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Ukraine

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Ukraine is governed by a directly elected president and a unicameral parliament, the Verkhovna Rada (Supreme Council), which is elected partially according to proportional representation and partially by direct constituency mandate. Incumbent President Leonid Kuchma was reelected after two rounds of voting on October 31 and November 14, 1999. There were some irregularities during the election campaign and during the balloting, including those cited in the March 7 final report of the Office for Security and Cooperation of Europe/Office of Democratic Institutions and Human Rights (OSCE/ODIHR) which stated that the presidential elections of October and November 1999 "failed to meet a significant number of the OSCE election related commitments." However, almost all observers agreed that the election results reflected the will of the electorate. Despite numerous flaws and irregularities, previous national elections in 1998 and 1994 also generally reflected the will of the electorate. The President appoints the Cabinet and controls government operations. In an April referendum, which observers described as flawed in several respects but probably reflected the will of the people, voters approved several changes to the Constitution which would expand presidential powers and increase executive branch influence over Parliament. The Constitutional Court later struck down two of the six proposed amendments; however, constitutional changes had not been implemented by year's end. The Constitution mandates an independent judiciary; however, the courts are funded through the Ministry of Justice, are subject to political interference and corruption, and are inefficient.

The Security Service of Ukraine (SBU), the Ministry of Internal Affairs (which controls the various police forces), and the Ministry of Defense have equal responsibility for internal security and report to the President through the Cabinet. The State Tax Administration also has law enforcement powers, which it exercises through the tax police. The armed forces largely have remained outside of politics. While civilian authorities generally maintain effective control of the security forces, institutional government corruption sometimes can lead to their improper use. The SBU and other government agencies have interfered indirectly in the political process through criminal and tax investigations of politicians, journalists, and influential businessmen. Members of the security forces committed human rights abuses.

Ukraine is making a difficult transition from a centrally planned to a market-based economy. The private sector has continued to grow and now represents a substantial portion of the economy. For the first time since independence, the country experienced economic growth (5 percent). Nevertheless, the country remains in a serious economic crisis. While the Government made some progress in key areas such as privatization, energy, and the state budget, the country lacks many of reforms needed to generate sustainable economic growth. Industrial output has suffered years of sharp decline. A 1999 presidential decree on agricultural reform led to a break-up of the Soviet-era state farm system. Legislation enabling the granting of land titles was passed; however, the property rights of former collective farm workers are weak and poorly defined. Production in key areas such as wheat was unreliable. The summer grain harvest was the worst since 1945, but the winter crop was the best in years. According to official statistics, about half of the work force is employed formally in manufacturing, with the balance divided between services and agriculture; however, in reality many industrial enterprises have reduced or stopped production. Exports are diversified and include metals, chemicals, sugar, and semifinished goods. The annual per capita gross domestic product for the year was approximately \$669. However, millions of employees go months without being paid, and most individuals derive a significant proportion of their income from the shadow economy. Inflation was 19 percent during the first half of the year, but averaged less than 0.5 percent per month since June. Investment remains at low levels, with many potential investors discouraged by rampant corruption, onerous taxation, and arbitrary licensing practices. Unemployment has affected women disproportionately; 56 percent of those officially registered as unemployed are women. Wealth is concentrated in the political elite and among directors of state-dominated sectors such as metals, oil, and gas.

The Government's human rights record was poor in some areas; however, the Government continued to respect the rights of its citizens in other areas. In previous years, police and military committed extrajudicial killings; however, there were no reports of such incidents during the year. A prominent journalist disappeared in September. In November a decapitated body believed to be his was found. Later that month, a prominent political opponent accused the President of complicity in the disappearance. Those charges have not been proved or disproved. The Government asserted that it is investigating the journalist's disappearance and conducting tests to determine the identity of the corpse; however, the case remains unsolved at year's end, and the authorities' poor handling of the investigation proved a source of great concern. Police and prison officials regularly tortured and beat detainees and prisoners, sometimes resulting in death. The beating of conscripts in the army by fellow soldiers was common and sometimes resulted in death. Prison conditions are harsh and life-threatening. There were instances of arbitrary arrest and detention. Lengthy pretrial detention in very poor conditions was common, and detainees often spent months in pretrial detention for violations that involved little or no prison time if convicted. Long delays in trials are a problem. The Government rarely punishes officials

who commit abuses. The SBU police, and Prosecutor's Office have drawn domestic and international criticism for their failure to take adequate action to curb institutional corruption and abuse in the Government. Many high-profile corruption cases have been dropped, ostensibly because of lack of evidence. Anticorruption legislation has been enforced selectively, mostly against government opponents and low-level officials. Political interference and corruption affect the judicial process. The judiciary is overburdened, inefficient, and lacks sufficient funding and staff. These factors undermine citizens' right to a fair trial. The criminal justice system has been slow to reform, due to both lack of government effort and strained economic resources. The Government continued to intrude in citizens' lives and infringe on their privacy rights. The Government interfered with the news media and restricted freedom of the press; however, a wide range of opinion is available in newspapers and periodicals. Government interference was particularly severe during the period preceding the April referendum on amendments to the Constitution that would expand presidential powers by limiting the power of the Parliament and in response to coverage of the scandal surrounding the disappearance of an opposition journalist. Self-censorship remained a significant problem. During the 1999 presidential election campaign, government authorities interfered in the election process and stepped up pressure on the media through tax inspections and other measures. The national broadcast media came under particular pressure. There were some limits on freedom of assembly, and there were some instances of restrictions on freedom of association. Limitations on nonnative religious organizations constrained freedom of religion. The Government took steps to return to religious groups properties expropriated during the Soviet era. It returned two churches that were rebuilt with government funds. Some limits on freedom of movement, most notably the registration or "propiska" system, remained. The Government took steps to support the return and resettlement of exiled Tatars in Crimea. As many as 10 elected mayors from several regions reported government harassment stemming from their lack of support for President Kuchma during the 1999 presidential campaign. The SBU monitored the activities of nongovernmental organizations (NGO's) during the year. Violence and discrimination against women; violence against children; societal anti-Semitism; and discrimination against religious, racial, and ethnic minorities are problems. The Government discourages some workers from organizing unions, and forced labor in the form of trafficking in women and girls for sexual exploitation is a significant problem.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political killings by government agents. In previous years, members of the police and military committed extrajudicial killings; however, there were no reports of such incidents during the year.

There were reports in previous years that police beat persons at alcohol corrective treatment centers and sometimes killed them (see Section 1.c.).

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

Abuse of prisoners and detainees, and harsh prison conditions, sometimes led to death (see Section 1.c.). Statistics on prison deaths for this year were unavailable. In 1998 there were 1,901 deaths in prison and detention facilities, many due to harsh conditions.

The pervasiveness of corruption, connections between government officials and organized crime, and the political activities of organized crime figures often blurred the distinction between political and criminal acts. Politicians, politically connected businessmen, and journalists have been the victims of possibly politically-motivated--and sometimes fatal--attacks. There were allegations of government involvement in the disappearance and presumed death of opposition journalist Heorhiy Gongadze; however, those charges have not been proven (see Section 1.b.).

No official statistics for contract killings during the year were available.

The Government made no known progress in resolving a number of the high profile killings of past years. No progress was made in solving the 1999 murder of the security chief of the independent television station STB or the 1999 killings of the chairman of the regional arbitration court Borys Vihrov and the director of local television station Igor Bondar in Odessa. The Government also made no known progress in resolving the 1998 murders of former director of the national bank Vadym Hetman, deputy head of the Crimean government Aleksandr Safontsev, the mayor of Shakhtersk, or the campaign manager of a Kiev mayoral candidate. Nor was there any progress in resolving the 1997 murders of the governor of the Razoolnensky district, the Crimean deputy minister for tourism and resorts, the murder of prominent businessman Arkadiy Tabachnyk, or the bombing of the intensive care unit in Simferopol. In May police arrested a suspect in the 1995 killing of Member of Parliament Yevhen Shcherban.

b. Disappearance

On September 16, prominent journalist Heorhiy Gongadze disappeared. Gongadze was the editor of the on-line news journal *Ukrainska Pravda* and was a frequent critic of both the Government and leading business figures. In a July open letter addressed to the Prosecutor General, he complained of government harassment, including being followed and questioned by security forces. In early November, police found a decapitated body outside of Kiev, which Gongadze's friends and family believed was that of the missing journalist. The Government asserted that it is conducting a full-scale investigation of his disappearance. The body was sent to forensic

experts for examination, yet no positive identification was made by year's end—authorities did not begin the process of conducting a DNA test until mid-December. On November 28, the leader of the Socialist Party, Oleksandr Moroz, accused the President and other senior government officials of complicity in the disappearance of Gongadze. He also released audio tapes purporting to be conversations between the President, his Administration Chief Volodymyr Lytvyn, and Minister of Internal Affairs Yuri Kravchenko discussing the desirability of Gongadze's abduction. The tapes, provided by a former Presidential security guard, were not authenticated officially by year's end.

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

The Constitution prohibits torture; however, police and prison officials regularly tortured and beat detainees and prisoners, and there were numerous reports of such abuse. Amnesty International (AI) and other human rights groups continued to receive regular reports that Berkut (special militia units or riot police) troops tortured and beat inmates as part of regular training exercises. The media reported that police subjected detainees to the "swallow," in which the detainee is placed on his stomach and his feet are tied to his hands behind him, forcing his back to arch. Another abuse is the "baby elephant," in which a gas mask is placed on the prisoner's head and the flow of oxygen slowly reduced. Detainees also were subjected to a method called the "monument," in which a prisoner is suspended by his hands on a rope and beaten. Requesting an attorney often leads to a worse beating, and detainees may be beaten until they waive their right to an attorney. There is no effective mechanism for registering complaints about mistreatment or for obtaining redress for such actions. Prisoners may address complaints to the Ombudsman, and that office has received widespread reports of torture in pretrial detention. However, the Ombudsman has no enforcement authority, and the Government made little effort during the year to end such practices or to punish officials who committed or abetted such abuses. According to the Office of the Ombudsman, most of the complaints that it received centered on human rights violations by law enforcement personnel. In 1999 the Ombudsman was criticized for failing to investigate whether special police units beat prisoners during regular exercises in jail. During the year, the Ombudsman made the treatment of prisoners a priority and investigated conditions in at least two prisons. On December 1, 1999, the Parliament passed an amendment to the Criminal Code that prescribes up to 15 years' imprisonment for torture. However, human rights monitors reported little difference in the treatment of prisoners since adoption of this law.

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

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

Some politically active individuals were wounded in violent attacks. In February unknown assailants beat parliamentarian Oleksandr Yeliashkevych near a hotel where several Members of Parliament live. Five suspects were charged in the October 1999 bombing in which presidential candidate Natalia Vitrenko was wounded slightly, and more than 30 others were injured. No progress was reported in resolving the April 1999 wounding by gunshot of Kiev municipal government official Mykola Pidmogylny or the November 1999 shooting of Vinnytsia Mayor Dmytro Dvorkis.

Members of the press were hurt in violent incidents throughout the year. In July Anatoliy Zhuchynsky, a reporter for the Vinnytsia newspaper 33 Channel, was assaulted outside his home. He linked the attack to his political reporting. In August two men assaulted Valentyna Vasylychenko, a reporter for the Cherkassy newspaper Antenna, in the stairway outside her apartment. She attributed the attack to her coverage of criminal groups. In September Nikolay Severin, an editor of an independent paper in Luhansk, was attacked by brick-wielding assailants outside his home. He blamed the assault on his critical reporting.

No progress was made in resolving the 1999 firebombing of the office of the Tatar Assembly Mejlis in Simferopol or the 1999 bombing of the office of the Communist Party leader Leonid Hrach in Simferopol. Accusations by opposition presidential candidate Marchuk linking the presidential administration to a false bomb threat that disrupted a 1999 meeting between Marchuk and local residents were never proven.

In 1998 the Government created a penal department to oversee reform of the penal system and to serve as the administrative center of the penal system. The new department originally was placed under the oversight of the Ministry of Interior, but it was given the status of an independent government agency by presidential decree in 1999. However, human rights groups report that this change in status has not affected its practices. The Government failed to punish prison and police officials who committed or condoned violence against prisoners.

There was no improvement during the year in prison conditions, which are harsh, life-threatening, and do not meet minimum international standards. Prison officials intimidated and mistreated inmates. Due in part to the severe economic crisis, prisons and detention centers were severely overcrowded and lacked adequate sanitation and medical facilities. According to official statistics, funding for prisons decreased by almost 14 percent over the last 3 years. During the year, the Government announced a general amnesty for 34,800 inmates intended to relieve overcrowding. Because the country lacks a well-developed system of suspended sentences, and the law does not differentiate between misdemeanors and felonies, at least one-third of inmates were convicted of only minor violations.

Conditions in pretrial detention facilities routinely failed to meet minimum international standards. Inmates sometimes were held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. Overcrowding is common in these centers. For example, the pretrial detention center in Kiev, houses 3,500; it was constructed to hold 2,850 persons.

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

Conditions in the Interior Ministry's Corrective Labor and Treatment Centers for Alcoholics (LTP's), where violent alcoholics are confined forcibly by court decision, differ little from those in prisons. Virtually no treatment is available. According to statistics from March, 12 LTP's with some 3,000 inmates continued to operate. Although some centers were transferred to the Health Ministry during the year, the Government had not lived up to its earlier commitment to transfer all of the LTP's to the ministry. Police have the right to take forcibly any person appearing drunk in public to special sobering centers. Human rights groups reported cases of police mistreatment, robbing, or beating of detainees at such centers (see Section 1.a.). In August 1999, the Government issued a decree directing the closure of such centers by the end of this year; however, some centers remained open at year's end.

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

d. Arbitrary Arrest, Detention, or Exile

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

By law a trial must begin no later than 3 weeks after indictment, but this requirement rarely is met by the overburdened court system. Months may pass before a defendant finally is brought to trial, and the situation did not improve during the year. Complicated cases can take years to go to trial. Although the 1996 amendment to the Criminal Procedures Code provides for bail, it is used rarely. Restrictions on travel outside a given area sometimes are employed. Accused persons usually are held without bail in pretrial detention for several months. As of October, there were 228,000 prisoners, 48,000 of whom were persons held in pretrial detention. The Constitution provides compensation for unlawful or arbitrary arrest, detention, or conviction, but there are no known cases in which this provision was invoked. Reports indicated that this inaction is a result of lack of faith in the judiciary rather than the absence of unlawful or arbitrary detentions.

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

The Government occasionally charges persons who are openly critical of the Government (usually opposition politicians or editors and journalists from the opposition press) with criminal libel or tax evasion charges (see Section 2.a.). In August Oleksandr Tymoshenko, the husband of then-Deputy Prime Minister Yulia Tymoshenko, and a business associate were arrested on charges of embezzlement of state funds. Tymoshenko's efforts to reform the energy sector had drawn strong opposition, most notably from powerful businesspersons closely tied to the Government. Although the investigation of the men reportedly was underway for some time, some observers believed that timing of the arrests was intended to pressure Tymoshenko.

In May 1999, police officers in Mukachevo detained some 70 persons, primarily Roma, in a local market for illegal trading. The detainees were held without charges for 2 days and forced to perform manual labor for police officers. In July 1999, three Romani women were detained for failing to produce identification. They were ordered to clean the police station but they were released when a leader of a Romani NGO intervened on their behalf. There were no reports of incidents targeting Roma during the year.

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

Official corruption is widespread. The Government apparently enforced anticorruption statutes selectively for political ends. While anticorruption statutes were applied increasingly against lower-level officials, such enforcement reportedly is lacking against high-level officials. In 1999 Vasylykiv Mayor Valeriy Popovych was detained briefly on corruption charges after complaining of government harassment due to his support for opposition candidate Moroz during the October 1999 presidential election. Charges against Popovych were dropped in January; however, in February he resigned his post under pressure from regional authorities. In 1999 a number of persons arraigned on criminal and corruption charges claimed that they were victimized because of their support for the former Prime Minister, who is currently on trial abroad for money laundering, and government opponent Pavlo Lazarenko. Former government officials Petro Shkudun, Mykola Syvulsky, and Vasyl Koval claimed that their cases were motivated politically due to their links to Lazarenko. In December 1999, Koval was sentenced to serve five years in prison on corruption charges. In June Syvulsky again was arrested on corruption charges while serving as an aide to former Deputy Prime Minister Tymoshenko, who had been associated with Lazarenko.

The Government does not employ forced exile.

e. Denial of a Fair Public Trial

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

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

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

The authority and independence of the judicial system also are undermined by the poor record of compliance with court decisions in civil cases. Provisions calling for criminal punishment for noncompliance with court decisions rarely are used. Compliance is particularly poor if the decision clashes with government interests. The Prosecutor General, the head of the Supreme Court, the chairmen of regional courts, and the chairmen of the Kiev municipal court (or the deputies of these officials) can suspend court decisions, which leads to interference, manipulation, and corruption.

Many local observers regard the Constitutional Court as the country's most independent judicial body. Human rights groups state that overall the Constitutional Court has maintained a balance of fairness. However, in March the Court ruled that the President's proposed referendum on expanding presidential authority was constitutional, although it threw out two of the six original questions. Observers believed that this decision indicated a pro-presidential bias.

There has been little progress in implementing the provisions of the 1996 Constitution that provide for a thorough restructuring of the court system, to be accomplished by June 2001, including the introduction of appellate courts. In an effort to meet the June 2001 deadline, the President established a council on judicial reform in August; however, the council has had little impact and at year's end, Parliament had not passed a new law on the judiciary. Pending the passage of the required enabling legislation, the court system still is organized along Soviet lines, with the exception of the Constitutional Court.

The court system consists of the Constitutional Court, general jurisdiction courts, and arbitration and

commercial courts. General jurisdiction courts and arbitration courts are organized on three levels: district courts; regional courts; and the Supreme Court and Supreme Arbitration Court. General jurisdiction courts are divided into criminal and civil sections. Military courts only hear cases involving military personnel.

The Constitutional Court consists of 18 members, appointed for 9-year terms in equal numbers by the President, the Parliament, and the Congress of Judges. The Constitutional Court is the ultimate interpreter of legislation and the Constitution, and it determines the constitutionality of legislation, presidential edicts, cabinet acts, and acts of the Crimean Autonomous Republic. The President, at least 45 Members of Parliament, the Supreme Court, the Ombudsman, and the Crimean legislature can request the Constitutional Court to hear a case. Citizens may apply to the Constitutional Court through the Ombudsman, although in practice the Ombudsman has yet to exercise this right. In some limited cases, the Constitutional Court can interpret law for individual citizens, when the applying citizen provides compelling proof that a constitutional provision is violated, or that it is interpreted differently by different government bodies. However, of some 8,000 such petitions only 4 were accepted for review as of early 1999.

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

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

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

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

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

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

According to official statistics, in the first half of 1999, there were 114,600 convictions, between 36 and 39 percent of which resulted in prison sentences. A total of 494 defendants were acquitted, which is an increase of 11 percent from the corresponding period in 1998. In the first half of the year, there were 113,902 convictions and 375 acquittals. However, as judges frequently send cases unlikely to end in conviction back to the prosecutor for "additional investigation" (which usually leads to the dropping of the case), these statistics are somewhat misleading. Additionally evidence indicates that suspects often bribe court officials to drop charges before cases go to trial, to lessen sentences, or to commute them.

There were no reports of political prisoners.

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

Authorities infringed on citizens' privacy rights. Although the Constitution requires that courts issue search warrants, this provision has not yet been implemented, and prosecutors continue to issue search warrants. The

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

Some remnants of Soviet control mechanisms persist. There are no probable cause statutes, and police officials and militia personnel have the right to stop persons and vehicles arbitrarily to initiate extensive document checks and vehicle inspections. In February the Ministry of Interior ordered traffic police to end the practice of stopping vehicles without reason; however, the order had little effect in practice. Police may detain a person arbitrarily for up to 3 hours to verify identity. There have been reports that police sometimes abused this right.

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

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

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

There were no reported cases of the political abuse of psychiatry; however, the press and human rights groups have reported several cases of abuse of psychiatry for economic reasons. Persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and confined to psychiatric institutions. The disputes often entail the corruption of psychiatric experts and court officials. In February Parliament adopted a new Law on Psychiatry which bans abuse of psychiatry for political and nonmedical reasons and provides safeguards against such abuse. However, human rights monitors report that the law was not implemented by year's end, and the old Soviet system of classifying mental illness is still in use. Persons diagnosed with mental illness may be confined and treated forcibly, declared not responsible for their actions, and stripped of their civil rights without being present at the hearings or notified of the ruling. In the meantime, the 1988 old Soviet psychiatric regulation remains in force. There are some 1.2 million registered psychiatric patients in the country. Within 3 days after forcible confinement to a hospital, a patient must be examined by three doctors. Patients (including convicted prisoners) subsequently must be examined by the senior regional psychiatric commission within half a year. According to the Ukrainian Psychiatric Association, the Health Care Ministry has not always cooperated with human rights groups attempting to monitor abuse of psychiatry.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution and a 1991 law provide for freedom of speech and of the press; however, in practice the Government interfered with the news media and restricted these rights through the widespread use of tax inspections, libel cases, subsidization of friendly media, and intimidation of journalists. In addition journalists reported feeling more subtle forms of pressure, in particular to provide positive coverage of the President, which resulted in more self-censorship. The Government owns or controls most of the national radio and television channels, which is the primary source of information for most citizens. However, there is a wide variety of newspapers and periodicals available, which espouse different political points of view, and individuals can and frequently do criticize the Government without reprisal. Though limited in readership, internet publications, in particular *Ukrainska Pravda*, played a key role in covering the disappearance of Heorhiy Gongadze and the scandal surrounding allegations of Presidential involvement in the case (see Section 1.b.). Government attempts to control the press were reported by the media.

The print media, both independent and government-owned, demonstrated a tendency toward self-censorship on matters that the Government and in particular the President deemed sensitive. Private newspapers have been established and are free to function on a purely commercial basis, although very few are profitable. However, they are subject to various pressures, such as control of access to affordable state-subsidized newsprint; dependence on political patrons who may facilitate financial support from the State Press Support Fund; close scrutiny from government officials, especially at the local level; and politically motivated visits by tax inspectors. In 1997 the President issued a decree on support of the press that requires the Cabinet to draw up a list of publications needing government support, including those published by central and local governments, public organizations, associations, unions, educational institutions, and newspaper employees. The journalistic community believed that this decree was intended to control the press by supporting loyal members. In December the President issued a decree defending freedom of the press; however, observers report it has had little impact. The dependence of much of the press on government patronage has inhibited criticism, particularly at the local level. The State Committee for Information Policy has warned some periodicals against fomenting ethnic tensions and conducting antistate propaganda and has applied to the Prosecutor's Office to open investigations into those newspapers. In December a court in Kharkiv fined the local chapter of PROSVITA, an organization that promotes Ukrainian language and culture, and ordered it to cease publication of its newspaper on the grounds that it had published an anti-Semitic article. The case presented the first time a court has punished a publication for anti-Semitic writings.

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

The Government pressured media outlets to support an April referendum on amending the Constitution to increase presidential powers. In March the Tax Administration temporarily froze the accounts of the newspaper Silski Visti, (which opposed the referendum and supported Socialist candidate Oleksandr Moroz during the presidential election), and confiscated its paper stock. In September the Tax Administration fined Silski Visti more than \$178,000 (1 million hryvnia) for tax evasion. In October Silski Visti temporarily suspended publication due to heavy financial pressures. The paper resumed publication, but continued to experience financial problems.

In April the newly founded newspaper Itogi was subjected to eviction, disconnection of its phone lines, and tax inspections of its main investor after publishing an article critical of a senior government official. The newspaper went out of business after publishing only five issues.

The Government, both central and local, regularly targeted opposition newspapers with unannounced tax inspections or fire and building code inspections. Prior to the 1999 presidential election, the Government forced at least one opposition newspaper, Polytyka, to close. Government officials initiated more than 20 criminal and civil libel cases against Polytyka's editor, Oleg Lyashko, asking more than \$40 million (220 million hryvnia) in damages. Lyashko was acquitted in one of two criminal libel cases that charged him with slandering the President and his staff, but that acquittal was overturned in December 1999. At a December hearing, Lyashko's trial was tentatively set for January 2001. In January the State Committee for Information Policy refused to register Lyashko's new publication Svoboda. In February the Committee reversed its decision, and Svoboda began publication. However, government officials subsequently pressured Lyashko to change the tone of coverage in Svoboda, and the newspaper has experienced financial difficulties that prevented its regular basis publication. In March Lyashko was assaulted in the entryway to his home after publishing an article critical of an Odesa businessman. Although he initially blamed the Government, Lyashko later accused the businessman of orchestrating the attack. There has been no further investigation into the case, and no one has been charged with the assault.

The newspaper Den, which supported presidential candidate and former Prime Minister Yevhen Marchuk during the 1999 presidential campaign, was subjected to 25 tax inspections between January and July 1999. After Marchuk joined the Government as Secretary of the National Security and Defense Council during the year, Den became less critical of the Government and the repeated tax inspections ceased.

In 1999 the Parliament adopted a resolution on the media that called for investigations into all complaints of harassment of nonstate media outlets by the Tax Inspectorate, the Prosecutor General's Office, or the presidential administration. Journalists reported that the resolution had little impact.

Government officials also frequently use criminal libel cases or civil suits based on alleged damage to a "person's honor and integrity" to punish critics. Article 7 of the Civil Code allows anyone, including public officials, to sue for damages if circulated information is untrue or insults a person's honor or dignity. Article 125 of the Criminal Code prescribes imprisonment of up to 3 years for libel. There is no distinction between private individuals and public officials (except for the President), nor is there a limit to the amount of damages that may be awarded. Consequently, any journalist who publishes an article critical of a public official risks being sued for damages.

The Prosecutor General can file criminal libel charges. According to Ministry of Justice statistics, 123 persons were convicted in 1998 for criminal libel. Of these seven cases resulted in prison sentences. According to the Union of Journalists of Ukraine, journalists lose two of every three cases against them in the courts. In 1999 approximately 2,250 libel cases were filed. Exact figures for this year are not available; however, media analysts expect a similar number of cases for the year. Journalists complain that because the law does not limit damages, it can be used to drive opposition newspapers out of business.

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

In March the Lviv newspaper Express, which had been critical of the local government, was fined \$26,785 (150,000 hryvnia) for libel. Journalists and students protested the decision, and in April the regional court overturned the lower court's decision. Journalists sometimes were subjected to physical attacks related to their professional activities. Some journalists reported threats of arrest or assaults when investigating crime and official corruption (see Section 1.c.). The intermeshing of organized crime and many public officials makes it difficult to assess whether these attacks and threats were motivated politically.

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

The broadcast media, the primary source of news and information for most citizens, are either state-owned or, in the case of private stations, subject to pressure from the Government, which took steps during the year to strengthen its control over this sector. In 1998 the Government transferred over state-owned broadcasting and transmission facilities from the Derzhtele-radio (State Committee for Television and Radio) directly to the Information Ministry (later reorganized as the State Committee for Information Policy). The President and the Parliament each appoint half of the members of the National Council for Television and Radio Broadcasting, which issues licenses and allocates broadcasting time. President Kuchma did not name his half of the eight-member board until June, after the Parliament replaced its original four members in May. In the absence of a functioning council, the Government had virtually unchallenged control over media licensing prior to the 1999 presidential election and in the lead-up to the April referendum.

Other state agencies took advantage of the lack of a working council to harass opposition stations. For example, the frequency of arbitrary tax inspections increased considerably without a working council. The State Electro-Communications Inspectorate increased the fees for broadcast frequencies tenfold in 1999 without the prior approval of the council. Fee increases disproportionately affected independent stations, since state channels were permitted to ignore payment of their frequency fees. The law entitles private and foreign companies to obtain a license to establish and operate their own transmission facilities.

Prior to the 1999 presidential election, the Government increased pressure on the broadcast media, using tax inspections and other measures, and forced at least five local television stations (four in the Crimea and one in Dnipropetrovsk) to close. Numerous sources charged that the administration continued to use government agencies, particularly the Tax Inspectorate, to pressure the opposition media and businesses supporting its political opponents. Prior to the 1999 presidential election, the independent television station STB, one of the more balanced and independent media outlets, faced increasing harassment by government entities. It was threatened with closure and the arrest of its owners if it did not cede financial and editorial control to presidential supporters. Its staff suffered physical assaults, threatening phone calls, robbery, and lawsuits. In August 1999, the State Tax Administration froze STB's bank accounts for failure to pay sufficient taxes. By October 1999, the station was sold and had changed its news programming to take a more pro-Kuchma approach. During the 1999 presidential election campaign, several regional television outlets were taken off the air by government authorities, allegedly to prevent coverage of opposition presidential candidates. The presidential campaign saw a marked imbalance in the coverage of candidates on national television and radio channels, with opposition candidates receiving very limited and often negative coverage at the national level. Opposition candidates had more success in obtaining access to smaller local and regional television channels.

In the period leading up to the April referendum on constitutional amendments that would expand presidential powers, television coverage was overwhelmingly pro-presidential and pro-referendum.

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

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

The State Secrets Committee maintains offices for the protection of state secrets in state scientific and research institutes, including those not conducting any classified research. An April 1998 presidential edict allows only government-designated contractors to provide Internet access at state institutions that have such censorship offices. Human rights groups feared that this edict may limit the freedom of information for universities and scientific research institutes. A July presidential decree identified the development of the Internet as a priority of national information policy and instructed the Government to design a state program to develop the Internet network. A 1999 presidential decree sought to require that all communication companies and Internet providers be licensed and their equipment be fitted for wiretapping (implicitly by the security services). However, the decree was blocked by Parliament in 1999.

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

b. Freedom of Peaceful Assembly and Association

The Constitution and law provide for freedom of assembly, and the Government generally respects this right in practice; however, there were some instances in which this right was restricted. The 1988 law on public assembly circumscribes freedom of assembly by stipulating that organizations must apply for permission to their respective local administration at least 10 days before a planned event or demonstration. The Criminal Code prescribes up to 6 months in prison, 1 year of corrective labor, or a fine for repeatedly staging unauthorized demonstrations. The 1996 Constitution requires that demonstrators merely inform the authorities of a planned demonstration in advance; however, authorities insist that all demonstrations meet the restrictive requirements of the 1988 law. Under the 1988 law, demonstrators are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. In practice unlicensed

demonstrations are common, and most but not all occur without police interference, fines, or detention. There were no reports of cases of interference during the year.

Communist groups complain that the authorities failed to punish Ukrainian nationalist groups who harassed them during their demonstrations. Ukrainian nationalist groups in turn complained that the authorities do not protect them from harassment by Communist groups. On December 22, a local court ordered antipresidential protestors occupying a large square in central Kiev to vacate the area because of impending holiday celebrations. Demonstrations by the group outside of Parliament and other Government buildings also were banned. On the same day the court decision was reached, the demonstrators announced that they would dismantle all but one of the protest tents erected on the square, and would resume demonstrations after the holidays if warranted. The demonstrations ended peacefully December 23.

The Constitution, law, and government regulations restrict freedom of association to varying degrees. These restrictions generally apply to organizations that are considered dangerous, such as those which advocate violence or racial and religious hatred, or which threaten the public order or health.

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

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

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

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

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

For example, after almost a year of attempting to register as a national organization, a Luhansk-based group for the protection of gay rights, the Nash Mir Gay and Lesbian Center, succeeded in registering in November 1999. According to group representatives, local officials indicated that the group was not registered because it was a gay rights group. The group reported this year that it is functioning without problems.

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

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

A registered group may not duplicate any function or service that the Government is expected to provide. For example, human rights lawyers who wished to represent prisoners were prohibited from establishing an association because the Government is required by the Constitution to provide lawyers for the accused. However, this requirement is not always enforced. In the

mid-1990's, AI was refused registration under the pretext that human rights protection is the function of the State. It continued to apply and eventually was registered.

c. Freedom of Religion

The Constitution and the 1991 Law on Freedom of Conscience and Religion provide for separation of church and state and the right to practice the religion of one's choice and the Government generally respects these rights in practice, with the exception of some nonnative religions, which experienced difficulties registering, buying, or leasing property. The Government generally permits religious organizations to establish places of worship and to train clergy. The Government has continued to expedite allotment of land plots for construction of new houses of worship and to return religious buildings and sites to their former owners.

Although in past years the Government's protection of religious freedom had deteriorated for nonnative religious organizations (defined as all organizations other than Orthodox, Greek Catholic, and Jewish), nonnative

religions reported less difficulty in obtaining visas and registering. The Government did not discriminate against individual believers of nonnative religions; however, their organizations faced ongoing difficulty in carrying out their activities during the year. Through burdensome licensing requirements and informal means, local authorities restricted nonnative religions as well as Christian denominations other than Greek Catholic and Orthodox. The Government took steps to return properties expropriated during the Soviet era to religious groups.

A 1993 amendment to the 1991 Law on the Freedom of Conscience and Religion restricts the activities of nonnative, foreign-based, religious organizations. The amendment narrowly defines the permissible activities of members of the clergy, preachers, teachers, and other foreign citizen representatives of foreign-based religious organizations. They may preach, administer religious ordinances, or practice other canonical activities "only in those religious organizations which invited them to Ukraine and with official approval of the governmental body that registered the statutes and the articles of the pertinent religious organization." Although the Church of Jesus Christ of Latter-Day Saints had complained in 1998 that this restriction prevented the transfer of its missionaries between cities, church leaders subsequently have not reported any difficulties in transferring missionaries between cities.

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

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

The ongoing dispute among competing Orthodox Christian administrative bodies claiming to be "the Ukrainian Orthodox Church" remained deadlocked. The Government has been unable to stop disagreements between the Orthodox believers and Greek Catholics in the western part of the country where the two communities were contentious and often engage in bitter disputes over church buildings and property in over 600 localities. The Kiev Patriarchate of the Orthodox Church complained of harassment by local authorities in the predominantly Russian-speaking eastern region of the country, while the Moscow Patriarchate of the Orthodox Church complained that local governments ignored the appropriation of its churches in the Ukrainian-speaking western region. In 1999 Patriarch Filaret of the Ukrainian Orthodox Church of Kiev Patriarchate and his followers were assaulted by supporters of the Moscow Patriarchate in Mariupol (see Section 5).

According to the State Committee for Religious Affairs, the transfer of most places of worship to their original owners according to a 1992 decree on restitution was nearing completion. In 1996 and 1997, 105 buildings were returned; in 1998, 92 were returned; and in 1999 103 were returned. About 40 buildings were returned during the first half of the year. There still were about 340 former houses of worship that were used for nonreligious purposes, but 275 of them were not claimed by religious groups. In the fourth quarter of 1999, local authorities in the oblasts of Dnipropetrovsk, Donetsk, Zakarpattia, Lviv, Mykolayiv, Odesa, Poltava, Sumy, Ternopil, and Chernivtsi, as well as in Sevastopol, returned 42 former houses of worship to religious groups. In August the local Government returned a former Mosque to the Muslim community in Crimea.

Numerous Jewish congregations have negotiated successfully with local authorities for worship space. In 1996 a Kiev arbitration court decided in favor of transferring the title of the former Kiev Central Synagogue, which in Soviet times was used as a puppet theater, to a Chabad Hasidic congregation. By December 1997, the puppet theater had vacated the building, and in the spring of 1998, the building reopened again as a synagogue. The synagogue was rededicated this year after extensive renovation. The decision set an important precedent for the judiciary's role in religious property restitution. According to Jewish community representatives, progress on restitution is generally satisfactory, although more could be done. In the first quarter of the year, two synagogues were returned to the Jewish community.

The pace of restitution of Christian churches has slowed in recent years, since the buildings that remain in state possession tend to be prime properties currently being used as museums, concert halls, or city halls. All religions have enjoyed equal opportunity to regain control over former community property. Problems in obtaining restitution resulted from inadequate legislation, bureaucratic inertia, and the difficulty of locating alternative quarters for current occupants. In February 1999, a presidential order instructed all local governments to complete the handover of former religious property whenever possible by the end of 1999 and banned privatization of religious communities' property. However, restitution is not complete. The committee attributed delays in returning other properties to lack of funds and the difficulties involved in finding alternative space for current users.

In July a dispute arose over efforts by a Jewish organization to build a memorial park at an ancient Jewish

cemetery and holocaust massacre site in Sambor, a town in Lviv Oblast. City authorities deferred the project after local nationalist groups demanded that the site also commemorate non-Jewish victims of the Nazis buried on the site. Efforts to reach a compromise stalled when the Nationalists demanded that no Jewish symbols appear at the site, that no Hebrew be used on inscriptions, and that Christian crosses be displayed. Nationalist groups later installed make-shift crosses at the site. At year's end, work on the memorial had stopped, and the crosses remained.

A number of religious properties were returned to Christian churches during the year. In the first quarter of the year, the Ukrainian Orthodox Church received 17 buildings. In May the Kiev Patriarchate received the newly rebuilt, historic St. Michael's Cathedral in central Kiev for its exclusive use. The Cathedral, which had been destroyed by Stalin in 1936, was rebuilt with significant local government funding. In September the Moscow Patriarchate received for its use the newly rebuilt Uspensky Cathedral of the Lavra Monastery, which also was restored using government funds.

In June four foreign public school teachers with religious affiliations were deported from Sevastopol after being accused of illegal religious activity incompatible with their work visa status. Although the central Government in Kiev offered to assist them with an appeal of this decision, the teachers decided voluntarily to depart the country.

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

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

The Constitution provides for these rights, and the Government generally respects them in practice; however, there are some limits. In particular the Government has not yet fulfilled its pledge to abolish mandatory registration—the propiska system—and replace it with an informational residence register (see Section 1.f.). Regulations impose a nationwide requirement to register at the workplace and place of residence in order to be eligible for social benefits, thereby complicating freedom of movement by limiting access to certain social benefits to the place where one is registered. For example, persons who move to other regions for work in the private sector may be denied formal access to free medical care and other services provided by the Government. Residence without registration carries a fine under the administrative code, but this provision rarely is enforced. Human rights groups reported cases of persons being stripped of their residence registration, evicted from their homes, and made homeless through criminal fraud or court error. Police also arbitrarily detained persons for extensive document checks and vehicle inspections (see Section 1.f.).

Citizens who wished to travel abroad were able to do so freely. Exit visas are required for citizens who intend to take up permanent residence in another country. There were no known cases of exit visas being denied to citizens during the year. The Government may deny passports to individuals in possession of state secrets, but denials may be appealed. A lapse in an Israeli-Ukrainian student exchange agreement in 1999 led to concerns about the ability of several hundred students to travel overseas for study in Israel. While negotiations continued between the Ukrainian and Israeli Governments over the renewal of the lapsed exchange agreement, the Ukrainian Government took steps to ensure that the students in question could travel to Israel. The exchange agreement was renewed in April.

Citizenship law provides the right to citizenship for all individuals who were born or lived in the country before independence and to their descendants who lived outside the country as of November 13, 1991. In order to be eligible, persons must not be citizens of other countries and must submit their application by year's end. An amendment to the law in April extended the application deadline to 2005 for Ukrainians returning from the far north and east in Russia and for former military officers. Dual citizenship is not recognized. A 1997 amendment to the Citizenship Law also provides the right to citizenship for deported victims of political oppression, such as the Crimean Tatars. Refugees can acquire citizenship if they have lived legally in the country for 5 years and can communicate in the Ukrainian language. Since independence over 1.5 million Ukrainians have returned to the country, while over 1 million persons, mostly ethnic Russians, have left the country.

The Government has not supported a foreign-funded program to facilitate the travel to the country of some emigrants who qualify for resettlement as refugees. More than 260,000 Crimean Tatars have returned from exile to Crimea, mainly from Central Asia. According to government officials, as of September between 220,000 and 230,000 Tatars had acquired Ukrainian citizenship. Crimean Tatar leaders have complained that their community has not received adequate assistance in resettling and that an onerous process of acquiring citizenship has excluded many of them from participating in elections and from the right to take part in the privatization of land and state assets. However, the 1997 amendment to the Citizenship Law waives some of the usual residence and language requirements for returning deportees and expedites the acquisition of citizenship. The amendment facilitates the acquisition of citizenship by Crimean Tatars who were deported victims of political oppression. It allows deported persons, including Crimean Tatars, to acquire citizenship without a mandatory 5-year term of residence in the country and without Ukrainian language proficiency. In 1999 the Rada further amended the Citizenship Law to allow deported persons or their descendants living in the country for 5 years to acquire citizenship automatically without having to renounce any foreign citizenship that they may possess. Previously Crimean Tatars had difficulty obtaining documents from Uzbekistan to confirm that they had relinquished their Uzbek citizenship.

The 1993 Law on Refugees governs the treatment of refugees and entitles refugees to all of the benefits accorded to citizens. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR), and refugee status initially is given for a 3-month term and is subject to further extension. According to government statistics, 2,898 persons (more than half of whom are Afghans) were granted refugee status between January and October. A commitment was made to award refugee status to all Afghans who arrived in

the country before 1995. Under the new Citizenship Law, legally registered refugees can apply for citizenship after 5 years of permanent residence. Under the Refugee Law, refugees are entitled to material assistance. The Cabinet decided to start allocating funds in the 1999 national budget for payment of refugee pensions and small allowances for indigent refugees, plus transportation fare to a refugee center. In cooperation with the UNHCR in 1997, the Government established a refugee receiving center for 200 persons in Vinnytsya. The Government planned to open four other centers elsewhere; however, no additional center had been opened by year's end.

Instances of police harassment of certain categories of refugees apparently diminished during the year.

According to the State Committee for Nationalities and Migration, the Government has a first asylum policy. This means that persons who travel directly from their home country to Ukraine as refugees are assured refugee status. However, there were some problematic cases in 1999.

There were no reports during the year that persons were forced to return to a country where they feared persecution. In 1999, four Uzbeks, including two exiled Uzbek oppositionists, reportedly were arrested without a warrant, denied counsel, and deported forcibly to Uzbekistan without a hearing, despite protests by human rights groups. The four claimed to have been tortured and forced to give false testimony; nonetheless, they were sentenced later that year by an Uzbek court to between 8 and 15 years in prison.

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

Citizens have the right and the ability to change the government peacefully. The Constitution provides universal suffrage for citizens at least 18 years of age and for periodic elections every 4 years for the Parliament and every 5 years for the President. A presidential election was held on October 31 and November 14, 1999. Parliamentary elections took place in 1994 and in 1998.

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

The voting process in connection with the April referendum on amendments to the Constitution that would increase presidential powers was conducted in a generally free and fair manner; however, there were some serious problems. While most observers agreed that there were few procedural irregularities on voting day, the period leading to the referendum was marked by unbalanced media coverage and inappropriate involvement of government officials in turning out the vote and influencing voters on behalf of President Kuchma. Voter turnout was reported to be higher than during the October 1999 presidential election, raising suspicions of manipulation on the part of the presidential administration. For example, an unusually high number of voters were allowed to vote before election day. Pollsters reported that exit poll results on turnout were notably lower than results reported by the Government. However, it is believed that the outcome of the referendum generally reflected the will of the people.

In June by-elections were held to fill 10 vacant parliament seats. Opposition candidates complained of voting irregularities, a lack of access to the media, and government pressure on behalf of pro-presidential candidates. However, observers believed that it was unlikely that these problems significantly altered the outcome of the election.

As many as 10 elected mayors reported continued harassment by the Tax Administration and law enforcement bodies, allegedly at the direction of presidentially appointed regional governors. The mayors attributed this pressure to their lack of support for President Kuchma during the 1999 presidential election. In February Vasylkiv Mayor Valeriy Popovych resigned under pressure after being detained and released on corruption charges. In September Myrhorod mayor Vasyl Tretetsky was removed from office by the city council. The press reported that the regional governor threatened council members with the loss of family members' jobs if they did not oust Tretetsky. In September Romny mayor Viktor Strelchenko resigned, reportedly after being told that the city would not receive heating fuel from regional authorities if he remained in office. Cherkasy mayor Volodymyr Olynyk, who ran for president in 1999 but dropped out in favor of another opposition candidate, was under criminal investigation and complained of SBU monitoring of his activities.

International observers noted violations of election day procedures in the 1999 presidential elections, with more numerous and serious violations occurring in the second round of voting. However, the violations reportedly were not widespread nor systematic. The most serious problems were unbalanced media coverage and the coordinated and inappropriate involvement of government officials in both rounds of the election on behalf of President Kuchma. The OSCE also was concerned over pressure exerted on voters in prisons, hospitals, and educational institutions on behalf of President Kuchma. A representative of the Parliamentary Assembly of the Council of Europe declared that the elections were "far from fair and democratic." OSCE observers noted that unauthorized persons, including SBU officers, present in polling stations, especially during the runoff election and had reports of militia involvement in campaigning. After the first round of voting, three regional administrators were dismissed, allegedly for failing to produce sufficient votes for President Kuchma in their districts. After the second round of voting, President Kuchma dismissed two oblast governors and six rayon (regional) heads in those regions where Kuchma received fewer votes than Communist Party rival Symonenko. Very high voter turnouts, particularly in western districts, aroused suspicion of ballot stuffing on President Kuchma's behalf in the second round of voting. However, observers concluded that it was unlikely that these problems significantly altered the final outcome of the election, in view of President Kuchma's 18-point margin of victory.

In the 1999 preelection period, various forms of government pressure on the media served to limit the independence of the press (see Section 2.a.). The Parliamentary Assembly of the Council of Europe found that state media coverage of the presidential campaign was biased strongly in favor of President Kuchma. The Government allegedly used official agencies, especially the Tax Inspectorate, to disrupt or eliminate the businesses of political opponents prior to the elections. Presidential candidate Yevhen Marchuk reported that police ordered a meeting with voters evacuated in Luhansk in August 1999, citing an anonymous bomb threat (see Sections 1.c. and 2.b.). Political candidates also reported difficulty in renting meeting halls, closure of their local campaign offices by government officials, confiscation of campaign vehicles, and pressure on employees from directors of state-owned enterprises. Many opposition presidential candidates complained that the SBU overstepped its mandate and interfered in the campaign to the benefit of President Kuchma. These reports appear credible. There are confirmed reports that the SBU monitored NGO's engaged in nonpartisan political activity (see Sections 1.f. and 4). Presidential candidates complained about the presidential administration's dominance over the media and the illegal involvement of state officials in Kuchma's campaign. The Supreme Court declared in November 1999 that it did not have the right to question the decision of the Central Election Committee or to declare an election null and void but that it could only order recounts in specific polling stations.

Women are active in government and politics, but are underrepresented and they hold a disproportionately small percentage of offices. Women hold 37 of the 450 seats in the Rada. Only two women hold ministerial posts. The 18-member Constitutional Court has two female members.

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

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

A wide variety of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally are cooperative and responsive to their views. However, human rights groups reported more difficulties in investigating penal conditions, which are a significant human rights concern. There are confirmed reports that the SBU monitored NGO's engaged in nonpartisan political activity during the 1999 presidential election campaign (see Section 3).

A 1998 law created the Parliamentary Commissioner on Human Rights, which is a constitutionally mandated independent human rights ombudsman. Parliament elected the first Ombudsman in April 1998. The Ombudsman serves a 5-year term and, in principle, is invested by law with very broad powers. In November the Ombudsman delivered her first human rights report to Parliament. The report noted that despite legislative guarantees, the country lacks effective mechanisms for protection of human rights. The Ombudsman's office reported that it had received more than 100,000 letters since its inception; however, many of those letters were requests for information rather than complaints of human rights violations. The office's staff grew by 30 percent during the year to approximately 60 full- and part-time workers. However, the office was underfunded, and employees sometimes were unpaid.

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

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

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

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

Women

Violence against women is reportedly pervasive. While statistics compiled by the U.N. Development Program show that the number of reported rapes and attempted rapes decreased in recent years, surveys indicated that the majority of rapes and other cases of physical abuse went unreported. Past surveys by women's groups

indicated that between 10 and 15 percent of women had been raped, and over 25 percent physically abused, in their lifetimes.

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

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

Ukraine is a significant source country for girls and women trafficked to Central and Western Europe and the Middle East for sexual exploitation (see Section 6.f.). A 1998 amendment to the Criminal Code imposes harsh penalties for—among other offenses—trafficking in human beings, including for sexual exploitation and pornography; however, the effectiveness of this step has not yet been established. The authorities rarely prosecute men for engaging women in the rapidly growing sector of sexually exploitative work.

Women's groups reported that there was widespread sexual harassment in the workplace, including coerced sex. Apart from the law that prohibits forced sex with a "materially dependent person," which applies to employees, legal safeguards against harassment are inadequate. In the only known case of prosecution for sexual harassment in the workplace, Pravda Ukrayiny editor Oleksandr Horobets was convicted in 1999 of sexual harassment of a subordinate and sentenced to 7 months in prison. However, the fact that Horobets was the editor of an opposition newspaper calls into question the motives of the procuracy in prosecuting the case.

Labor laws establish the legal equality of men and women, including equal pay for equal work, a principle that generally is observed. However, the economic crisis has harmed women disproportionately. Women are much more likely to be laid off than men. Women constitute approximately 56 percent of the unemployed population, and as much as 90 percent of newly unemployed persons. Industries that are dominated by female workers are also those with the lowest relative wages and the ones that are most likely to be affected by wage arrears problems.

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

Few women attain top managerial positions in state and private industry. A March business survey found that half of private sector employees are women. According to the survey, women run 30 percent of private small businesses and 13 percent each of large and medium businesses. According to government statistics, 69.2 percent of the country's 213,000 state administration jobs were held by women, including 45.2 percent of the managerial positions. However, of the highest "first" and "second" category offices, only 5.6 percent in central or local governments are filled by women. (These numbers do not include the "power ministries"—the Ministries of Defense, Internal Affairs, Foreign Affairs, and the SBU, which have substantially more male employees at all levels.)

Educational opportunities for women generally have been, and continue to be, equal to those enjoyed by men. However, the Government limited the number of women who can receive military officer training to only 20 percent of the total number of students accepted. The military limited the role of women to certain functions. This limited their chances for promotion and training opportunities and they were left with low-paying routine positions in the military.

Children

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

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

There were higher numbers of homeless children, who usually fled poor orphanage or poor domestic

conditions. According to government statistics, 100,000 children are registered as homeless; of those, 14 percent are under age 7. Although statistics were unavailable, drug use and child prostitution are widespread and received substantial media attention during the year. Several charity groups were formed to assist these children, but they have not been able to reduce the problem. In January President Kuchma issued a decree aimed at reducing homelessness among children; however, the effect of that decree is unknown. In 1997 the All-Ukrainian Committee for Protection of Children released survey results that revealed that every fifth or sixth child of both sexes under age 18 suffered from sexual harassment (including every third girl), and that every 10th girl is raped.

Deteriorating conditions in the state orphanages led the Government to encourage families to provide foster homes for orphans and to facilitate the establishment of private, government-supervised orphanages. There are 75 such orphanages with some 800 children. To curb illegal adoption, an April 1998 amendment to the Criminal Code prescribed up to 15 years' imprisonment for trafficking in children and illegal adoption (see Section 6.f.). However, there had been no known successful cases of its application as of year's end.

People with Disabilities

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

Religious Minorities

Anti-Semitism exists on an individual and societal basis. However, the central Government generally discouraged it. Some ultranationalist groups and newspapers continued to publish and distribute anti-Semitic tracts regularly. Anti-Semitic publications also are imported from Russia and distributed without the necessary state license. During the year, President Kuchma and Prime Minister Yushchenko repeatedly and publicly spoke about the need for the peaceful coexistence of ethnic and religious groups. Authorities opened criminal cases against publications for fomenting interethnic hatred. Moreover, the Procuracy warned certain publications against publishing anti-Semitic material. In 1999 the Shimon Dubnov Ukrainian Academy of Jewish History and Culture filed suit against the nationalist newspaper Vechirniy Kiev for publishing anti-Semitic criticism of the Academy's collection of scholarly articles, "Judeophobia Against Ukraine," which was published in 1998. The case still was pending at year's end.

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

In October large crosses were erected on prominent elevations near Sevastopol. In November the crosses were cut down. Although Orthodox religious leaders accused Tatars of dismantling the crosses, the Tatars denied involvement, and no one was held formally responsible for the act.

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

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

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

Tension also persists between the different branches of the Orthodox Church. In April 1999, a violent scuffle took place in the southeastern city of Mariupol between supporters of the Ukrainian Orthodox Church (Moscow Patriarchate) and the entourage of Patriarch Filaret of the Ukrainian Orthodox Church (Kiev Patriarchate). Filaret had come to Mariupol to consecrate a cross erected on the future site of a Kiev Patriarchate church. A scuffle broke out when opponents tried to pull down the cross. Filaret received minor injuries, and several of his followers were treated at a local hospital for concussions and minor injuries.

National/Racial/Ethnic Minorities

The frequent harassment of racial minorities is an increasing problem. The police routinely detain dark-skinned persons for arbitrary document checks (see Section 1.c.). In addition there were increased reports of racially motivated violence against persons of African and Asian heritage. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them.

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

The Constitution provides for the "free development, use, and protection of the Russian language and other minority languages in Ukraine." This compromise builds on a 1991 law on national minorities, which played an

instrumental role in preventing ethnic strife by allowing individual citizens to use their respective national languages in conducting personal business and by allowing minority groups to establish their own schools. Nonetheless, some pro-Russian organizations in the eastern part of the country complained about the increased use of Ukrainian in schools and in the media. They claimed that their children are disadvantaged when taking academic entrance examinations, since all applicants are required to take a Ukrainian language test. According to official statistics, there are 16,352 Ukrainian schools, 2,399 Russian schools, 98 Romanian schools, 67 Hungarian schools, 11 Moldovan schools, 9 Crimean-Tatar schools, and 3 Polish schools in the country.

In May a popular folk singer was killed at a cafe in Lviv, allegedly by Russian-speakers who objected to his singing Ukrainian songs. The murder sparked protests and prompted a national debate over the use of Ukrainian and Russian languages. In July the city council issued a decree banning the broadcast of "amoral songs" in public places, which some observers interpreted as a prohibition against Russian language music. However, the decree never was enforced and in August the local procuracy declared the decree unlawful. Ukrainian and Crimean Tatar minorities credibly complain of discrimination by the Russian majority in Crimea and demand that the Ukrainian and Tatar languages be given equal treatment to Russian. According to Tatar leaders, unemployment is as high as 50 percent in their community. In January 1999, the office of the Tatar Assembly Mejlis (the unofficial Tatar parliament) was firebombed in Simferopol. As of October, no one had been charged in the crime, though Tatars blamed Russian chauvinists. In May 1999, on the anniversary of Stalin's deportation of the Tatars to central Asia, 35,000 Tatars demonstrated for official recognition of the Mejlis, Tatar representation in the Crimean parliament, and for official status for the Tatar language. In response President Kuchma created a presidential Tatar advisory committee that included all members of the Mejlis. Tatar leaders reported that during the year the committee helped promote Tatar interests at the national level. Also in May 1999 Tatar protesters erected a tent camp in front of the Crimean government building. The camp was dismantled after the Crimean Prime Minister Serhiy Kunitsyn agreed to the protesters' 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. A demonstration held on the anniversary of the deportation of Crimean Tatars in May was much smaller and less politicized.

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

The majority of the more than 260,000 Crimean Tatars who have returned to the country from exile in central Asia have received citizenship. According to Tatar leaders, approximately 30,000 to 40,000 of them still lack citizenship, a decrease from 67,000 in 1999. Crimean Tatar leaders have complained that their community has not received adequate assistance in resettling, and that the onerous process of acquiring citizenship has excluded many of them from participating in elections and from the right to take part in the privatization of land and state assets (see Section 2.d.).

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

Rusyns (Ruthenians) called for status as an official ethnic group in the country. At a congress held in Uzhhorod in 1999, representatives of the Rusyn community called for Rusyn-language schools, a Rusyn-language department at Uzhhorod University, and for Rusyn to be included as one of the country's ethnic groups in the 2001 census. According to Rusyn leaders, more than 700,000 Rusyns live in the country.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right to join trade unions to defend "professional, social and economic interests." Under the Constitution, all trade unions have equal status, and no government permission is required to establish a trade union. The 1992 Law on Citizens' Organizations (which includes trade unions) stipulates noninterference by public authorities in the activities of these organizations, which have the right to establish and join federations on a voluntary basis. In principle all workers and civil servants (including members of the armed forces) are free to form unions. In practice the Government discourages certain categories of workers, for example, nuclear power plant employees, from doing so. A new trade union law designed to replace Soviet-era legislation was adopted by Parliament and signed into law by the President in 1999. In January independent unions challenged the law. The grounds that it was as unconstitutional, and in late October, the Constitutional Court ruled that some provisions of the 1999 Labor Union Law were unconstitutional. The court rejected the requirement that unions must register with the Ministry of Justice and the condition that unions have a certain level of membership and regional representation in order to qualify for national status. The International Labor Organization (ILO) has stated that the law violated ILO Convention 87 on Freedom of Association.

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

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

Independent unions claimed that the new trade union law is more restrictive than the old Soviet legislation. To acquire national status, a union must have representation in more than half of the 14 regions of the country, or in one-third of the enterprises in a regionally based sector, or have a majority of union members in the sector. National status and registration confer the right to acquire space, property, to maintain bank accounts, and to enter legally binding agreements. These new requirements are likely to make it difficult for miners and sailors to organize. Another contentious requirement is mandatory registration by the Justice Ministry. All unions were required to reregister with the Justice Ministry by April. As of October, nearly all FPU-affiliated unions and 14 independent unions were registered. The largest independent union, the Independent Miners Union, was not registered because it lacks the geographic presence necessary for national status. As of October, the Justice Ministry had not applied the administrative sanctions against unregistered unions that were foreseen in the new law. Registration determines participation of a union in the national collective bargaining agreement with the Government, as well as membership on the Social Insurance Fund Board (see Section 6.b.). Independent unions stated that the Justice Ministry denied registration to unions not loyal to the Government. They also reported that management in many enterprises cited the new law in refusing to deal with independent unions. Additionally management no longer is obligated to provide free accommodation and telephone lines to unions. However, the law gives unions a say in labor safety and division of newly built housing.

The Constitution provides for the right to strike "to defend one's economic and social interests." The Constitution states that strikes must not jeopardize national security, public health, or the rights and liberties of others. The law does not extend the right to strike to members of the procuracy, judiciary, armed forces, security services, law enforcement agencies, and public servants. However, a 1998 Law on Labor Disputes Resolution extends the right to strike to employees of "continuing process plants," for example, metallurgical factories, provided that they give 15 days' advance notice of their intent to strike. The law prohibits strikes that jeopardize life or health, the environment, or that can hinder disaster, accident, or epidemic-related operations. According to the International Confederation of Free Trade Unions (ICFTU) 1999 report, the law does not allow strikes in the transport sector. Workers who strike in prohibited sectors can receive up to three years imprisonment.

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

According to official statistics, there were 15 strikes in the first quarter of the year. There are no official restrictions on the right of unions to affiliate with international trade union bodies. The NPGU is a member of the Federation of Chemical, Energy, Mine, and General Workers' Union.

b. The Right to Organize and Bargain Collectively

The Law on Enterprises states that joint worker-management commissions should resolve issues concerning wages, working conditions, and the rights and duties of management at the enterprise level. Overlapping spheres of responsibility frequently impeded the collective bargaining process. The Government, in agreement with trade unions, established wages in each industrial sector and invited all unions to participate in the negotiations. The 1998 Law on Labor Disputes Resolution provides for the establishment of an arbitration service and a National Mediation and Reconciliation Service to mediate labor disputes. During the first 4 months of the year, the service mediated 414 labor disputes. According to official statistics, in 1999 the service mediated 421 labor disputes.

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

Under the new trade union law, an independent union also can be removed easily from the collective bargaining process at the enterprise level. Under the old law, if several unions at an enterprise failed to agree on joint representation, the larger union, that is the FPU represented labor in the bargaining process. The new law failed to address this problem.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution and the Labor Code prohibit forced and compulsory labor, and it generally is not known to occur; however, the country is a major source of girls and women trafficked for sexual exploitation (see Sections 5 and 6.f.). The law does not prohibit specifically forced and bonded labor by children; however, there were no reports of such practices, apart from victims of traffickers.

Human rights groups described as compulsory labor the common use of army conscripts and youths in the alternative service for refurbishing and building private houses for army and government officials. In 1998 student groups protested against a presidential decree obliging college and university graduates, whose studies have been paid for by the Government, to work in the public sector at government-designated jobs for 3 years or to repay fully the cost of their education. Students described the decree as an anticonstitutional attempt to introduce compulsory labor, as the Constitution provides for free choice of job and one's agreement to work. The Government stated that the decree would cover only students who entered higher education institutions in 1997 and thereafter. The extent of enforcement of the decree is unknown. In the past, human rights groups reported complaints from medical and law students that they had been forced to accept government-assigned jobs for 3 years to repay the cost of their education or not receive their diplomas. However, no recent complaints have been reported.

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

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

The Government ratified ILO Convention 182 on the Worst Forms of Child Labor in October.

e. Acceptable Conditions of Work

The minimum monthly wage is \$21.70 (118 hryvnia), and the minimum monthly pension is \$4.70 (24.9 hryvnia). The average monthly salary is \$41.60 (228.8 hryvnia), which does not provide a decent standard of living for a worker and family. Moreover millions of persons go unpaid for many months because of shrinking budget revenue. In July Parliament declared the official subsistence level to be about \$50 (270.1 hryvnia) per month. Although the practice of underreporting sources of income is widespread, it is estimated that in fact some 50 percent of the population effectively lives in poverty.

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

The law contains occupational safety and health standards; however, these frequently are ignored in practice. Lax safety standards and aging equipment caused many serious accidents, resulting in approximately 47,000 work-related injuries in 1999. According to official statistics, these were 85 serious industrial accidents in which 141 workers were killed and 332 were injured occurred during the first half of the year. Mining accidents killed 212 miners during the first half of the year. In the coal mining sector, it is estimated there are 5.2 deaths for every million tons of coal extracted.

In theory workers have a legal right to remove themselves from dangerous work situations without jeopardizing continued employment; however, in reality, independent trade unionists reported that asserting this right would result in retaliation or perhaps dismissal by management.

f. Trafficking in Persons

Trafficking in women and girls is a significant problem. The country is a major source and transit country of women and girls trafficked to Central and Western Europe, the United States, and the Middle East for sexual exploitation, and reports of trafficked women and girls from Ukraine also have come from Australia, Japan, and South Africa. The International Organization for Migration estimated in 1998 that 100,000 citizens had been trafficked abroad for this purpose since 1991. Between 1991 and 1997 Israeli authorities deported 1,500 Russian and Ukrainian women who had been trafficked there; and Italian officials estimated in 1999 that at least 30,000 Ukrainian women were employed in Italy in exploitative situations. In Israel where many Ukrainian women are trafficked, the Government fails to protect the victims and routinely jails the Ukrainian women on charges of prostitution prior to their deportation.

The Parliament passed an amendment to the criminal code in 1998 that imposes harsh penalties for, among other offenses, trafficking in human beings, including for sexual exploitation and pornography. In 1999 the Government established special police units to investigate trafficking crimes; however, the effectiveness of these units and of the amended Criminal Code has not yet been established. In 1999 the Human Rights Ombudsman established a National Coordinating Council for the Prevention of Trafficking in Human Beings; however, the organization has yet to demonstrate its effectiveness. Trafficking is becoming a higher priority for law enforcement agencies, but these agencies often lack the financial and personnel resources to combat well-

established criminal organizations that run trafficking operations. The Ministry of Internal Affairs in 1999 established special antitrafficking units at the national and oblast levels. These units became operational this year; however, they have had limited impact. NGO's claimed that the local militia received bribes in return for ignoring this problem. Moreover, some reports allege that local public officials abetted or assisted organized criminal groups in trafficking women abroad.

The authorities do not prosecute men routinely for engaging women in the rapidly growing sector of sexually exploitative work. In the past three years, 37 criminal cases have been brought against alleged traffickers, most of which ended in acquittals. Sentences for those convicted of trafficking generally were not severe and usually consist of fines. In November a Greek man and two Ukrainian women were convicted of trafficking in human beings and sentenced to seven years and five years in prison, respectively. This case marked the first time convicted traffickers received jail sentences. In 1999 two women who were sentenced to 5-year suspended sentences and fined \$150 (680 hryvnia) for trafficking. In August 1999, authorities in the Netherlands arrested a Ukrainian national and three Dutch nationals for trafficking women to sex clubs in the southern Netherlands from Ukraine, Belarus, Poland, and Romania. No update on the results of these arrests were available at year's end. Also in 1999, a man was given a suspended sentence and fined for trafficking women to brothels in the former Yugoslavia and engaging them in prostitution, and three persons were arrested on suspicion of selling 200 young women and girls to be used as forced labor in night clubs or as prostitutes in Turkey, Greece, and Cyprus.

Women who are trafficked out of the country often are recruited by firms operating abroad and subsequently are taken out of the country with legal documentation. They are solicited with promises of work as waitresses, dancers, or housemaids, or are invited by marriage agencies allegedly to make the acquaintance of a potential bridegroom. Once abroad the women find the work to be very different from what was represented to them initially.

The Government, primarily due to lack of funds, is unable to assist victims effectively. Some NGO's, such as the domestic NGO La Strada, began offering some support services for victims of trafficking, but these groups also suffered from a shortage of funds. For example, La Strada described a case in February in which seven Ukrainian mothers contacted the NGO to request help for their daughters who were trafficked into prostitution in Montenegro. The NGO became frustrated with the lack of assistance from the Government because there was no central point of contact to address the situation or provide assistance. With foreign assistance, four regional trafficking prevention centers were opened in addition to the three already in existence. Centers now operate in Donetsk, Lviv, Dnipropetrovsk, Chernyvtsey, Kherson, Rivne, and Zhytomyr. The centers offered job-skill training, have telephone hot lines, and serve as referral centers for health, legal, and psychological counseling. In addition to the three cities with trafficking prevention centers, hot lines operate in Luhansk, Odesa, Kharkiv, Ternopil, and Sevastopol. In the first half of the year, La Strada hot lines received 1,040 calls, 684 of which were from callers classified as potential victims. Winrock, an NGO also involved in antitrafficking efforts, reported more than 2,600 calls to its hot lines in the first quarter of the year.

In September 1999, the Cabinet of Ministers adopted a national program for the prevention of trafficking in women and children, involving 20 ministries, local governments, international organizations, donors, and domestic and international NGO's. The program was to combat trafficking as well as to assist victims; however, severe budget constraints limited the ability of the Government to implement the program effectively. The Ombudsman made public statements that the issue of trafficking was a priority (see Section 4). The Ministry of Education introduced a curriculum on trafficking prevention and awareness in high schools. NGO's conducted general awareness programs.

[End.]