelled through other countries before entering Ukraine.[10c] Instances of police harassment of certain categories of refugees appear to have diminished during 1999. According to the State Committee for Nationalities and Migration, the government's first asylum policy means that persons who travel directly from their home country to Ukraine as refugees are assured refugee status. However, in March 1999, four Uzbeks, including two exiled oppositionists, were arrested and forcibly deported to Uzbekistan, where they claimed to have been subsequently tortured and imprisoned. The government has not supported a foreign-funded programme to facilitate the travel to Ukraine of some emigrants who qualify for resettlement as refugees.[11]

5.75. Ukraine has signed re-admission agreements with the Slovak Republic, Poland and Hungary. These agreements foresee the re-admission of three categories of persons: nationals; third country nationals and stateless persons lawfully staying on the territory of one state party; and third country nationals who illegally cross the common border. In practice, the number of people who have been re-admitted under the third category is very limited, and Ukraine is willing to re-admit a person only if clear evidence is provided that the individual has left Ukraine for another country.[10b] Ukraine's major problem is that it has no similar re-admission agreement with Russia and cannot in any case find the funds to repatriate the increasing numbers of immigrants. Ukraine is, therefore, something of an immigrant trap.[7b]

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