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HUMAN RIGHTS DEVELOPMENTS

Despite progress in recent years, the human rights situation in Ukraine in 2002 remained uneven. Numerous irregularities were reported during the March parliamentary elections. Virtually all major media owners depended on state ties for survival and were thus subject to censorship. Opposition media and activists continued to face harassment. Prison conditions and torture in detention received attention from the national ombudsperson, but remained serious problems. Racism, trafficking in persons, and discrimination against women, migrants, refugees, and persons living with HIV/AIDS persisted.



National and regional parliamentary elections in March reflected the mixed human rights situation. The European Union and the Organization for Security and Cooperation in Europe (OSCE) noted Ukraine's progress toward complying with international standards for democratic elections. Yet despite certain positive developments, including greater transparency, international observers noted significant flaws. Shortcomings in the campaigning period involved abuse of state resources by incumbent candidates and preference given to certain candidates in the use of state facilities.

Observers also noted an imbalance in the distribution of election commission chairperson positions, with some 70 percent being drawn from pro-presidential parties. In Lugansk, public employees were threatened with dismissal for refusal to sign a "social agreement" that committed them to vote for a pro-presidential party. The campaign was marred also by the murder of Mykola Shkibliak, a prominent Social Democratic Party (United) candidate, on the eve of the elections. On election day OSCE observers reported other incidents of violence, intimidation, and inappropriate influencing of voters.

The state of independent media continued to deteriorate throughout 2002. Although a broad range of media provided a diversity of political views during the parliamentary campaign, most media failed to provide impartial and fair coverage. Ukraine's six national television channels were either state-owned or controlled by persons close to the president. As a result, opposition parties frequently faced obstruction in accessing local and national media, and major television and radio outlets offered disproportionately more and only positive coverage to pro-presidential political figures.

Independent media sources and journalists faced government harassment and legal pressure in the form of tax inspections and arbitrary licensing procedures. Four television stations lost their broadcasting licenses in 2002, including Studio 1+1, which continues to broadcast pending a final court decision.

Journalists complained of political censorship. In early October, staff of UNIAN, an independent news agency, posted a statement denouncing the "fierce pressure" they encountered since the appointment of a new executive director. Censorship on television stations led many prominent newscasters to resign and motivated journalists to sign statements denouncing political pressure and organize a trade union to combat official coercion. Journalists and editors also reported physical violence. Police officers beat and detained Oleh Zavada for taking photographs during opposition protests in October.

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The murders of investigative journalists Georgiy Gongadze in 2000 and Oleh Breus and Ihor Aleksandrov in 2001, remained unsolved despite continued international demands for transparent and timely criminal investigations that would involve international commissions of inquiry. Authorities repeatedly attempted to obscure their failures to properly investigate the Gongadze case. In January, the deputy prosecutor general claimed, falsely, that the Council of Europe had declined to create an international commission of inquiry. Increasing international pressure led the government to accept foreign technical assistance in examining evidence, but prosecutors subsequently refused to cooperate with United States (U.S.) Federal Bureau of Investigation (FBI) homicide experts dispatched to Ukraine in April. In September, the parliament's ad hoc commission for investigating Gongadze's disappearance recommended that criminal charges be brought against President Leonid Kuchma and other top officials in connection with the crime, based on tape recordings of a meeting at which Kuchma allegedly asked security officials to "take care" of the journalist. Based on these allegations, the Kyiv Court of Appeals opened a criminal case against Kuchma in mid-October.

On September 16, major opposition groups organized anti-Kuchma protests throughout the country to mark the second anniversary of Gongadze's disappearance and to call for the president's resignation. Local authorities in Kiev attempted to prevent the demonstrations from being held in the center of the city, and prevented thousands from participating by denying entrance to cars and buses arriving from outside of the capital. A government memo issued to national media outlets recommended that television and radio sources avoid broadcasting information about the demonstrations and press conferences held by opposition parties. On the morning of the demonstrations, all six national television stations were off the air for "maintenance." Following the demonstrations, several thousand riot police armed with shields and rubber truncheons beat and arrested dozens of protesters who had set up a tent camp in front of the president's office.

Torture and ill-treatment by law enforcement officials continued as in recent years. The Ukrainian Office of the Commissioner for Human Rights reported that 30 percent of prisoners were victims of torture and perpetrators rarely faced prosecution. In a rare exception to the general rule of impunity, the Mozola family, with extensive help from the Ukrainian ombudsperson, won damages in a case against the state security services for the death of their son by torture in pre-trial detention in 1996. There also continued to be widespread reports of bullying and hazing of military conscripts.

Arbitrary detention and excessively long periods of pre-trial detention remained serious problems. Poor prison conditions—overcrowding, malnutrition, and insufficient access to health care—have led to inmate violence, a death rate ten times that of the population at large, and high rates of tuberculosis among inmates. In its review of Ukraine's fourth periodic report in November 2001, the United Nations (U.N.) Committee against Torture noted many ongoing deficiencies in the penal system, including the lack of clarity regarding the time when a detained person may exercise the rights to counsel, medical examination, and contact with a family member.

Ukraine's minority populations faced racism, discrimination, and intolerance. Crimean Tartars, deported during the Soviet era but recently returned to Ukraine, succeeded in gaining citizenship but still encountered obstacles in access to jobs and housing and in securing official recognition of their language. The results of the March elections saw Crimean Tartar candidates elected to governing bodies, thereby improving the previously weak Crimean Tartar political representation. Roma continued to battle discrimination resulting in socioeconomic disadvantage, high unemployment, insufficient political representation, and racially motivated police harassment.

In January, Ukraine acceded to the 1951 U.N. Refugee Convention and its 1967 Protocol. Throughout 2001-2002, Ukraine detained hundreds of undocumented migrants—including would-be asylum seekers—arrested in transit to Western Europe in the newly established Pavshino camp on its western border. This detention was under inhumane conditions and the authorities lacked funds to repatriate detainees who expressed the desire to return home. According to the U.S. Committee for Refugees, Ukrainian border guards allowed only three of 4,620 apprehended foreigners, many of whom were Afghans fleeing the Taliban, to lodge asylum claims during 2001.

Ukraine continued as both a country of origin and transit for large numbers of trafficked persons. In its 2002 trafficking in persons report, the U.S. State Department placed Ukraine on the list of countries not yet in compliance with the minimum standards for the elimination of trafficking, despite some official efforts to improve the situation. In May, the government approved a comprehensive program for 2002-05 designed to combat trafficking through increased criminal investigative efforts, and to improve services for victims including counselling and shelter.

In November 2001, parliament passed a new law on the prevention of domestic violence that offered a broad

definition of domestic violence and recognized marital rape as a crime. In June the U.N. Committee on Elimination of Discrimination against Women credited Ukraine for adopting the new law but expressed concern about the prevalence of violence against women and the need for improved measures for prosecution and victims' services.

According to the United Nations Development Programme (UNDP), women constituted 80 percent of the unemployed due mostly to discrimination in hiring and disproportionate lay-offs, including illegal dismissals during maternity leave. Women made up more than half of university graduates, and three-fourths of unemployed women held university degrees. For those in the work force, women's salaries equalled only 73 percent those of men in comparable positions.

A U.N. report released during the International AIDS Conference in Barcelona said Ukraine had one of the fastest growing HIV/AIDS epidemics in the world, and concluded that the disease had spread beyond injecting drug users into the general population. The disease was virtually unheard of in Ukraine as late as 1994, but by 2002 as many as four hundred thousand persons were estimated to be living with HIV/AIDS. The government declared that it would make fighting AIDS a priority. However, a widespread lack of information on HIV transmission and a long history of marginalization and criminalization of drug users motivated discrimination against persons living with the disease, as reported by the international press and NGOs.

Ukraine continued to be implicated as a major weapons supplier to human rights abusers, areas of violent conflict, and embargoed countries. Ukraine's submission to the U.N. arms register showed that it sold attack helicopters to, among others, Algeria, Angola, Chad, Guinea, and Sri Lanka in 2001. A U.N. report issued in October 2001, documented that Ukraine served as the point of origin for weapons funnelled to embargoed Liberia. In September 2002, the U.S. recognized as authentic a tape recording of President Kuchma approving the sale of sophisticated air defense radar systems to Iraq in 2000. In October, legislation to control the arms trade was introduced in parliament. To date, arms trade control measures remained elaborated only in ad hoc presidential and cabinet decrees.

DEFENDING HUMAN RIGHTS

Ukraine's diverse civil society included human rights, ethnic, religious, and women's groups. Some groups have reported problems with local authorities over registration and taxation. The ombudswoman actively investigated human rights abuses and highlighted poor prison conditions.

THE ROLE OF THE INTERNATIONAL COMMUNITY

United Nations

In considering Ukraine in late 2001, the U.N. Human Rights Committee continued to prioritize threats to freedom of expression and information. It also recommended that authorities ensure that national minorities enjoy use of their own language. The Committee on the Elimination of Racial Discrimination, which reviewed the country in August 2001, noted continuing stereotyping and racial profiling, including arbitrary arrests and illegal detention targeting in particular the Romani population, and called for the development of effective disciplinary measures for officials committing human rights violations.

Organization for Security and Cooperation in Europe

In a February visit Organization for Security and Cooperation in Europe (OSCE) High Commissioner on National Minorities Rolf Ekéus encouraged Ukrainian authorities to address discrimination against Roma, refugees, and immigrants. The OSCE representative on freedom of the media called on authorities to conduct a thorough investigation into the disappearance and murder of Gongadze. The OSCE project coordinator in Ukraine provided trainings on the observance of human rights in Ukrainian courts and worked closely with authorities to create an administrative court system and improve legislation to combat the trafficking of persons.

Council of Europe

The chairman of the Committee of Ministers visited Ukraine in December 2001 to examine progress made by Ukraine in meeting its Council of Europe commitments. The chairman noted some positive results, particularly given that in April 2001 the Parliamentary Assembly (PACE) had recommended Ukraine's exclusion for failure to honor its obligations. However, the chairman and the PACE both stressed continuing shortcomings, including the unresolved cases of murdered journalists and the lack of an independent judiciary able to enforce the rule of law.

In February, the PACE called on the Ukrainian authorities to release fifteen individuals still being held in pre-trial detention since their arrest during anti-presidential demonstrations in March 2001. A European Commission against Racism and Intolerance report, published in July, highlighted continued direct and indirect discrimination, particularly by police, against Crimean Tatars, Roma, immigrants, and refugees, and recommended a number of measures to be taken to address the shortcomings identified. Such measures included the adoption of a comprehensive anti-discrimination law and awareness-raising among both state authorities and the general public about issues relating to racism and discrimination and relevant international standards.

Ukraine finally agreed to the publication of the Committee for the Prevention of Torture's (CPT) 1998-2000 reports. The reports cited numerous allegations of physical ill-treatment of detainees, criticized the poor conditions of holding facilities, and expressed particular concern over the treatment of prisoners sentenced to life imprisonment. The CPT visited Ukraine again toward the end of 2002.

European Union

In its annual report on human rights the E.U. stated concerns about the problematic environment for the media in Ukraine and stressed the need to ensure a secure environment for journalists. In its 2002-03 National Indicative Programme for Ukraine, the E.U. highlighted the strengthening of independent mass media, the judiciary, and public administration, and the reduction of poverty as key priorities, together with border security and trade issues. The European Initiative for Democracy and Human Rights identified Ukraine as a focus country for 2002-04.

A joint statement issued on the occasion of the E.U.-Ukraine summit in July "welcomed progress made by Ukraine toward meeting OSCE and Council of Europe standards," "agreed that the strengthening and stability of institutions guaranteeing democracy, rule of law and market economy is of vital importance for Ukraine's development and for an intensified relationship with the E.U.," and "confirmed [the two parties'] joint desire to further reinforce our strategic partnership aimed at promoting stability and prosperity in Europe as well as the strengthening of democracy, respect of human rights, rule of law and market economy." However, responding to President Kuchma's expression, at the World Economic Forum in September, of Ukraine's E.U. membership ambitions, E.U. Commissioner for Enlargement Günter Verheugen stated that Ukraine's accession was not likely.

United States and the North Atlantic Treaty Organization

In advance of a North Atlantic Treaty Organization (NATO) delegation's visit to Kiev in July, President Kuchma announced Ukraine's desire to seek full membership in the alliance, although no substantive changes in the existing distinct partnership were made. Ukraine's relations with NATO and the U.S. deteriorated in September, however, after the U.S. confirmed earlier that month that President Kuchma had approved the sale of radar systems to Iraq in 2000. In order to avoid further harm to the NATO-Ukraine relationship, the alliance refused to invite Kuchma to participate in the meeting of the NATO-Ukraine Council at NATO's Prague summit in November by downgrading scheduled meetings to the foreign minister level. The U.S. suspended U.S.\$54 million in aid to the central government and said it would consider further measures pending the outcome of an investigation. The U.S. also initiated a full review of U.S. policy toward Ukraine and worked to downgrade Ukraine's participation in the Community of Democracies.

RELEVANT HUMAN RIGHTS WATCH REPORTS:

The NATO Summit and Arms Trade Controls in Central and Eastern Europe, 11/02

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