

# UKRAINE (82)

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## UKRAINE

Under the new Ukrainian Constitution adopted in 1996 the President, elected for a 5-year term, and a one-chamber Parliament (the Rada), elected for a 4-year term, share responsibility for governance. (Transitional provisions continue the current President's and Parliament's terms until October 1999, and March 1998, respectively.) President Leonid Kuchma was elected in 1994. The President appoints the Cabinet and controls government operations. Under the new Constitution the judiciary is funded as an independent branch, instead of through the Ministry of Justice. However, the court system remains subject to political interference.

The Security Service of Ukraine (SBU), the Ministry of Internal Affairs, and the Ministry of Defense all have equal status and report to the President through the Cabinet. The heads of the Ministry of Internal Affairs and the Ministry of Defense sit in the Cabinet of Ministers. In April the President established by decree the National Bureau of Investigation (NBI). However, the NBI had not been fully organized by year's end; the Parliament refused to provide any funding for the NBI, pending the adoption a law formally establishing it. The chairmen of the SBU and the newly created NBI are also members of the Cabinet, but they are not cabinet ministers. The armed forces have largely remained outside politics. Although the SBU has not interfered in the political process, it can affect it through criminal investigations against politicians and influential businessmen. Reportedly, the Government has used government agencies, especially the Tax Inspectorate, to disrupt or eliminate the businesses of competitors and political opponents. Despite the Government's adoption of a sweeping anti-corruption program, 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, which were opened earlier, have been dropped, ostensibly because of lack of incriminating evidence. Members of the security forces committed human rights abuses.

Ukraine is making a difficult transition from central planning to a market-based economy. According to official statistics, about half of the work force is formally employed in manufacturing, with the balance divided between services and agriculture, although in reality many industrial enterprises have reduced or stopped production. Exports are diversified and include metals, chemicals, sugar, and semi-finished goods. Annual per capita gross domestic product for 1997 was approximately \$1,000. In 1996 Ukraine achieved a measure of macroeconomic stability for the first time since independence. Inflation, which at times had accelerated to hyperinflation, was 10 percent for 1997. The private sector has grown significantly and now represents a substantial portion of the economy, although growth in the unofficial shadow economy is not fully reflected in official government statistics. Nevertheless, the country remains in a serious economic crisis. Industrial output continues to decline, and shrinking revenue has left millions of employees unpaid for many months. The pace of reform was erratic during the year, particularly in the agricultural sector.

Despite some progress on privatization and deregulation, investment remains at low levels, with many potential investors discouraged by onerous and arbitrary taxation and licensing practices.

Overall, Ukraine continued the process of building a law-based civil society. Reports of human rights violations remained at the same low level as in 1996. Problems continue in the unreformed legal and prison systems, and the army. Police and prison officials regularly beat detainees and prisoners; beating of conscripts is common in the army. The Government rarely punishes officials who commit such abuses. Prison conditions remain poor, and lengthy pretrial detention under poor conditions is a common problem. The judiciary is overburdened and lacks sufficient funding and staff. Long delays in trials are a problem. While progress has been made toward ensuring the independence of the judiciary, political interference continues to affect the judicial process. There are occasional government attempts to control the press and limit freedom of speech, and significant limits on freedom of association and on nonnative religious organizations. Laws governing political party organizations have the potential to limit human rights. Significant societal anti-Semitism, violence against women and children, as well as discrimination against women, and both ethnic and religious minorities, persist.

The efficacy of the 1996 Constitution and the safeguards that it provides for human rights depends on enabling legislation, most of which has not yet been passed. The power of the Constitutional Court remains untested. The Constitution's provision for a human rights ombudsman appointed by Parliament to assist citizens in defending their rights was first adopted on November 13. On December 5 the President vetoed the law, giving his requirements that the Ombudsman should not be a member of any political party and that he should be a professional lawyer. However, subsequently the Parliament incorporated most of the presidential proposals into the new version and adopted the law on December 23. (The President signed the bill into law on January 10, 1998.)

## **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 known political killings by government agents. In some instances the line between politically motivated killing and criminal activities was difficult to distinguish. The Government's inability to stem economic decline and check the growth of violent, organized criminal activity had major repercussions. Politicians and politically-connected businessmen continued to be the victims—whether through killing or kidnaping—of organized criminal groups, aided in a few cases, either actively or passively, by corrupt officials.

During the year a member of the town council in Yevpatoriya, the regional property board director, and a governor in Razoolnensky district were killed. Police discovered that the governor's murder was ordered by the chairman of the district council's law and order commission. In April a director of the large steel plant in Olchivsk, Donetsk Oblast, narrowly avoided a bomb explosion in his hotel room. The mayor of Odesa claimed that gunmen, who were overpowered by police in an apartment facing the city hall in August, had planned to kill him.

The number of contract killings of members of the business community, often managers of state-owned enterprises, remained high, especially in the Crimea and Donetsk regions. Politicians were also targeted because of their influence over state-owned enterprises. In September the Crimean Deputy Minister for Tourism and Resorts was killed by a gunman. In December Arkadiy Tabachnyk of Odesa, a prominent businessman with very high political connections, and his bodyguard were also killed by a gunman. Also in December a bomb killed one nurse and injured several other persons in the intensive care unit of a hospital

in Simferopol in an assassination attempt on a local Crimean businessman with criminal connections. There have been no arrests in these cases. As of August there were 73 contract murders; in all of 1996 there were 157 contract murders.

Pervasive organized crime and contract killings have been particularly rampant in the Donetsk region and Crimea. The undermining of governmental authority was particularly serious in Crimea. The Kiev central government in many matters exerts little institutional control over the peninsula, and the Crimean authorities, including members of the executive bodies and the legislature, are widely alleged to be compromised by ties to organized criminal elements. According to police reports, 51 local council deputies are linked to the organized criminal groups, including 11 of 49 members of the city council in Simferopol. Four local deputies were killed last year. The Prosecutor's Office opened five criminal cases against local deputies, including a member of the Crimean legislature. While recognizing the worsening crime scene, in 1996 the new Crimean police leadership claimed to have solved 18 of 36 contract murders and to have detained over 109 criminal leaders, with some 30 more detained in 1997. However, police leadership complains that loopholes in the existing criminal law allow criminal leaders to evade punishment in most cases. In 1996 some 1,000 Crimean policemen, including senior officers, were fired, and over 1000 were disciplined.

The 1996 alleged assassination attempt on the then-prime minister, Pavlo Lazarenko, whose car reportedly barely escaped a bomb explosion, and the killing of Rada deputy and business magnate, Yevhen Scherban, remain unsolved. The 1996 attempt on the mayor of Sevastopol remains unresolved.

**b. *Disappearance***

There were no reports of politically motivated disappearances.

The alleged kidnaping in 1996 of the former speaker of the Crimean legislature remains unsolved.

The January 1994 disappearance of Myhailo Boichyshyn, a prominent leader of the Popular Movement of Ukraine (RUKH), remains unsolved.

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

The Constitution prohibits torture; however, police and prison officials regularly beat detainees and prisoners. Amnesty International in Ukraine reports that riot police beat and torture prisoners during their regular training exercises at jails. In 1996 the human rights group reported about 20 examples of such mistreatment. There is no effective mechanism for registering complaints about mistreatment or for obtaining redress. The human rights ombudsman required by the new Constitution may provide such a mechanism once it is established. The Government made no known efforts during the year to end the practice or to punish officials who committed or abetted such abuses. However, after the 1996 death of a suspect in the Security Service detention center (SBU) in Lviv, who was allegedly beaten to death by guards, the SBU leadership closed the facility and fired 36 of its 49 personnel. There were no developments in the case of a member of Parliament from Kiev, Myroslav Horbatiuk (who was placed in an intensive care unit after a brutal assault), and a former parliamentarian from Zaporizhzhia, Victor Slesarenko (whose car was blown up). They had claimed that violent attacks against them were linked to their investigations into high-level corruption in the Government. The Government has not yet announced the results of its investigations of these allegations.

Beating of recruits by senior conscripts, sometimes resulting in death or suicide of the young soldiers, remains common in the army, especially in the notoriously violent penal units. Police corruption remains a serious problem.

Conditions in pretrial detention facilities routinely fail to meet minimum international standards. Inmates are sometimes held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. Overcrowding is common in the pretrial and investigative detention centers. Prison overcrowding led the Government to release over 20,000 convicts under a mass amnesty, including some convicted of serious, violent crime.

Prison conditions are poor. Despite government efforts to maintain minimum international standards in the prisons for convicted prisoners, the worsening economic situation led to a further deterioration of these facilities. Overcrowding, poor sanitation, and inadequate medical care are all common problems in the prisons.

The incidence of murders by inmates and forced suicides in prisons is reportedly high. In 1996 there were 84 suicides in jails. No official statistics for prison murders are available.

The Government generally permits prison visits by human rights monitors.

**d. *Arbitrary Arrest, Detention, or Exile***

The law provides that authorities may detain a person suspected of a crime for 3 days without a warrant. The Constitution provides that only the courts may issue arrest warrants, but under its transitional provisions the Prosecutor's Office retains the authority to issue arrest and search warrants until 2001. An arrest order must be issued if the period of detention exceeds 3 days. 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 the trial. The law permits citizens to contest an arrest in court or appeal to the prosecutor.

By law a trial must begin no later than 3 weeks after the defendant is indicted. This requirement is frequently not met by the overburdened court system, where months may pass before a defendant is finally brought to trial.

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

Exile as a punishment no longer exists in the law, and the Government observes this prohibition.

According to 1996 Interior Ministry statistics, of a total prison population of 223,000 persons, approximately 45,000 were held in pretrial detention.

There were no reports of political detainees.

A group of Parliamentarians described as political persecution the detention and prosecution on criminal charges of hooliganism of a Parliamentary aide and member of the Ukrainian Radical Nationalist Group, UNA-UNSO, who wrote graffiti criticizing Belarusian President Aleksandr Lukashenko during his 1997 visit to Kiev.

e.

### ***Denial of Fair Public Trial***

The Constitution provides for the establishment of an independent judiciary; however, the judiciary remains subject to political interference.

The existing court system is divided into courts of general jurisdiction and arbitration, or commercial, courts. The courts of general jurisdiction are divided into criminal and civil sections. The courts are organized on three levels: rayon (district or people's) courts, oblast (regional) courts, and the Supreme Court. There are 742 district and city courts, 27 regional courts, 26 military courts, and one interregional court. All may act as a court of first instance depending on the nature and seriousness of the crime. A case heard in the first instance by the Supreme Court, therefore, may not be appealed or overruled. Military courts only handle cases involving military personnel.

There are no clear rules to determine which court first hears a case.

The 1996 Constitution provides for a restructuring of the judiciary. Justice is to be administered by the Constitutional Court and general jurisdiction courts with the Supreme Court at their head. The judicial system is also to include local and appeals courts, as well as special courts to be established by future legislation, headed by their respective highest courts. However, pending formation of the new judicial system, the old system remains in place, including the present Supreme and Supreme Arbitration Court, for a maximum period of 5 years, until 2001.

The Parliament, the President, and the Congress of Judges each appoint 6 of the Constitutional Court's 18 members for 9-year terms. The Court Chairman is elected for a 3-year term by the 18 justices from among their own ranks. As of September, all positions on the court were filled. The Constitutional Court is the ultimate interpreter of legislation and the Constitution. It determines the constitutionality of legislation, of presidential edicts, of cabinet acts, and of acts of the Crimean Autonomous Republic. The Constitutional Court hears cases at the request of the President, at least 45 Parliamentarians, the Supreme Court, the Parliament's Human Rights Ombudsman, or the Crimean legislature. While under the Constitution a citizen has the right to apply to any court, citizens can apply to the Constitutional court only through the Human Rights Ombudsman.

The Constitution strengthens the courts by establishing the principle of judicial review. During the first half of the year, citizens filed over 6,000 civil suits against the Government, compared with 8,000 suits in 1996. Most of these cases were disputes over unpaid wages. According to the Supreme Court, citizens win most such cases, although virtually no verdicts are enforced.

The Criminal Procedures Code allows the following officials to suspend court decisions: Prosecutor General (or his Deputies), Head of the Supreme Court (or his deputies), and heads of the regional courts and Kiev municipal court (or their deputies). Such suspension is subject to the approval by the presidium of the regional court (respectively, Kiev municipal court and Supreme Court). It is believed that this system induces interference, manipulation and corruption.

Prosecutors, like the courts, are also organized into offices at the rayon, oblast, and republic levels. They are ultimately responsible 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. Prosecutors and defense attorneys by law have equal status before the courts. In practice, however, prosecutors still are very influential because court proceedings are not conducted in an adversarial manner and the procuracy, in its pretrial investigative function, often acts in effect as a grand jury. A prosecutor directs all investigations of the Ministry of Internal affairs and the SBU, or he may use the investigative resources of his office. 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, the transitional provisions of the Constitution allow the Prosecutor's Office to continue to conduct

investigations and oversee general observance of the law, pending the formation of the new pretrial investigation system. In November the Constitutional Court interpreted the Procuracy Law, ruling that citizens can dispute prosecutors' decisions in court.

Judges are appointed by the President for an initial 5-year term, after which they are subject to parliamentary approval for lifetime tenure. In accordance with the Constitution, the Parliament began appointing judges to lifetime tenure positions, reappointing most currently serving judges, with few exceptions. The Parliament awarded lifetime tenure to 433 of the 4,719 judges whose terms were due to expire in 1997. Over 350 of 389 judges of the arbitration (commercial) courts already had lifetime tenure under the 1991 Arbitration Court Law. Judges are recommended for nomination by local qualification commissions to the Supreme Qualification Commission. Judges are selected for nomination or dismissal by the Supreme Judicial Council, which is also authorized to discipline judges-including judges of the Supreme Court and Supreme Special Courts-and prosecutors for violations of the law. The Supreme Judicial Council consists of 20 members nominated by the three branches of government and by professional associations from the law and procuracy sectors. It also includes the Chairman of the Supreme Court, the Minister of Justice, and the Prosecutor General of Ukraine. The press reported only one case of a judge being convicted for bribery. The Luhansk regional court gave a suspended sentence of 4 years to a judge in the town of Krasnodon for accepting a bribe of \$1,000. The Supreme Court upheld the sentence.

Many judges and prosecutors were appointed during the Soviet era, when political influence pervaded the criminal justice system. Human rights lawyers claim that the judiciary is not free from government influence, particularly at the regional and local levels. Judges, prosecutors, and other court officials appear to remain closely attuned to local government interests. Organized crime elements are also widely alleged to influence court decisions. Although statistics are not available, the Justice Ministry reports that this year some judges have been disciplined and dismissed. However, since independence only four judges have been prosecuted on criminal charges for bribery, with no such cases resulting in a trial. No higher court judge has been disciplined to date. Criminal elements routinely use intimidation to induce victims and witnesses to withdraw or change their testimony. The law requires that a special police unit protect judges, witnesses, defendants, and their relatives. However, it has not yet been formed, and trial participants are vulnerable to pressure.

Human rights groups contend that judicial processes are sometimes affected by the biases of expert advisers, who answer to government investigative and prosecutorial bodies.

The judiciary is inefficient and lacks sufficient staff and funds. The funds earmarked for the judiciary in the budget are barely enough to pay the judges and the staff of the courts. According to the Justice Ministry, some 37 percent of the courts are inadequately housed. The authority of the judicial system is also undermined by a poor record of compliance with court decisions in civil and economic cases, while the provisions for criminal punishment under the criminal code for noncompliance with a court decision are rarely used.

The 1993 In July the Cabinet decided to form police protection units to provide security for judges, defendants and their relatives.

Under the existing court system, cases are decided by judges who sit singly (in principle with two public assessors), or in groups of three for more serious cases. As it has become increasingly difficult to find unpaid public assessors willing to attend a trial, most cases are tried by a single judge. The Constitution provides for public, adversarial trials, including a judge (or group of judges), public assessors, state prosecutor, defense and jury (if required by the law).

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 the Constitution's 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. Judges frequently send cases unlikely to end in convictions back to the

Prosecutor's Office for "additional investigation." Such cases may then be dropped or closed. It is commonly believed that suspects frequently bribe court officials to drop charges before cases go to trial, or to lessen or commute a sentence. Consequently, conviction rates are somewhat misleading. However, as courts have become more independent, the number of acquittals has increased each year. In May the Supreme Court Chairman made an unprecedented public warning to investigative agencies, particularly the police, against interfering in court decisions.

Complicated cases can take years to go to trial. In the interim, defendants wait in pretrial detention. The 1996 Amendment to the Criminal Procedures Code provides for bail, but to date it rarely has been used.

According to Interior Ministry statistics, in comparison with past years, greater numbers of convicted defendants are receiving some form of suspended sentence, in large part due to prison overcrowding. In 1996 about 138,000 persons received suspended sentences, while the prison population numbered approximately 223,000.

Current members of Parliament, members of local councils, and judges enjoy immunity from criminal prosecution unless the Parliament, the respective council, or the judiciary authority gives its consent to criminal proceedings. Consent is rarely given in practice.

There were no reports of political prisoners. A human rights group in Zaporizhzhya called Justice reported that its activist Stepan Shkarun was detained during the summer on charges of insulting a judge while attempting to expose corruption in the regional court. He alleged that the head of the regional court illegally received free gas from a haulage company in exchange for a favorable court ruling in a case involving the company's director. A human rights group claims that while he was in pre-trial detention in Dnipropetrovsk, Shkarun was beaten into signing a confession; he was released under amnesty a month later.

**f. Arbitrary Interference With Privacy, Family, Home, or Correspondence**

Although the Constitution requires that courts issue search warrants, this provision has not yet been implemented. During the transition period, prosecutors are issuing search warrants. The SBU, for reasons of national security, may conduct intrusive surveillance and searches without a warrant with the consent of the Prosecutor General. The Prosecutor General's Office oversees the SBU, but the extent to which it utilizes that 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 that the SBU has on them and to sue for physical or emotional damages incurred by an investigation. The procedure to implement and enforce this new right have not yet been established.

The remnants of Soviet control mechanisms survive in many guises. Militia personnel have the right to stop vehicles arbitrarily and need no probable cause to initiate extensive document checks and inspection of all parts of the vehicle. Citizens who have committed no violation, or only a minor one, often prefer to pay a bribe to avoid a time-consuming inspection. Police have the right to detain a person for up to 3 hours to verify identity. All internal passports contain a stamp indicating a citizen's residence and matrimonial status.

**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, the Government persistently attempts to control the press. The Government tolerates criticism on a selective basis. Many journalists practice self-censorship. The Government largely controls the broadcast media.

The print media, both independent and government-supported, demonstrate a tendency towards self-censorship on matters sensitive to the Government although this has been decreasing over time. The executive branch, through the Ministry of Press and Information, subsidizes the operations of some large-scale publications. The Ministry has warned some periodicals against fomenting ethnic tensions and conducting antistate propaganda and has applied to the Prosecutor's Office to open investigations into those newspapers. However, no newspapers are known to have been prosecuted as a result. Private newspapers have also been established and are free to function on a purely commercial basis. However, they practice self-censorship and 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 April 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 whose founders include central and local governments, public organizations, associations, unions, educational institutions, and newspaper employees. The journalistic community believes that this decree was intended to support loyal members of the press. The dependence of the subsidized and private press on the Government's patronage particularly inhibited criticism of the Government on the local level. Foreign-owned newspapers are permitted and foreign periodicals circulate freely.

The broadcast media remain largely under state ownership. They are managed by the State Committee on Television and Radio (Derzhteleradio), whose head, according to the new Constitution, is appointed by the President and confirmed by Parliament. The President and the Parliament each appoint half of the members to the regulatory board for broadcasting, the National Council for Television and Radio Broadcasting, which issues broadcasting licenses and allocates broadcasting time. The law entitles private and foreign companies to establish and operate their own transmission facilities, provided that they obtain a license from the National Council. A news program that covers domestic political developments, notably *Vikna* (Windows) has fended off attempts by Derzhteleradio to preview and revise the content of their programs. In April allegedly under pressure from the parliamentary leadership, the National Television and Radio Broadcasting Council ordered the state-owned channel UT-2 to suspend the broadcasting of *Pislyamova* after it broadcast a report that was critical of the Communist regime in Cuba at the time of a Ukrainian parliamentary delegation's trip to Cuba. The program was suspended but was permitted to resume broadcasting a short time later, after public protests and the intervention of the President. In December, citing increasing political pressure, *Pislyamova* decided to cease broadcasting for the election period.

The Committee for Protection of State Secrets enjoys broadly defined powers over all media. According to journalists, it has not interfered with the practice of their craft. There is a comprehensive, specific regulation on state secrets whose publication is prohibited. In May 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. Article 125 of the Criminal Code prescribes imprisonment of up to 5 years for libel. There is no known separate regulation regarding public officials (except for the President). A criminal case was opened against Crimean journalist Tatyana Korobova on charges of libeling Crimean parliamentarian Lev Mirimskiy who objected to her writing about his criminal connections. Article 7 of the Civil Code allows anyone, including public officials, to sue for damages if circulated information, including a publication, is untrue or if it insults a person's honor or dignity. Journalists complain that the law is biased against them because it does not limit damages.

An editor of the newspaper *Opositsiya*, Ivan Makar, was given a 2-year suspended sentence in 1996 for libeling the President and his staff. Although he appealed the court decision, this year the higher court confirmed the sentence. The newspaper was closed by order of a Kiev court for publishing caricatures of the President and his staff. Its equipment was confiscated.

Reporting on organized crime and corruption in the Government, including misconduct by selected high-ranking cabinet and administration officials, is becoming increasingly bold. Journalists contend that they



have been subjected to threats, including the threat of arrest, and violent assaults for aggressively reporting on crime and official corruption.

The journalistic community links the deaths of two prominent journalists to their journalistic investigations. In March a Kievskiy Vedomosti correspondent from Luhansk, Petro Shevchenko, was found hanged at a remote water heating facility in Kiev shortly after he arrived in Kiev to visit the paper's headquarters. In August in Odesa the editor of the newspaper Vechernaya Odesa was shot and killed on his way to work by a gunman; the editor's assailant was arrested later by police. Journalists believe that a large percentage of the 42 crimes committed against the press community in 1996 and the first half of 1997 was linked to their professional activities. A number of correspondents claim that they were beaten up or threatened in retaliation for their critical publications. Following parliamentary hearings on freedom of speech in April, police authorities pledged to better protect journalists.

Journalists complain that the vaguely worded libel and defamation article of the Criminal Code is biased against the press, because it sets no limit on damages for libel or defamation. The popular newspaper Kiyevskiy Vedonosti was ordered to pay the metropolitan authorities over \$400,000 (750,000 hryvnas) for an allegedly libelous article about the mayor of Kiev. A libel case was opened against a journalist in Crimea for writing about the criminal connections of a member of the Crimean legislature, although she presented the police with documents in support of her allegations. The case was dropped only after the local journalistic community appealed to the President. In June police confiscated equipment of the Vecherniy Sevastopol newspaper in Crimea after it accused the local mayor of corruption and criticized the city court. The editor of the paper was sentenced to 10 days in jail for refusing to publish an apology, but was released after journalists' protests. An owner of the popular newspaper Kiyevskiy Vedonosti claimed that unremitting investigations by law enforcement agencies, including tax police inspectors, into his concern's operations were linked to the newspaper's reports about alleged abuse of office by the Minister of Internal Affairs and chief of staff of the presidential administration.

The newspaper Region complained of massive, politically-motivated tax police investigations in March and April, following the publication of an article accusing the then-Prime Minister of establishing a monopoly on supplies of natural gas to Ukraine.

In April the Cabinet of Ministers instructed the Finance Ministry to launch a sweeping inspection into private, nongovernmental media activities, including dozens of newspaper, television, radio and publishing companies. The inspection was canceled after protests by the public and the Parliament.

In February a group of parliamentarians protested against the Rada secretariat's refusal to give accreditation to two correspondents of the newspaper Ukrayina Moloda, which was known for its critical reports about the Parliament. In June the Parliamentary press service stripped a commentator of the television program "Accents" of his parliamentary accreditation because of his allegedly critical remarks about the Parliament and its leadership.

While major universities are state owned, they ostensibly operate under full autonomy. Academic freedom within universities, however, is an underdeveloped and poorly understood concept. Nepotism and bribery are reportedly common during entrance exams. Administrators of universities and many academic and research institutions possess the power to silence professors and scientists with whom they disagree by denying them the possibility to publish, or more directly by withholding pay, housing benefits, or by terminating their appointments. This atmosphere tends to limit the spirit of free inquiry.

Human rights groups report the State Secrets Committee continues to maintain special censorship offices in state scientific and research institutes including those not conducting classified research. In September in an interview with the weekly paper Zerkalo Nedeli, the head of the State Secrets Committee stated that these offices should remain in such institutes because of the increasing activities of foreign companies in Ukraine. Restrictions by the Communications Ministry on the mailing of scientific documents have also caused con-

cern. Several private and religiously affiliated universities have been founded (or reestablished) since independence; all operate without any reported interference or harassment by the State.

b. **Freedom of Peaceful Assembly and Association**

The law provides for the right of assembly, and the Government generally respects this right in practice. The restrictive Law on Public Assembly of 1989 circumscribes the 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 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 1989 law. Under the 1989 law, participants in demonstrations are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. Demonstrators may not interfere with traffic, obstruct the work of government bodies or enterprises, or otherwise hinder public order. In practice unlicensed demonstrations are common and most occur without police interference. A leader of the Republican Party was prosecuted in the winter in Kiev for staging a demonstration outside the Russian Embassy, although the party had informed the authorities of the demonstration in advance. The protracted trial of Leopold Taburiansky, a leader of the People's Party who spent several months in the pretrial detention in 1996, continues in Oniupetrovsk. Taburiansky is charged with repeatedly organizing demonstrations without a permit on behalf of duped clients of pyramid schemes.

The Constitution, law, and government regulations impose significant limits on freedom of association, and the Government uses onerous registration requirements to circumscribe this right. The Constitution prohibits the establishment of parties and organizations that advocate the elimination of Ukrainian independence or the violent overthrow of the Government and of the constitutional order; that jeopardize Ukraine's sovereignty or territorial integrity; that undermine its security; that foment ethnic, racial, or religious hatred; that violate individual rights and liberties; or that jeopardize public health. The Government enacted a regulation imposing limitations on the establishment of political parties that are not sufficiently regionally represented. The requirement to have representatives in at least half the oblasts of the country as a prerequisite for registration as a political party negatively affects primarily Russian and Crimean Tatar organizations in Crimea.

The 1992 Law on Public Organizations prohibits the State from financing political parties and other public organizations. According to the law, political parties may not receive funds from abroad or maintain accounts in foreign banks. It bars political parties from having administrative or organizational structures abroad. The law prohibits police authorities, members of the SBU, and armed forces personnel from joining political parties. The Constitution also prohibits establishment of political party organizations in the executive and judicial branches, military units, state-owned enterprises, educational, and other public institutions. Many members of such bodies nonetheless publicly associate themselves with specific parties.

By law, the Ministry of Justice has the authority to warn or fine a political party for illegal activities or to temporarily suspend its activities for up to 3 months, provided that the Prosecutor's Office has determined that the party has violated the Law on Public Organizations. Suspensions may be extended for 6 months upon the Ministry's request.

Freedom of association also is circumscribed by a registration requirement that lends itself to abuse and bureaucratic manipulation. Groups must be registered with the Government to pursue almost any purpose, whether commercial, political, or philanthropic. The Ministries of Interior, Justice, Economy, and Foreign Economic Relations, as well as the Committees on Religion and Broadcasting, all have registration functions, which have been used to prevent citizens from exercising their right of free association.

Lack of registration has several important disadvantages. Unregistered groups are prohibited from having bank accounts, acquiring property, or entering into contracts. The registration law gives the Government an

unlimited right to inspect the activities of all registered groups. According to this law a registered group must: 1) keep the Government apprised of all its activities, including notification of any meetings;

2) make its meetings open to all persons at all times, regardless of whether or not they are members; and 3) upon request, present its registration documents to any government official, including the Prosecutor's Office, and be ready to prove that its activities are in compliance with its charter. A change in the group's charter necessitates reregistration. A registered group may not duplicate any function or service that the Government is expected to provide. For example, human rights lawyers who wish to represent prisoners are prohibited from establishing an association because the Government is required by the Constitution to provide lawyers for the accused.

### c. Freedom of Religion

The Constitution and the 1991 Law on Freedom of Conscience and Religion provide for separation of church and state and permit religious organizations to establish places of worship and to train clergy. The Government respects these rights in practice. However, a 1993 amendment restricts the activities of nonnative religious organizations. Religious organizations are required to register with local authorities and with the Government's Committee for Religious Affairs, a process that generally takes about 1 month.

A 1993 amendment to the 1991 religion law restricts the activities of nonnative religious organizations, narrowly defining the activities of members of the clergy, preachers, teachers, and other foreign citizen representatives of foreign 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."

Some local officials have impeded the activities of foreign religious workers. For example, in August local officials in Odesa curtailed the visas of two foreign Mormon missionaries, arguing that they did not have permission to operate in Odesa. The missionaries left voluntarily but plan to challenge the law in court. All regional administrations have departments responsible for registration of various denominations and religious groups and for supervision of compliance with the Law on the Freedom of Conscience and Religion.

Government mediation failed to break a deadlock in the ongoing dispute among competing Orthodox Christian administrative bodies claiming to be "the Ukrainian Orthodox Church." In July leaders of major religious denominations and churches in Ukraine signed a government-drafted memorandum on the nonviolent resolution of religious disputes. The Government has been unable to stop disagreements between the Orthodox believers and Greek Catholics in western Ukraine, where the two communities are contentious and often engage in bitter disputes over church buildings and property in over 600 localities. The Kiev Patriarchate of the Orthodox Church complains of harassment by local authorities in predominantly Russian-speaking eastern Ukraine, while the Moscow Patriarchate of the Orthodox Church complains that local governments turn a blind eye to the appropriation of their churches in Ukrainian-speaking western Ukraine by Ukrainian nationalists. The Moscow Patriarchate protested against the decision in June of the municipal council in Kiev to hand over most buildings of its Pecherska Lavra monastery to the Kiev Patriarchate, and described it as unwarranted state interference in religious affairs. The transfer had not been carried out at year's end.

The Government has moved to reduce houses-of-worship utility fees and rental payments, to exempt them from the land tax, to expedite allotment of land plots for construction of new ones, and to return religious buildings to their former owners. Implementation of a 1992 decree on restitution of religious community property seized during the Soviet era remains stalled in many places. Jewish congregations in 33 towns and cities 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 the puppet theater had vacated the synagogue. The decision sets an important precedent for the judiciary's role in religious property restitution. The Government has expanded already significant efforts to ensure that pilgrims of the Bratslav Hasidic sect are able to visit the tomb of their founding rabbi in the city of Uman on the occasion of the Jewish New Year. Representatives of the sect, a local Jewish community organization, and the local government reached an agreement in 1996 to build a synagogue at the site.

In August two of three jailed leaders of the "White Brotherhood" religious cult were released under a mass amnesty. In 1996 they were sentenced to jail terms ranging from 4 to 7 years (on charges of staging mass disorder and resisting authorities) for their involvement in the 1993 seizure of St. Sofia's Cathedral in Kiev, which resulted in a violent clash with police.

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

Freedom of movement within the country is not restricted by law. However, 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. People moving to other regions for work in the private sector, for instance, may be denied formal access to free medical care and other services provided by the State. Residence without registration carries a fine under the administrative code, but this provision is rarely enacted. The Parliament scrapped the labor code requirement of a mandatory local residence registration for employment. The Government has not yet fulfilled its pledge to abolish mandatory registration and to replace it with an informational residence register.

Persons born in Ukraine and living in Ukraine at the time of independence are considered citizens. Dual citizenship is not recognized. The amended citizenship law encourages the existence of a multi-ethnic country. The law provides the right to Ukrainian citizenship for all individuals who were born or lived in Ukraine before independence and to their descendants who lived outside Ukraine as of November 13, 1991. In order to be eligible, persons must not be citizens of other countries, and must submit their application by the year 2000. The amended law also provides the right to citizenship for deported victims of political oppression like the Crimean Tatars. Refugees can acquire Ukrainian citizenship if they have lived legally in Ukraine for 5 years. The conditions for Ukrainian citizenship are:

honoring the Constitution and law; not being a citizen of another state; permanent residence in Ukraine for the past 5 years; an ability to communicate in Ukrainian; and provisions for a legal source of income. Since independence over 1.5 million Ukrainians have returned to Ukraine, while over 1 million people, mostly ethnic Russians, have left the country.

Citizens who wish to travel abroad are able to do so freely, although exit visas are still required for most citizens. The Government may deny passports to individuals with access to state secrets, but a denial can be appealed.

The Government has not supported a foreign-funded program to facilitate the travel to Ukraine of some emigrants who qualify for resettlement as refugees. Approximately 260,000 Crimean Tatars have returned from exile to Crimea, mainly from Central Asia. 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. A May amendment to the citizenship law waives some of the usual residence and language requirements for returning deportees. This expedited procedure of acquiring citizenship by the deported victims of political oppression should facilitate the acquisition of citizenship by Crimean Tatars. The 1997 amendments to the Citizenship Law allow deported people, including Crimean Tatars, to acquire

Ukrainian citizenship without a mandatory 5-year term of residence in Ukraine and without Ukrainian language proficiency. As with any other would-be citizens, Crimean Tatars are required to provide official documents from their country of residence confirming that they no longer are citizens of that country. Under the law of Uzbekistan (from which most Tatars arrive), this procedure can take up to 1 year. According to Crimean Tatar representative Refat Chubarov, of some 260,000 (247,000 according to MVD statistics) Crimean Tatar repatriates, over 70,000 (64,000 according to MVD statistics) are not currently citizens of Ukraine.

Ukraine is not a party to the 1951 United Nations Convention relating to the Status of Refugees or its 1967 Protocol. Its treatment of refugees is governed by the 1993 Law on Refugees, which entitles refugees to all the benefits accorded to citizens. According to international observers, the Government has demonstrated a positive attitude toward those claiming refugee status. Refugee status is initially given for a 3-month term and subject to further extension. By October there were 2,020 officially registered refugees (80 percent of the total are Afghans). A commitment has been made to award refugee status to all Afghans who arrived in Ukraine before 1995. Under the new citizenship law, legally registered refugees can apply for Ukrainian citizenship after 5 years of permanent residence. Under the Refugee Law, refugees are entitled to material assistance, but there is no money in the badly strained national budget for this purpose. In cooperation with the U.N. High Commissioner for Refugees (UNHCR), the Government established a refugee receiving center for 200 people in Vinnytsya, and it plans to open another center in Luhansk. Instances of police harassment of certain categories of refugees appear to have diminished during the year. According to the State Committee for Nationalities and Migration, there is a first asylum policy under the law. There have been no reports of forcible deportation of asylum seekers or refugees. The press has reported that tens of thousands of illegal migrants live in Ukraine for years with forged documents. There were no reports of persons forced to return to countries where they feared persecution.

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

Citizens exercised this right in 1994, when they elected a new president and a new parliament that represented a wide range of parties and ideologies. During parliamentary by-elections at the beginning of 1997, human rights groups received complaints of irregularities, especially in rural constituencies. Parliamentary elections are scheduled for March 1998.

Olha Kolinko, a deputy Prosecutor general and anticorruption campaigner, unsuccessfully appealed the Central Election Commission's decision to invalidate the results of the 1996 by-election in Lviv that she won. She claimed that the decision was politically motivated. According to the new Constitution, the Central Election Commission, not the Parliament, is to decide the ultimate validity of future election results.

Women are active in political life but hold a disproportionately small percentage of offices. Women hold 19 of the 450 seats in Parliament. Only two women hold ministerial posts. The 18-member Constitutional Court has two female members.

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

The Government allowed local and international human rights groups to operate freely. Amnesty International and the U.S.-Ukrainian Human Rights Bureau monitor human rights. The Government has welcomed visits by foreign human rights organizations.

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

The new 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 has not been able to enforce effectively many of these provisions. Societal anti-Semitism exists. The Government has not prosecuted anti-Semitic acts under the Law Forbidding the Sowing of Interethnic Hatred. The Government also has not prosecuted those responsible for sexual discrimination. Human rights experts also note that the police frequently harass dark-skinned young men.

## Women

While comprehensive information measuring the extent of violence against women is not readily available, survey results suggest that the problem is pervasive. The number of reported rapes and attempted rapes has increased by 80 percent over recent years. Surveys indicate that most women who have been subjected to physical abuse or rape never report it to the police. A 1995 poll of 600 women conducted by a women's organization in Kharkiv indicated that 10 to 15 percent had been raped and over 25 percent subjected to physical abuse over the course of their lifetimes. Hot lines, shelters, and other practical support for victims of domestic violence are practically nonexistent.

Separate statistics on prosecutions for wife beating or on average sentences are not available. Government representatives have acknowledged that when violence occurs the authorities often exert pressure on women to drop charges against their husbands in order to preserve the family. The low official incidence of reported crimes against women is mirrored by the lack of media attention to the subject. Many women's groups place a high priority on the issue but find it a difficult problem to combat.

Sexual trafficking in women to Western and Central Europe, Turkey, and the Middle East is reportedly common. Press reports place the number of women being trafficked in the thousands. The Government is only beginning to address the problem. The authorities rarely prosecute men for engaging women in the explosively growing sector of sexually exploitative work. Nongovernmental organizations claim that the militia receive bribes in return for ignoring this problem.

Labor law provides for equal rights for men and women, including equal pay for equal work, a principle that is generally observed. The Government has adopted a controversial program aimed at reducing women's involvement in hard labor and hazardous industries in conformity with a constitutional provision to safeguard women from hard labor. The Labor Code and the Law on Protection of Motherhood and Childhood prohibit women's labor at hard and hazardous jobs. For example, the law prohibits women from working in jobs that would require them to lift more than 25 pounds at a time. However, the law is poorly enforced. According to human rights groups, women commonly perform difficult and hazardous labor, and management enforces the law only as necessary to lay off or fire female workers. Many women's rights advocates fear that it may be used to bar women from the best paying blue-collar jobs. Women are much more likely to be laid off than men. Government statistics report that 57.7 percent of all registered unemployed persons are women, and it is estimated that women represent up to 90 percent of all newly unemployed persons.

Few women attain top managerial positions in state and private industry. According to government statistics, 69.2 percent of the country's 213,000 state administration jobs are held by women, including 45.2 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 has substantially more male employees at all levels.) Educational opportunities for woman have generally been, and continue to be, equal to those enjoyed by men.

Women with children under age 15 are entitled to 2 additional days of annual vacation. By law, pregnant women and mothers with small children enjoy paid maternity leave until their children reach the age of 3. This benefit is a disincentive for employers to hire women from responsible or career track jobs.

## **Children**

The Government is publicly committed to the defense of children's rights. Because of the deepening economic crisis, however, it is struggling to implement its agenda. Public education for children is compulsory to the age of 15. In principle, there is free health care for children affected by the Chornobyl nuclear accident. Because of the worsening economic crisis and fraud committed by local officials, roughly 3,000 kindergartens have been closed in recent years.

Public concern over the fate of children adopted by foreigners triggered an amendment to the adoption law providing for thorough court examination of each case and follow-up monitoring of the children's well-being.

In April the All-Ukrainian Committee for Protection of Children released survey results revealing that every fifth or sixth child of both sexes under 18 suffers from sexual harassment (including every third girl), and every tenth girl is raped. The low priority the public and the government attaches to children's rights is reflected in the absence of groups aggressively promoting children's rights. For example, the widely acknowledged problem of growing violence and crime in and outside schools, especially the notoriously violent vocational schools, is largely ignored by the public and the Government.

## **People with Disabilities**

The law prohibits discrimination against the disabled, but, especially with the economic crisis, the Government has been unable to support programs targeted at increasing opportunities for the disabled. The law mandates access to buildings for the disabled, but it is poorly enforced.

## **Religious Minorities**

Jews, the second largest religious minority in the country, have expanded opportunities to pursue their religious and cultural activities. Anti-Semitism continues to exist on an individual basis but is virtually nonexistent at the official level. Some Ukrainian and American Jewish organizations continue to urge the Government to speak out more forcefully against, and prosecute cases of, anti-Semitism. There are freely operating Jewish cultural centers and educational institutions, including several colleges. However, some ultranationalist Ukrainian groups continued to circulate anti-Semitic tracts. Anti-Semitic articles continued to appear in a few local newspapers, especially in western Ukraine and Kiev. The Lviv newspaper *Za Vilnu Ukrayinu* and the Kiev-based *Vechirnyy Kyiv* publish anti-Semitic diatribes. Article 66 of the Criminal Code prescribes up to 3 years' imprisonment or 1 year of corrective labor, or a fine for fomenting interethnic hatred; the Law on the Print Media and the Law on Television and Radio also prohibit fomenting interethnic hatred. Jewish groups report that anti-Semitic incidents continued in some regions. The Israeli cultural center in Kharkiv was firebombed in February. The Israeli Embassy reported that the police were cooperative. An Arab organization has claimed responsibility, although the police have not yet identified a suspect. Several Jewish cemeteries were vandalized. The legacy of post-1940 demolition of, or construction on, Jewish cemeteries, both by Nazi occupiers and by the Soviet Government, continued during the year. In many instances Ukrainian officials inherited cases of Jewish cemetery land having been appropriated for other uses in the intervening years, as Soviet law permitted reuse of cemetery land 25 years after the final burial in the cemetery. The most problematic case was that of the historic Jewish cemetery in Lviv, which saw its last burial in the 19<sup>th</sup> century, total ruin by Nazi forces in 1942, and construction of a market on the land by Soviet authorities in 1947-1964. Similarly, in Berdychiv private garages had been constructed atop burial grounds; and in Mlyniv a hotel and parking lot encroach on a cemetery site. Local government officials have responded with varying degrees of concern to these problems. The Government quickly addressed the issue at the presidential level in 1996, giving an order that all construction or privatization on the land of Jewish cemeteries be immediately frozen. Negotiations on reaching an ultimate resolution of the problem are ongoing.

## **National/Racial/Ethnic Minorities**

With some important exceptions, there are only isolated cases of ethnic discrimination in Ukraine. 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.

Some pro-Russian organizations in eastern Ukraine complained about the increased use of Ukrainian in schools and in the media. They claim that their children are disadvantaged when taking academic entrance examinations, since all applicants are required to take a Ukrainian language test. Regional councils in Kharkiv and Donetsk again decided in 1997 to give the Russian language official status alongside Ukrainian. The local prosecutors suspended these decisions as violating the law on the Ukrainian state language.

With the exception of two regions, there is no evidence of serious ethnic tension. In some parts of western Ukraine, small Russian, Jewish, and other minority groups credibly accuse some local Ukrainian ultranationalists of fostering ethnic hatred and printing anti-Semitic tracts. They also charge that local authorities have not taken action against those who foment ethnic hatred. In Crimea, Ukrainian and Crimean Tatar minorities credibly complain of discrimination by the Russian majority and demand that Ukrainian and Tatar languages be given equal treatment to Russian. The Ukrainian community in Crimea has criticized the national Government for tolerating radical anti-Ukrainian and Russian chauvinistic groups on the peninsula. While the Crimean government, pleading insufficient funds, did not assent to requests from the Crimean Tatar community for assistance in reestablishing its cultural heritage through Tatar language publications and educational institutions, the central government is working with the UNHCR, the Organization for Security and Cooperation in Europe, and the International Organization for Migration on support for the Crimean Tatar community.

## **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.

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 urged Parliament to adopt a new trade union law to replace old Soviet-era legislation. It has supported, for instance, the protests of miners and other professions over unpaid wages. As during the Soviet era, most FPU affiliates work closely with management. Enterprise managers are free to join the FPU. The FPU has no official or legal relationship with any political party.

Independent unions now provide an alternative to the official unions in most 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. Independent unions have unsuccessfully claimed a share of the former Soviet Union's huge property and funds, especially the social insurance benefits fund, a Soviet-era legacy traditionally controlled by the official unions.



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 on Labor Conflict Resolution does not extend this right to members of the armed forces, civil and security services, and employees of "continuing process plants," for example, metallurgical factories. The law prohibits strikes that "may infringe on the basic needs of the population," for example, rail and air transportation. Strikes based on political demands are also illegal. The Government has relied on the prosecutors and courts to deal with strikes that it considers illegal.

The Workers' Strike Committee, a labor organization in the coal sector in Donetsk, defied the regional arbitration court's banning order for inciting unrest during protests by miners over unpaid wages in 1996. After a protracted trial its leader, Mykhaylo Krylov, received amnesty after being sentenced to a prison term for inciting civil disorder in 1996.

There are no official restrictions on the right of unions to affiliate with international trade union bodies. The NPGU is a member of the International Miners' Union.

b. **The Right to Organize and Bargain Collectively**

The Law on Enterprises states that joint worker-management commissions should resolve issues concerning wages, working conditions, and the rights and duties of management at the enterprise level. Overlapping spheres of responsibility frequently impede the collective bargaining process. The Government, in agreement with trade unions, establishes wages in each industrial sector and invites all unions to participate in the negotiations.

The manner in which the collective bargaining law is applied prejudices the bargaining process against the independent unions and favors the official unions (affiliates of the FPU). Most workers are never 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 is typically discouraged by management. The Independent Miners' Union (NPG) in the coal mining town of Krasnodon, Luhansk Oblast, for example, has complained about the management's discrimination and harassment of its members. The collective bargaining law prohibits antiunion discrimination. Under the law disputes are supposed to be resolved by the courts. There have been cases in which such disputes have not been settled in a fair and equitable manner.

There are no export processing zones.

c. **Prohibition of Forced or Compulsory Labor**

The Constitution prohibits compulsory labor, and it is not known to exist. The Government does not specifically prohibit forced and bonded labor by children, however, the Constitution and the Labor Code prohibit forced labor generally. There were press reports that young children from families of alcoholics are sold to Roma and vagabonds who force them into begging or prostitution.

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 fully repay the cost of their education. Students described the decree as an attempt to introduce compulsory labor. The Government stated that the decree would cover only students who entered higher education institutions in 1997.

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

The Government does not specifically prohibit forced and bonded labor by children (see section 6.c.). The minimum employment age is 17 years. In certain nonhazardous industries, however, enterprises may negotiate with the Government to hire employees between 14 and 17 years of age, with the consent of one parent. The Constitution provides for general secondary education. School attendance is compulsory to the age of 15, a regulation vigorously enforced by the Ministry of Education. However, since Soviet times the number of drop-outs has dramatically increased, 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.

e. Acceptable Conditions of Work

The minimum monthly wage and pension is \$8.30 (15 hryvnas), which does not provide a decent standard of living for a worker and family. The official poverty line is about \$39 (70.9 hryvnas) per month. It is estimated that some 50 percent of the population officially live below that line, although the practice of under-reporting sources of income is widespread. Annual inflation has decreased from 39.7 percent in 1996 to 10.1 percent in 1997.

The Labor Code provides for a maximum 40-hour workweek, a 24-hour day 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.

Human rights groups report that graduates were forced to take a government-designated job or fully repay the cost of their education. For example, human rights group in Zaporizhzhya reported that graduates of a medical school were forced to take up jobs in villages in the Chernobyl zone. Another human rights group reported that graduates of the law school were forced to accept jobs at the prosecutor's office.

The law contains occupational safety and health standards, but these are frequently ignored in practice. Lax safety standards caused many serious mine accidents, resulting in 290 deaths in 1997, representing a continuing high ratio of fatalities per ton of coal extracted in light of decreasing coal output. In theory workers have a legal right to remove themselves from dangerous work situations without jeopardizing continued employment. In reality, however, independent trade unionists report that asserting this right would result in retaliation or perhaps dismissal by management.

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