



Flygtningenævnets baggrundsmateriale

Bilagsnr.:	88
Land:	Ukraine
Kilde:	US Department of State
Titel:	"Country reports on human rights practices 2005"
Udgivet:	8. marts 2006
Optaget på baggrundsmaterialet:	13. marts 2006

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Ukraine

Country Reports on Human Rights Practices - [2005](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 8, 2006

Ukraine, which has a population of approximately 47 million, is a republic with a mixed presidential and parliamentary system, governed by a directly elected president and a unicameral Rada (parliament). A presidential election was held in October 2004, followed in November 2004 by a second-round runoff between Prime Minister Viktor Yanukovych and opposition leader Viktor Yushchenko. Massive fraud conducted on behalf of Yanukovych during the runoff election triggered the largest nonviolent protest movement in the country's modern history, known popularly as the Orange Revolution. The Supreme Court ruled the runoff to be invalid and ordered that a repeat runoff election take place in December 2004. The December 2004 runoff, which Yushchenko won, and the short campaign preceding it were substantial improvements. The civilian authorities generally maintained effective control of the security forces.

While the government's human rights performance significantly improved in important areas, most notably in freedom of expression and freedom of assembly, in a number of respects it remained poor. The following human rights problems were reported:

- three deaths in custody under suspicious circumstances
- torture in pretrial detention facilities
- violent hazing of conscripts
- wrongful confinement in psychiatric hospitals
- harsh conditions in the penal system and pretrial detention facilities
- arbitrary detention, lengthy pretrial detention, and long trial delays
- government monitoring of private communications and movements of individuals without judicial oversight
- limitations on press freedom through use by government employees and private individuals of punitive libel laws and intimidation of investigative journalists
- continuing registration difficulties for a few religious communities and property restitution difficulties for many others
- anti-Semitic acts
- abuse of refugees at detention facilities
- serious corruption in all branches of government and the military services
- violence and discrimination against children and women, including sexual harassment in the workplace
- trafficking in persons
- frequent harassment of minorities, including vigilante violence used against Tatars in Crimea
- inadequate labor legislation that permitted both government and companies to restrict legitimate labor activity
- government efforts to influence trade union elections

There were notable improvements following the Orange Revolution. There was increased accountability by police officers, and prison conditions continued gradually to improve. The mass media made significant gains in independence. Interference with freedom of assembly largely ceased, and most limitations on freedom of association were lifted. The government moved to reduce its role in the sphere of religion. A wide variety of domestic and international human rights groups generally operated without government harassment. The government also increased its investigation and prosecution of suspected human traffickers.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed politically motivated killings, but the media

reported that the police beat to death at least three individuals while they were in custody.

On April 7, police officers in Zhytomyr beat to death an unidentified 36-year-old man while he was detained on charges of petty hooliganism. The media reported on July 23 that the Zhytomyr regional prosecutor opened a criminal case against an unspecified number of police officers for "deliberately inflicting injury on a person" and "exceeding authority."

On September 26, the newspaper *Kievskiy Vidomosti* reported that police in Kherson beat to death a suspected thief; the newspaper noted that a police officer involved in the incident had been detained.

According to media reports and a major human rights group, 21 year-old Armen Melkonyan was beaten to death by police in a Kharkiv pretrial detention center on December 17. According to media reports, the detention center director, Serhiy Tkachenko, attempted to cover-up the incident. Senior Kharkiv Region officials told members of the Kharkiv human rights non-governmental organization (NGO) community that an autopsy confirmed that Melkonyan's death was the result of physical violence, despite Tkachenko's claim that Melkonyan died of natural causes. The cause of death was "asphyxia and blockage of respiratory tract due to vomiting"; the results also showed that Melkonyan had suffered a serious head injury. In response to criticism from the press, the human rights community, and Melkonyan's family, the prosecutor's office opened a criminal investigation on December 23.

No further progress was reported in the case of Melitopol resident Mykola Zahachevsky, who died in April 2004 in the city's pretrial detention facility under suspicious circumstances.

The media reported that, on February 11, police questioned former governor of Zakarpattya Region, Ivan Rizak, for 10 hours about the suspicious May 2004 death of the longtime Rector of Uzhhorod State University, Volodymyr Slyvka. They released him following the questioning and, as of year's end, no criminal charges had been filed against him in connection with Slyvka's death.

Human rights groups asserted that soldiers continued to kill other soldiers during violent hazing events, although officials denied that any servicemen had died because of physical violence (see section 1.c.).

There were no indications that the authorities intended to investigate further a number of Kuchma-era killings that had earlier given rise to charges of foul play. They declined to release any additional information, either to the public or to a special parliamentary investigating commission, about the August 2003 death of Ivan Havdyda, deputy head of the Ukrainian People's Party. There were no indications that authorities were investigating the November 2003 death of Yuriy Bosak, a leader of the Reforms and Order Party in Khmelnytsky Region, who was found hanging in a forest. His death had been ruled a suicide. The Prosecutor General's Office (PGO) continued to decline to investigate the December 2003 death of Volodymyr Karachevtsev, head of Melitopol's independent journalists' union and a deputy editor at the independent newspaper *Courier*. Karachevtsev, who wrote frequently about corrupt local officials, was found hanging by his sweater on the handle of his refrigerator. Despite clear evidence to the contrary, local authorities ruled the case a suicide.

As of year's end there were no verdicts in cases related to the 2001 killing of Ihor Aleksandrov, the director of a Donetsk Regional television station, a crime that remains the subject of significant domestic interest. According to the media, trials of a group of 12 persons on a variety of charges related to the killing and a subsequent attempted cover-up were ongoing. The cases were being heard by the Luhansk Court of Appeals at the direction of the Supreme Court, which expressed a lack of confidence in the Donetsk Court of Appeals, the original venue for the trials. The killing of Aleksandrov, who had aired a number of critical reports about Donetsk-based politicians and was a noted critic of corruption within local law enforcement organizations, has been attributed to his professional activities.

During the year there were several major developments in the unresolved 2000 killing of prominent journalist Heorhiy Gongadze, whose decapitated body was identified in November 2000 after his disappearance two months earlier. On March 2, the PGO announced that three senior police officers who had taken part in the abduction of Gongadze had been arrested and had described the killing of the journalist in detail; their trial was scheduled for January 2006. The PGO also announced that an international arrest warrant had been issued for a fourth senior police official, General Oleksiy Pukach, who had fled the country. Authorities announced that, on March 4, the former minister of internal affairs, Yuri Kravchenko, shot himself to death at his home in Kiev on the morning he was to have faced questioning about his role in the Gongadze case. Authorities concluded this despite the fact that Kravchenko had two gunshot wounds in his head. According to the media and to Gongadze's widow, former minister Kravchenko was the official who ordered Gongadze's killing at the behest of then-President Leonid Kuchma.

Meanwhile, the European Court of Human Rights (ECHR) held unanimously that the Ukrainian authorities had violated the rights of Gongadze's widow, Myroslava, in several ways, including failing to protect Gongadze when he was alive and conducting an inadequate investigation into his death. The ECHR awarded Myroslava Gongadze \$120 thousand (UAH 600 thousand) in damages. The results of a protracted parliamentary investigation into the case were delivered to members of parliament and made public September 20 by member of parliament Heorhiy Omelchenko.

In February, April, and May, major newspapers reiterated allegations that gangs of rogue officers of the Ministry of

Internal Affairs (MOI), colloquially known as "werewolves," had been involved in previous years in killings and kidnappings connected to organized crime, but there were no indications that these allegations were being actively investigated.

During the year politicians, politically active businessmen, and journalists were the victims of attacks that sometimes were fatal and may have been politically motivated; however, business, government, and criminal activities were intertwined to such an extent that it was often difficult to determine the motives. For example, the press reported on November 29 that former Lviv Region Governor Stepan Senchuk had been shot and killed in an apparent contract killing by unidentified gunmen in a village outside Lviv. Senchuk, a businessman, had joined President Yushchenko's People's Union/Our Ukraine party earlier in the year.

b. Disappearance

There were no reports of politically motivated disappearances.

There were no developments in the 2003 disappearance of Vasyl Hrysyuk, a reporter for the newspaper *Narodna Sprava* in the Lviv Region town of Radekhiv. There were no indications that the authorities were actively pursuing this case.

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

While the law prohibits such practices, police frequently employed severe violence against persons in custody.

On September 24, Amnesty International released a report charging that law enforcement officers routinely extracted confessions and testimonies from detainees through force, often resorting to torture, and criticized the authorities for failing to clamp down on such behavior by police and prison officials. According to an August 2004 Fifth Channel television program, police frequently beat detainees, hung them upside down, and doused them with water. According to the program, police officers tortured individuals to extract confessions or simply to get money; a lawyer interviewed on the program said he had been taken into custody and beaten until he agreed to pay approximately \$5 thousand (UAH 25 thousand) to a policeman. According to a survey of former police detainees published in October by the Kharkiv-based Institute for Social Research, approximately 62 percent reported that they had been ill-treated while in detention in Kharkiv. More than 44 percent said police officers had twisted their arms, legs, or necks during interrogation, while nearly 33 percent reported that they had been kicked or punched by police officers.

During an October 11 meeting with representatives from the Council of Europe, Human Rights Ombudsman Nina Karpachova acknowledged that torture continued to occur in pretrial detention facilities.

There were multiple and credible reports from human rights NGOs and diplomats that authorities regularly abused refugees during the year at refugee detention centers in Zakarpattia Region, which borders European Union (EU) member states Poland, Slovakia, and Hungary (see section 2.d.).

During the year authorities stepped up efforts to prosecute police officers who abused persons in detention. According to the media and Minister of Internal Affairs Yuriy Lutsenko, as of September 1, the PGO had opened 496 criminal cases against police officers for detention-related abuses, compared to 209 such cases opened during all of 2004. One human rights NGO official reported that, as a consequence of greater scrutiny of police behavior, police engaging in mistreatment of detainees increasingly used masks or hoods to avoid identification.

The media reported that police in Uzhhorod struck opposition members of parliament Nestor Shufrych and Tamara Proshkuratova during a May 20 protest inside the hospital room of former Zakarpattia Region Governor Ivan Rizak. Shufrych and Proshkuratova were attempting to prevent police from moving Rizak, an accused criminal, to a pretrial detention facility; some scuffling reportedly ensued when Proshkuratova handcuffed herself to Rizak. On June 14, according to the media, Minister of Internal Affairs Lutsenko announced that an unspecified number of police officers involved in the incident had been reprimanded for misconduct.

The authorities charged former Sumy Region governor Volodymyr Shcherban with ordering a violent assault on unarmed student protesters in August 2004. He fled the country to avoid facing criminal charges.

As of year's end the investigation was continuing into the September 2004 poisoning of then-opposition presidential candidate Viktor Yushchenko.

There were no indications that the authorities intended to pursue the 2004 assault of Andriy Volynets, son of a prominent pro-Yushchenko member of parliament.

There were no developments in a number of 2003 incidents, including the torture of detainees by police officers in Poltava, the abuse of a criminal suspect by a senior police officer in Zaporizhzhya, and the severe beating of a prisoner in a Donetsk Region prison which resulted in the amputation of the prisoner's feet.

The law prohibits the abuse of psychiatry for political and other non-medical reasons and provides safeguards against such abuse, but on a few occasions, according to human rights groups, persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and confined to psychiatric institutions. The confinement often resulted from the corruption of psychiatric experts and court officials. For example, the media reported on August 31 that local prosecutors in Kharkiv had opened a criminal case against an unspecified number of doctors at the city's main psychiatric hospital for accepting a \$1,500 (UAH 7,500) bribe to prepare an official certificate falsely stating that a patient was mentally ill. The false certificate was prepared at the request of the patient's mother.

Persons diagnosed with mental illness risked being confined and treated by force, declared not responsible for their actions, and stripped of their civil rights and property without being present at the hearings or notified of the ruling. According to the director of a human rights organization that closely monitors the rights of the mentally ill, prominent Soviet-era dissident Seymon Gluzman, there were fewer cases of such abuse during the year than in 2004. In an October 7 interview with the national newspaper *Den*, Gluzman attributed the decline in abuse to increased press reporting on the subject and to better protection of the mentally ill by the country's legal community.

According to the Ukrainian Psychiatric Association, the Ministry of Health did not always cooperate with human rights groups attempting to monitor abuse of psychiatry.

Despite extensive legislation to protect the rights of service members and the existence of regulations governing relationships among military personnel, reports continued during the year of violence against conscripts in the armed forces. Although military officials reported there were no deaths due to soldier-on-soldier physical violence, the Association of Soldiers' Mothers (ASM) reported that violent hazing continued to be widespread and asserted that a Kiev-based soldier from Zhytomyr Region was beaten to death in a January hazing incident. Senior conscripts frequently beat recruits and forced them to give up money and gifts they received from home, a practice known as "*dedovshchina*." According to the ASM, garrison prosecutors often did not investigate complaints of hazing, accepted bribes not to press charges against the perpetrators of such violence, or delayed the start of trial proceedings until potential witnesses were discharged from the military. The ASM also asserted that in at least three cases in Simferopol, Luhansk, and Sumy, garrison prosecutors had soldiers who complained about hazing wrongfully confined to psychiatric hospitals. Punishment administered for committing or condoning hazing was insufficient to deter further abuses. For example, the Kharkiv Human Rights Protection Group reported in August that a Kharkiv-based junior sergeant was sentenced to only four months in detention for repeatedly assaulting lower-ranking soldiers.

Police abused Roma and harassed and abused dark-skinned persons. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, vigilante violence against them, especially in Crimea (see section 5).

A number of journalists were subjected to physical reprisals that may have been related to their professional work (see section 2.a.).

Prison and Detention Center Conditions

Although prison conditions remained poor, they continued to improve slowly as a result of reforms in the penal system. Prison officials reported that, due in part to the decriminalization of many offenses and the increasing use of alternative sentencing practices, there was a reduction in the number of inmates in prison, which eased overcrowding. Nevertheless, prisons were sometimes overcrowded or lacked adequate sanitation and medical facilities.

According to official statistics from the State Penal Department (SPD), there were 708 deaths in prisons and 159 deaths at pretrial detention facilities during the year (see section 1.a.). Although tuberculosis in prisons continued to be of concern, officials stated that mandatory screening of all new inmates for the disease had reduced infection rates. SPD officials stated that inmates with tuberculosis were isolated from the general population and treated at one main prison hospital complex in Kharkiv Region. Human rights groups noted that only convicted criminals, and not persons in pretrial detention, had access to specialized tuberculosis care.

There were numerous press reports describing harsh prison conditions, and this issue was highlighted when President Yushchenko visited a prison in Zhytomyr Region on February 8. Inmates complained to him at length about poor living conditions, poor lighting, degrading treatment by prison guards, limitations on the number of parcels from relatives, and limitations on meetings with relatives. The president publicly acknowledged the need to improve prison conditions.

Conditions in pretrial detention facilities were harsher than in low and medium security prisons. There were reports that inmates in pretrial facilities were sometimes held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. In a January 27 incident reported in the national daily newspaper *Den*, the mother of a detainee in Kryvyi Rih threatened to set herself on fire to protest poor conditions and mistreatment at the city's pretrial detention facility. Overcrowding was more common in these centers than in prisons.

The SPD and the MOI, in cooperation with the NGO community and foreign governments, implemented a number of professional development programs for prison and police officials, most notably in Chernihiv Region and at the

Lukyanivska pretrial detention facility in Kiev Region.

In contrast to 2004, the government allowed prison visits by human rights observers and granted full access to prisons and pretrial detention facilities. The Ukrainian Red Cross said that, unlike in the past, all of its prison and pretrial detention center access requests were granted. The Red Cross characterized its cooperation with the government as "excellent," noting, for example, that the government responded to its written inquiries about specific prisoners. Prisoners and detainees were permitted to file complaints with the ombudsman for human rights about the conditions of detention, but human rights groups reported that prisoners were sometimes punished for doing so.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, these remained problems.

Role of the Police and Security Apparatus

The minister of internal affairs is responsible for the police. He is a member of the cabinet and reports to the prime minister. The Security Service of Ukraine (SBU) reports directly to the president. The State Tax Administration, which exercises law enforcement powers through the tax police, is accountable both to the president and the cabinet. The PGO prosecutes criminal cases. Legislation enacted in 2003 to provide civilian control over the army and law enforcement agencies authorizes parliamentarians to conduct investigations, including public hearings, into national security and defense issues. The legislation also broadened the authority of the human rights ombudsman to initiate investigations into the activities of the armed forces as well as those of law enforcement bodies.

Police corruption remained a problem. For example, many inhabitants encountered corruption in their dealings with the traffic police. A 2003 law prohibiting the police from stopping vehicles and levying immediate fines produced some positive results, but traffic-stop shakedowns still regularly occurred and prompted President Yushchenko to issue a decree abolishing the traffic police department in July and turning it into the State Service for Traffic Safety. However, the media reported that, as of year's end, the traffic police continued to function. The MOI asserted that the parliament needed to pass legislation to reform the traffic police.

Authorities, including the minister of internal affairs, made significant efforts to end police abuses, including taking disciplinary action against law enforcement authorities who committed them. According to the MOI, as of year's end, 190 police officers had been dismissed for cause, 2,072 were punished with administrative disciplinary actions and 683 were under investigation for corruption-related offenses. However, impunity still remained a serious problem (see section 1.c.).

Arrest and Detention

By law, the authorities may detain a suspect for three days without a warrant, after which an arrest order must be issued. The courts may extend detention without an arrest warrant for an additional 10 days. Suspects who believe that further investigation may lead to their immediate exoneration may petition the court for an additional 15-day detention. The law permits citizens to contest an arrest in court or appeal it to the prosecutor. The law requires that officials notify family members immediately concerning an arrest, although human rights NGOs noted that sometimes the police did not do so.

The law stipulates that a defense attorney must be provided without charge to an indigent detainee from the moment of detention or the filing of charges, whichever comes first. However, on June 2, Deputy Minister of Justice Inna Yemelyanova noted that in practice this often did not occur, which legal observers said provided the police with critical time to coerce confessions. There were insufficient numbers of defense attorneys to protect suspects from unlawful and lengthy detention under extremely poor conditions. Moreover, attorneys often refused to defend indigents for the low fee the government provided. Member of parliament Mykola Onischuk asserted that access to a defense attorney was essentially dependent on the social status and financial resources of the accused.

The police arbitrarily detained persons, particularly dark-skinned persons, for extensive document checks and vehicle inspections (see sections 2.d. and 5).

Opposition politicians, many associated with the previous regime, accused the Yushchenko administration of continuing the practice of employing trumped-up criminal charges to detain persons who were openly critical of the government or challenged the interests of powerful business or political figures close to the government (see section 1.e.). For example, opposition politicians pointed to the April 6 detention of former Donetsk regional council head Borys Kolesnikov as an example of such an abuse. The government denied the accusations; major human rights organizations, moreover, uniformly concluded that the opposition claims had no merit.

Although the law provides for the imposition of monetary bail, it was rarely used; many defendants could not pay the monetary bail amounts imposed by law. Courts sometimes imposed restrictions on travel outside a given area as an alternative to pretrial confinement. Generally, however, they opted to place individuals in pretrial detention facilities, a

practice that human rights observers criticized as costly and contributing to overcrowding.

Lengthy pretrial detention remained a problem. While the law provides that pretrial detention may not last more than 2 months, in cases involving exceptionally grave offenses a judge of the Supreme Court may extend detention to 18 months. Moreover, by law, a trial must begin no later than three weeks after criminal charges have been formally filed with the court, but this requirement was rarely met by the overburdened court system. Individuals remained in detention for protracted periods of time. Months, or at times years, may pass before a defendant finally is brought to trial, and the situation did not improve during the year (see section 1.e.) For example, a Kiev newspaper reported on November 10 about a man who was held at the Lukyanivska pretrial detention facility in Kiev for eight years without ever being tried or sentenced.

Amnesty

In May the parliament passed an amnesty for 17 thousand prisoners that the president had proposed. The amnesty covered prisoners who were minors when they committed their crimes, parents with small children or children with disabilities. Also included were pregnant women, women over the age of 50, men over the age of 55, war veterans, persons with serious disabilities, prisoners with active tuberculosis, prisoners with cancer, and those infected with HIV/AIDS.

On September 22, the president proposed a blanket amnesty to individuals who violated electoral fraud laws during the 2004 presidential elections. The amnesty proposal was part of a broader political compromise with the supporters of opposition leader Yanukovich. The Committee of Voters of Ukraine (CVU), the country's top electoral watchdog organization, criticized the proposal, but observers noted that 2006 is the earliest that lawmakers could consider such an amnesty (see section 3).

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but in practice, the judiciary remained dependent upon, and subject to various forms of pressure from the executive branch. At times the pressure included political interference in the form of phone calls to judges by government officials. However, the head of the Supreme Court emphasized to the press on June 11 that, in contrast to the Kuchma era, when he had been called by senior Kuchma administration officials and given instructions on how to rule in specific cases, he had received no such calls under the Yushchenko administration.

The judiciary also suffered from corruption and inefficiency.

There were indications that suspects often bribed court officials to drop charges before cases went to trial or to lessen or commute sentences. On October 7, President Yushchenko said that every month, four to seven prosecutors and several judges were arraigned for engaging in such corrupt conduct. For example, the media reported on September 23 that a criminal case was opened against the district prosecutor of Aleksandriya District, Kirovohrad Region, for demanding a bribe of \$5 thousand (UAH 25 thousand) from a defendant in exchange for attempting to reduce the defendant's sentence.

Except for the Supreme Court, the courts were funded through the Ministry of Justice (MOJ), which controlled the organizational support of the courts. MOJ responsibilities included staffing matters, training for judges, logistics and procurement, and statistical and information support. The judiciary lacked adequate staff and funds, which engendered inefficiency and corruption and increased its dependence on the executive. In March 2004 the ECHR ruled that the country was failing to provide an effective way to secure defendants' rights to a fair trial in a reasonable length of time. However, the NGO Freedom House reported "judicial independence" improved during the year.

Failure to enforce court decisions in civil cases also undermined the authority and independence of the judicial system. The State Executive Service is responsible for enforcing most civil decisions, and the number of cases referred to it continued to grow. Existing provisions permitting criminal punishment for noncompliance with court decisions were rarely used. The chairs of the Supreme Court, the regional courts, and of the Kiev Municipal Court (or their deputies) have the authority to suspend court decisions, which provided additional opportunities for outside interference, manipulation, and corruption.

In contrast to 2004, there were no credible reports that the government sought to dismiss politically unsympathetic judges by selective charges of criminal or unethical behavior.

The law provides for a unified system of courts consisting of a Constitutional Court, a system of courts of general jurisdiction that includes the Supreme Court and specialized commercial courts, and military courts. General jurisdiction courts are organized on four levels: local courts, regional appellate courts, specialized high courts (the High Commercial Court), and the Supreme Court. Commercial courts were intended to operate as specialized courts within the single unified system of courts. As a result, the Supreme Court may review their judgments, including those rendered by the High Commercial Court. Military courts are specialized courts that hear only cases involving military

personnel.

By law, the president has the authority, with the agreement of the MOJ and the chair of the Supreme Court, or of a corresponding higher specialized court, to establish and abolish courts of general jurisdiction. The president is empowered to determine the number of judges within the courts, upon the recommendation of the State Judicial Administration (SJA) and with the agreement of the chair of the Supreme Court. He is authorized to appoint and remove chairs and deputy chairs of courts, who serve five-year terms based on recommendations of the Judicial Council (the executive body of the Congress of Judges), and to establish appellate commercial and appellate administrative courts. The president, upon the recommendation of the prime minister and concurrence by the Judicial Council, appoints the head of the SJA.

Regional courts, including the Supreme Court of Crimea and the Kiev and Sevastopol city courts, serve as courts of appeal. They may examine evidence independently in a case, call for additional witnesses or evidence, and overrule the judgment of a lower court.

The Constitutional Court consists of 18 members appointed for 9-year terms, 6 each 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 Supreme Court is the country's highest appellate body. Human rights groups, the media, and legal watchdog organizations noted that the court continued to show independence during the course of the year.

Trial Procedures

The constitution includes procedural provisions intended to ensure a fair trial, including the right of suspects or witnesses to refuse to testify against themselves or their relatives; however, these rights were limited by the absence of implementing legislation, which left a largely Soviet-era criminal justice system in place. The defendant is formally presumed innocent, but the high conviction rates of the Soviet era continued to prevail. While these conviction rates suggested that judges gave excessive weight to the prosecution, they may also have reflected a traditional unwillingness of prosecutors bring cases to court that might result in acquittal.

The law provides for broad use of juries, but a system of juries had not been implemented, and as a result juries were not used during the year. Most cases were decided by judges who sit singly, although the law requires that two judges and three public assessors (lay judges or professional jurors with some legal training) must hear cases that involve the possibility of a life prison sentence, the maximum penalty in the country's criminal justice system.

In contrast to 2004, human rights organizations did not charge that the PGO practiced selective prosecution against the political or economic opponents of the president and his allies, although political opponents associated with the previous regime made such allegations. For example, a few opposition politicians asserted that only supporters of former prime minister Yanukovich were prosecuted for electoral fraud committed during the 2004 presidential elections. The government denied the charge, though it declined to provide information about the political affiliations of those convicted for such fraud. The CVU criticized the Yushchenko administration for prosecuting only low-level former government officials for electoral fraud.

While the law specifies that a suspect or prisoner may talk with a lawyer in private, human rights groups reported that prison or investigative officials occasionally denied this client-attorney privilege. To protect defendants, all investigative files must contain signed documents attesting that they have been informed of the charges against them, of their right to an attorney at public expense, and of their right not to give evidence against themselves or their relatives. However, officials sometimes verbally and physically abused defendants to obtain their signatures. 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 remained unaware of these safeguards.

The law provides that the names and addresses of victims and witnesses may be kept confidential if they request protection due to fear for their lives. However, criminal groups routinely used intimidation to induce victims and witnesses to withdraw or change their testimony. The law requires that a special police unit protect judges, witnesses, defendants, and their relatives, but the unit had not begun operation by year's end, and trial participants were vulnerable to pressure. Because of lack of funding, a witness protection law was also in abeyance.

Citizens have the right to appeal criminal and civil verdicts to their local appellate courts. Appellate court decisions may also be appealed to the criminal chamber of the Supreme Court.

Political Prisoners

There were no reports of political prisoners.

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

Although the law prohibits such actions, in practice authorities infringed citizens' privacy rights. By law, the SBU may not conduct intrusive surveillance and searches without a court-issued warrant; however, elements within the government reportedly continued to monitor arbitrarily the private communications and movements of individuals.

The PGO has the constitutional responsibility to ensure that law enforcement agencies, including the SBU, observe the law; however, the extent to which the prosecutor general used his authority to monitor SBU activities and to curb excesses by security officials was unknown. The constitution gives citizens the right to examine any dossier concerning them in the possession of the SBU and to sue for physical and emotional damages incurred by an investigation. Authorities did not respect this right in practice, however, as the necessary implementing legislation had not been enacted.

On February 15, President Yushchenko ordered the SBU and all government organizations to end illegal surveillance of any kind. Then-SBU Chief Oleksandr Turchynov told the press on July 19 that the SBU no longer engaged in illegal surveillance operations and had created an office for combating illegal wiretapping. He also instructed other government organizations to turn in their wiretapping equipment. However, Human Rights Ombudsman Karpachova asserted in a July 7 interview with Fifth Channel television that the practice of bugging telephone conversations was so widespread that the country was experiencing a "bug epidemic." Moreover, the head of the parliamentary committee on Combating Organized Crime and Corruption, Volodymyr Stretovych, stressed in an August 12 media interview that, despite President Yushchenko's February 15 order, "nobody in Ukraine is immune from eavesdropping." Parliamentary Speaker Lytvyn complained to the media in April and May about continued police surveillance of him, but on November 4 told the press that the "surveillance and phone tapping" had ended.

An administrative decree, adopted by the State Committee on Communications in 2003, gives the SBU broad powers to monitor Internet publications and e-mail. Telecommunications operators are required to install at their own expense equipment allowing "authorized agencies" to monitor Internet activity conducted over their services. The stated goal of the requirement was to fight corruption and further the country's integration into the European Community, but human rights organizations have expressed concern that it gives the SBU broad authority and opportunity to monitor the activities of citizens without cause or judicial oversight.

Section 2 Respect for Civil Liberties, including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; in contrast to 2004, the authorities generally respected these rights in practice. Unlike the previous year, there were no reports that the central authorities attempted to direct media content; however, intimidation of journalists, often by local officials, as well as continued media dependence on government resources, inhibited investigative and critical reporting and sometimes led to self-censorship.

Individuals could, and did, criticize the government both publicly and privately without reprisal. The government did not attempt to impede such criticism.

Since the Orange Revolution, media outlets have been freer and politically more diverse than at any time in the country's post-Soviet history. The NGO Freedom House reported that media independence improved. Despite these improvements, however, less direct but nonetheless significant restrictions remain.

According to the Ukrainian Press Academy, at year's end there were 20,903 registered print publications. Of that number, 8,859 were national and regional and 12,044 were local. According to the academy's statistics, there were 1,260 licensed television and radio broadcasters in the country. These print and electronic media outlets reflected a wide variety of viewpoints. Many newspapers were financed by wealthy investors and reflected the political and economic interests of their owners. In contrast to 2004, these publications frequently criticized the government. However, their strong financial backing gave them an advantage over smaller, more independent, newspapers.

Foreign newspapers and periodicals circulated freely.

Broadcast media, the primary sources of news for most citizens, were either state-owned or owned by powerful business interests. There were 13 national television stations and 3 national radio stations. Of these, state-run television, UT-1, had the widest geographic coverage but relatively low viewership. Most local television stations were associated with political parties or powerful regional business interests.

On May 9, FM 98 began broadcasting the Ukrainian service of Radio Liberty in Kiev and other cities. In March 2004 the Kuchma government and its allies forced Radio Liberty off the air in a clear effort to deny citizens independent sources of information ahead of the 2004 presidential election.

The influential National Council for Television and Radio Broadcasting, comprised of four members appointed by the parliament and four presidential appointees, issues licenses and allocates broadcasting time. Figures associated with the previous government charged that the council was being used by the Yushchenko government to punish its political opponents when it undertook to challenge court orders that had given frequencies to television stations affiliated with the previous government. In the most high-profile case, the Donetsk-based owners of the NTN television network denounced the council and the government for attempting to strip NTN of additional regional frequencies, which the government and many independent media analysts said were obtained illegally and without competition during the Kuchma era. The respected newspaper *Dzerkalo Tyzhnya* wrote on April 9 that there were "serious irregularities" in the process by which NTN obtained its additional frequencies; the newspaper also noted that other major television networks in the country also "cut similar corners" in the application process. In April the High Economic Court upheld the November 2004 Kiev Commercial Court of Appeals ruling that awarded NTN more than 70 additional frequencies. In October the Supreme Court overturned all previous court rulings and returned the case for reconsideration to the original court, which started the process over. In the meantime, NTN continued to broadcast without restrictions.

In addition, Donetsk-based TRK Ukraina television alleged that the council's strict enforcement of a licensing provision that requires national stations to broadcast a majority of their programs in Ukrainian is discriminatory, forcing the network to choose between having its license revoked and losing a large part of its predominantly Russian-speaking audience to Russian television stations. Based on complaints from other national broadcasters from across the political spectrum, the enforcement of this language requirement was not unique to TRK Ukraina.

According to the national media watchdog NGO Institute for Mass Information (IMI), at least 15 journalists were subjected to physical attacks or intimidation during the year that were likely related to their professional activities. For example, the media reported that, on April 16, in Zakarpattia Region, three unnamed men beat up the editor of the newspaper *Stary Zamok*, Ivan Berets. He was hospitalized with a leg injury. Berets claimed the attack was politically motivated, noting that one of his alleged assailants was the son of a former Kuchma-era official in Tyachiv who was criticized by the newspaper.

In several cases the perpetrators appeared to be police or criminals acting on behalf of local officials. Human rights organizations expressed concern about a July 12 attack by police in Kherson on photographer Maxim Soloviev and reporter Natalia Kozarenko of the weekly *Vhoru*. Police roughed up the pair and seized Soloviev's camera while they were covering a dispute between local officials and the owners of a shop in the city center.

The media reported on August 6 and 9 that Human Rights Ombudsman Karpachova and the Crimean Committee for Monitoring Freedom of the Press had demanded the release from pretrial detention of *Yevpatoriyskaya Nedelya* editor Volodymyr Lutiev. Human rights groups and Lutiev's defense attorney accused corrupt local police officials in Sevastopol of fabricating attempted murder charges against Lutiev because of the newspaper's investigative reporting about the alleged illegal activities of Crimean member of parliament Mykola Kotliarevsky, who was widely believed to be an organized crime boss.

Vecherniye Vesti reporter Ludmyla Bashkyrova and her daughter were threatened with physical harm on August 13 by an anonymous caller. According to the Interfax news agency, the caller demanded that Bashkyrova retract an article critical of the governor of Kherson Region, Borys Silenkov. Interfax also reported that an unidentified person threw a rock, wrapped in the newspaper containing the offending article, through a window of Bashkyrova's apartment.

On October 4, in Dnipropetrovsk, an unidentified assailant attacked Natalia Vlasova, a news editor from the local television station 34th Channel. Vlasova was punched repeatedly in the head and sustained a concussion. The station's director told the Ukrainian Independent News and Information Agency (UNIAN) on October 5 that Vlasova was likely attacked because of her reporting on allegations that places on the local electoral list for the Batkivshchyna political party were being sold. The Committee to Protect Journalists, which condemned the assault, reported on October 7 that Vlasova's attacker had told her to "stop poking her nose" into Batkivshchyna's business affairs.

As of year's end the authorities continued to investigate a February 2004 incident in Brody, in which unidentified attackers broke into a warehouse and set fire to five thousand copies of two books that were highly critical of former presidential administration Chief of Staff Viktor Medvedchuk. The authorities also continued to investigate a related May 2004 incident in which unidentified assailants burned down the printing facility of the company that published the books.

Minister of Internal Affairs Lutsenko told the media on August 23 that an unspecified number of police officers from the Lviv Region police surveillance unit had been arrested in connection with an August 2004 incident in which unidentified attackers used Molotov cocktails to destroy an office at the independent Lviv newspaper *Postup*. The newspaper's editor said that the newspaper's coverage of two corrupt local officials, one of whom was allegedly involved in an illegal construction project in one of Lviv's parks, likely prompted the attack.

There were no indications of progress in investigating the attacks on journalists Yevgeny Savchenko, Anna Nizkodubova or Tatyana Goryacheva in 2004.

Passage in the parliament in July of a new election law, which among other things establishes strict procedures for political advertising and news coverage of political parties during the March 2006 parliamentary election campaign, drew widespread condemnation in the media. As originally approved, the law essentially prohibited media commentary on political parties without their express approval, and it gave authority for shutting down alleged violators to election officials. In response to the outcry, the parliament on November 17 amended the law to relax the requirements and shift responsibility for determining if violations had occurred to the judicial system. While the amended law is less restrictive, critics warned it is still imperfectly written and is open to potential abuse.

The media, both independent and government-owned, continued to demonstrate a tendency toward self-censorship on matters that the government deemed sensitive. Although private newspapers were free to function on a purely commercial basis, they were subject to various pressures, such as dependence on political patrons who could facilitate financial support from the State Press Support Fund and close scrutiny from government officials, especially at the local level. The dependence of many media outlets on government patronage inhibited criticism, particularly at the local level.

At a July 25 press conference, President Yushchenko vociferously criticized a reporter from *Ukrainska Pravda* for reporting about his adult son Andriy's use of an expensive late-model car and his lavish lifestyle. The president was widely criticized by media outlets across the political spectrum. On July 28, the president apologized for his outburst at the press conference and reiterated his commitment to defending freedom of speech.

On September 30, Lebanese businessman Walid Harfouche, the editor of the celebrity publication *Paparazzi*, alleged that his car had been set on fire to discourage the publication in his magazine of photos of Andriy Yushchenko vacationing in Turkey. However, most media in the country portrayed the incident as the result of a business dispute rather than a freedom of press issue. President Yushchenko directed the minister of internal affairs to investigate the incident the day after it occurred; no arrests had been made by year's end.

Although there was no criminal penalty for libel, the use or even the threat of civil libel suits continued to inhibit freedom of the press. According to IMI, at least five libel actions were brought against the mass media and journalists during the year. Whether such a suit is successful or not, lower courts may order that a publication's accounts be frozen pending appeal, a step that can be financially ruinous for many publications. Government entities, in particular, continued to sue civil suits based on alleged damage to a "person's honor and integrity" to influence or intimidate the press. In a case that received national coverage, the media reported on July 21 that the former editor of the popular Rivne weekly *Seven Days*, Vasyl Herus, was given a suspended sentence of three years in prison for slandering presidential candidate Viktor Yushchenko during the 2004 presidential election campaign. Herus appealed the verdict.

Despite laws that both limit the amount of damages that may be claimed in lawsuits for libel and free the press from responsibility for inoffensive, non-factual, judgments, including criticism, media watchdog groups and the ombudsman for human rights continued to express concern over extremely high monetary damages demanded, and sometimes awarded, for alleged libel. For example, the controversial governor of Rivne Region, Vasyl Chervoniy, sued the small independent newspaper *Rivnenska Hazeta* for \$10 thousand (UAH 50 thousand) for allegedly slandering him in an editorial. On March 1, the newspaper's staff put up a tent city in downtown Rivne to protest the libel suit, calling it a blatant attempt to stifle legitimate criticism of the government. In May Chervoniy's lawsuit was dismissed by a local court in Volyn Region, which had reviewed the case at the direction of the Supreme Court.

In late December Kiev's Shevchenkivskyi District Court threw out a libel claim filed in April 2004 against the newspaper *Ukraina Moloda*, which frequently criticized the administration of then-President Kuchma. The lawsuit, filed by pro-Kuchma media advisors, demanded that the newspaper publish a retraction for a "libelous" interview and pay compensation of approximately \$2 thousand (UAH 10 thousand); the plaintiffs had also asked the court to freeze the newspaper's assets during litigation. A similar lawsuit filed in May 2004 by the same Kuchma advisors against the independent Internet news website *Ukrainska Pravda* was also dismissed in late December. The suit against *Ukrainska Pravda* had sought approximately \$4 thousand (UAH 20 thousand) in damages, plus the immediate confiscation of the website's assets in lieu of damages.

In July the government reopened a tax evasion investigation of the country's oldest and largest independent publishing house, Taki Spravy. Taki Spravy's Director General, Oleksandr Danilov, told the Interfax news agency on August 8 that the investigation was retaliation for his unwillingness to drop a compensation claim against the government, for \$74 million (UAH 370 million) in damages suffered during the Kuchma era, filed with the International Center for the Settlement of Investment Disputes. On December 12, the press reported that the tax police had closed the case, a move that the media said may lead to a negotiated settlement.

The government did not restrict access to the Internet, but it had the ability to monitor all Internet publications and e-mail (see section 1.f.). Domestic and international human rights groups criticized a May 1 directive from the Ministry of Transportation and Communication that requires all Internet publications to register with the government. As of year's end the ministry was in the process of rescinding the directive; no Internet publications have been required to register.

The government did not restrict academic freedom, but academic freedom was an underdeveloped and poorly

understood concept. Most major universities were state-owned, but there were a growing number of privately-run institutions. University rectors had a reasonable amount of autonomy. Some schools have instituted admission by examination systems, but nepotism and bribery reportedly were common during entrance exams and also influenced the granting of degrees. For example, many applicants and their family members reported that entrance to Lviv National Medical University required an \$8 thousand (UAH 40 thousand) bribe. Administrators of universities and academic and research institute directors possessed the power to silence colleagues by denying them the ability to publish, withholding pay and housing benefits, and directly terminating them. The SBU maintained offices for the protection of state secrets in state scientific and research institutes, including those not conducting any classified research.

Private and religiously affiliated universities reported that their work continued to be hindered by what they called the country's Soviet-style Ministry of Education. Although the ministry publicly maintains its commitment to reform, in reality educational reforms are being implemented very slowly. For example, the authorities still declined to give official recognition to foreign university degrees. Domestic institutions had little choice in the fields they were allowed to offer and in the requirements for a degree. For example, the ministry continued to refuse to recognize theology as a legitimate academic major; students in this and other non-recognized fields were unable to obtain student discounts on public transportation and were subject to the draft.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly and association, but in a few instances the government infringed on these rights.

The law requires that demonstrators inform the authorities of a planned demonstration in advance, and the law on public assembly stipulates that organizations must apply for permission to their respective local administrations at least 10 days before a planned event or demonstration. Permits were routinely granted to those who requested them, though the permits sometimes stipulated that demonstrators had, for example, to stay on the sidewalks and not block traffic in key downtown Kiev intersections. The law prohibits demonstrators from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. In practice, unlicensed demonstrations were common. In contrast to 2004, they generally occurred without police interference, fines, or detention, but there were several exceptions.

For example, the media reported that, at 6 a.m. on April 9, police in Odesa forcibly dismantled a tent camp erected in the city center by supporters of former Prime Minister Yanukovich and former Odesa Mayor Bodelan; the demonstrators did not have a permit for the tent camp. The camp residents generally did not resist police. However, at least two Yanukovich supporters complained publicly that police officers had physically mistreated them during the dismantling process.

The media reported that police in Uzhhorod beat opposition members of parliament Nestor Shufrych and Tamara Proshkuratova during a protest inside the hospital room of former Zakarpattia Region Governor Ivan Rizak (see section 1.c.).

Freedom of Association

The law provides for freedom of association and in contrast to 2004, the government generally respected this right in practice, but some restrictions remained. Registration requirements for organizations were extensive, but there were no reports that the government used them during the year to disband existing legitimate organizations or prevent new ones from forming.

The former youth movement Pora had difficulty registering as a political party, but was eventually registered by the MOJ on June 1. The media reported on October 28 that the MOJ refused to reregister the party Slavic People's Patriotic Union under a new name, Party of Putin's Policies; the MOJ cited "unspecified irregularities" in the party's application as the basis for the refusal. On November 18, the MOJ reversed its decision without explanation and registered the party under its new name.

The law places restrictions on organizations that advocate violence or racial and religious hatred or that threaten the public order or health. There were no reports during the year that the authorities used these criteria to restrict the activities of legitimate organizations that opposed the government.

There were a number of requirements for the formation of political parties (see section 3).

Two major opposition political parties associated with the previous government, the Social Democratic Party of Ukraine (United) and Regions of Ukraine, repeatedly and publicly complained that thousands of their supporters, many of them doctors and teachers, were dismissed from their government jobs during the year simply because of their

association with anti-Yushchenko political parties. Human Rights Ombudsman Karpachova told the media on July 7 that, during the first 6 months of the year, 1,243 individuals had complained to her office about being pressured or dismissed because of their political beliefs. However, widely respected human rights organizations rejected the characterization of the dismissals as persecution, noting that only approximately 5 percent of the country's 450 thousand civil servants had been dismissed and replaced by supporters of the Yushchenko administration. One major voter rights NGO also emphasized that the bulk of the dismissed officials were Kuchma-era political appointees generally of district-chief rank or higher.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice. Nonetheless, there were isolated problems at the local level. Some local officials at times impeded attempts by minority and nontraditional religions to register and buy or lease property.

The law provides for the separation of church and state, and there is no state religion. But local authorities often sided with the religious majority in a particular region.

The law requires that to obtain the status of a "juridical entity," a religious organization must register its "articles and statutes" either as a local or national organization. To be registered it must have at least 10 adult members. Registration is necessary for many everyday business activities, including publishing, banking, and property transactions. Registration is also necessary to be considered for restitution of communal religious property. By law, the registration process should take one month, or three months if the government requests an expert opinion on the legitimacy of a group applying for registration. Denial of registration may be appealed in court. A few religious groups, most notably Muslims, indicated that they continued to encounter long delays in obtaining registration, and in some cases they were tantamount to denials. For example, the Kharkiv Region government has refused to register a Muslim community for the past 11 years.

The registration process underwent significant change during the year, sparked by the Orange Revolution and the election of President Yushchenko. In the past, the Soviet-legacy State Committee for Religious Affairs (SCRA) was the government entity responsible for registering religious organizations and, more broadly, for implementing state policy on religion.

President Yushchenko abolished the SCRA by presidential decree on April 22, transferring its functions to the MOJ and the Presidential Secretariat. The move was cautiously welcomed by representatives of many major religious organizations, NGOs, and think tanks, who generally viewed the SCRA as an antiquated, corrupt, Soviet-style organization. However a few major religious organizations criticized the move, noting that the SCRA, while flawed, played a valuable role as the religious community's voice in the government, helping to mediate disputes, for example, between religious organizations and various government agencies.

Major religious organizations expressed concern about the opaque way in which the SCRA was abolished and how its duties might eventually be divided between the MOJ and Presidential Secretariat. They also expressed concern that the process proceeded without their input.

The process of transferring the SCRA's functions to the MOJ and the Presidential Secretariat has moved slowly. As of year's end, the SCRA generally continued to perform its registration function, but no longer played a mediation role. The significantly weakened organization was renamed the "State Department for Religious Issues" and formally subordinated to the MOJ.

Leaders of the Church of Jesus Christ of Latter-day Saints (LDS) in Kiev complained about the government's unwillingness to allow a representative of their church to join the All-Ukraine Council of Churches and Religious Organizations, an influential, inter-confessional governmental advisory body. This refusal appeared to deny them legitimacy and discouraged broadcast media outlets from allowing the LDS to purchase airtime.

The government continued to facilitate the building of houses of worship but members of numerous religious communities, including Protestants and LDS, described difficulties in dealing with the municipal administrations in Kiev and other large cities to obtain land and building permits. These problems were not limited to religious groups.

The law restricts the activities of foreign-based religious organizations and narrowly defines the permissible activities of members of the clergy, preachers, teachers, and other non-citizen representatives of foreign-based religious organizations; however, in practice there were no reports that the government used the law to limit the activities of religious organizations. Religious worker visas require invitations from registered religious organizations in the country and the approval of the government. Foreign religious workers 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."

At times local governments in regions that are traditionally dominated by one religious group discriminated against

rival religious groups in restituting property and granting registration. Representatives of the Ukrainian Orthodox Church-Kiev Patriarchy (UOC-KP), the Ukrainian Autocephalic Orthodox Church, the Ukrainian Greek Catholic Church (UGCC), and the Roman Catholic Church alleged that local governments in the east favored the Ukrainian Orthodox Church-Moscow Patriarchy (UOC-MP) in matters of property restitution and registration. Similarly, representatives of Progressive Jewish communities have noted that the government of Dnipropetrovsk Region has only permitted the registration of Chabad communities.

Senior leaders of the UOC-MP complained that, in the wake of the Orange Revolution and the election of President Yushchenko, the UOC-MP has been discriminated against by the Rivne and Volyn regional governments. In particular, the UOC-MP has alleged that Rivne Governor Vasyl Chervoniy illegally issued orders in April transferring control of a UOC-MP church in Mylostiv village to the UOC-KP. UOC-MP representatives also asserted that local officials and UOC-KP supporters in Rivne Region have repeatedly threatened UOC-MP clergy and their family members.

The UOC-MP has also protested legal action initiated by the Sumy regional government on February 21; as of year's end local officials there were seeking to de-register the UOC-MP for alleged violations of criminal law.

Representatives from the UOC-KP complained that some local governments in regions with strong UOC-MP representation, including Odesa and Poltava, deliberately delayed registration of congregations that, in accordance with the law, had changed jurisdictions from the UOC-MP to the UOC-KP. Representatives from the UOC-KP also noted that local governments failed to return UOC-KP church buildings in Dnipropetrovsk, Kharkiv, and Zhytomyr.

Representatives of the UGCC complained of discrimination by the Odesa municipal government, which blocked the Church's efforts to obtain land in the city.

Evangelical Protestant leaders expressed concern about discrimination against them by the Kherson and Odesa regional and municipal governments, specifically complaining about interference with services, the authorities' refusal to sell property for the construction of churches, and the authorities' failure to protect legitimate Church property rights.

Despite requests from the Roman Catholic Church, including Pope John Paul II, the government has not yet transferred its ownership of St. Nicholas' Cathedral and a former residence of Roman Catholic bishops in Kiev to the Church. However, the Church was permitted to use the cathedral for daily morning Mass, on weekends, and during major religious holidays. Roman Catholic representatives also expressed frustration about unrealized restitution claims in Odesa, Mykolayiv, Sevastopol, Simferopol, Bila Tserkva, Uman, Zhytomyr, and Kiev.

There continued to be charges by representatives of the Jewish community that religious land was being used inappropriately. For example, there was no progress in a long-running dispute over a Jewish cemetery in the Volyn Region town of Volodymyr-Volynsky. Although a local court ordered a halt in the construction of an apartment building at the site in December 2002, according to the Volodymyr-Volynsky Municipal Council, apartment construction was completed during 2003, and most of the units were occupied. Local Jewish groups complained that the SCRA and the MOJ continued to refuse to help resolve this dispute. In addition, in June a hospital in the Ternopil Region town of Chortkiv carried out unauthorized construction work in part of a 17th-century Jewish cemetery. According to Jewish community leaders, the work was done despite a specific warning from the regional administration that the cemetery was a protected historical heritage site.

Muslim community leaders complained about unresolved restitution claims, including a 118-year-old mosque in Mykolayiv, a famed mosque in Dnipropetrovsk, as well as a 150-year-old mosque in the Crimean town of Masandra and the ruins of an 18th-century mosque in Crimean coastal city of Alushta.

Representatives of the Muslim community also asserted that the government's slow pace of communal property restitution undermined moderate Muslim leaders. A lack of results, they argued, made Muslims--particularly in Crimea--more willing to listen to persons with strident views, especially those espoused by followers of Hizb ut-Tahrir.

The media reported on May 20 that members of the Buddhist community staged a protest outside the headquarters of the SBU. They criticized the SBU for the May 4 detention of a Japanese Buddhist monk, Dzunsay Teresava-san, at a crossing point on the border with Poland. The authorities removed the monk from the train, revoked his visa, banned him from entering the country for five years, and deported him back to Poland. According to press reports, the monk is on a Russian Federal Security Service (FSB) "black list" because of his outspoken criticism of Russian military operations in Chechnya. The media reported on May 30 that the ban was lifted and the monk had been given a visa.

Societal Abuses and Discrimination

The generally amicable relationship among religions in society contributed to religious freedom, but conflicts between local representatives of contending religious organizations in some cases adversely affected broader ties among religions in society. Political events, particularly those that occurred during and after the 2004 presidential election campaign and Orange Revolution, served to increase religious tensions during the year.

During the year senior leaders of the UOC-MP publicly claimed that supporters of the UOC-KP, emboldened by the Orange Revolution, President Yushchenko's election, and indications that the Ecumenical Patriarch might recognize their church as the country's canonical Orthodox Church, attacked UOC-MP clergy and seized a number of UOC-MP churches--at times allegedly with the assistance of local police.

The UOC-MP cited numerous such incidents, including in Rivne, Kherson, Ternopil, Chernivtsi, Volyn, and Kiev regions. For example, the UOC-MP alleged that: on February 8, UOC-KP supporters set fire to UOC-MP property in Poliske village, Rivne Region; on March 6 and 8, local authorities incited the violent seizure of the UOC-MP's Holy Trinity church in Rokhmaniv village, Ternopil Region, severely injuring a UOC-MP priest; and on April 10, that UOC-KP supporters attempted to seize the UOC-MP's Chapel of the Kazan Icon of the Mother of God in Lukhche village, Volyn Region.

Representatives of the Russian Orthodox Church Abroad (ROCA) also voiced complaints about the UOC-KP, specifically asserting that UOC-KP believers had seized, with the help of local police officials, ROCA's Holy Trinity church in Odesa Region. ROCA was involved in a separate dispute with the UOC-KP over ownership of St. George's Church, also in Odesa Region.

In addition, ROCA representatives complained of pressure from the UOC-MP to surrender church buildings to the UOC-MP in Malyn, Zhytomyr Region.

The UOC-KP has rejected the ROCA and UOC-MP allegations, specifically noting that, during the year, many UOC-MP communities have exercised their legal right to change jurisdictions from the UOC-MP to the UOC-KP. The Kiev Patriarchate also alleged that, on October 27 in the Rivne Region town of Ostroh, UOC-MP priests and supporters brought in from Crimea physically intimidated and humiliated parishioners of the Church of the Holy Ascension, which switched jurisdictions from the UOC-MP to the UOC-KP.

The minister of internal affairs on May 25 denied that local police were taking sides in church property disputes. The ministry had instructed police officers to maintain peace and stability in cases of conflict between UOC-MP and UOC-KP supporters; the police were under orders to remain impartial and to prevent the seizure or destruction of church property. For example, he said that in May local police had prevented the seizure of a UOC-MP monastery in Rivne Region by UOC-KP believers.

Tensions remained between some adherents of the UGCC and the UOC-MP over control of property in the western part of the country, which is a legacy of the forced reunification of these two churches under the Soviet regime. For example, the UOC-MP complained that it was informed on April 6 by the government of Zakarpattia Region that it must vacate churches in the villages of Korolevo, Sasovo, Cherna, Veryatsya, Khyzha and Kelechyn; the church buildings were to be turned over to the UGCC.

The UOC-MP also publicly accused the UGCC of attempting to expand in regions where traditionally the Moscow Patriarchate was strong. This accusation appeared to be based on the UGCC's plans to establish a patriarchate, and on the August 21 move of Cardinal Husar's headquarters from Lviv to Kiev, which the UOC-MP strongly protested.

Evangelical Protestant leaders complained about the activities of the group "Dialogue," which they and human rights groups characterized as a front group for the UOC-MP that promotes hostility toward non-Orthodox Christians.

LDS leaders asserted that believers faced discrimination from some government officials and from the UOC-MP and UOC-KP. They expressed concern about efforts by these Churches to prevent the establishment of an LDS community in Chernivtsi. In official correspondence with the city government, UOC-MP and UOC-KP supporters accused the LDS of encroaching on an "Orthodox city."

Muslim leaders in Crimea, as well as members of the Crimean Tatar Mejlis, the major, but unofficial, organization representing Crimean Tatars, accused the UOC-MP of encouraging anti-Muslim and anti-Tatar violence in Crimea (see section 5).

The Jewish community has a long history in the country. Estimates on the size of the Jewish population varied. According to the State Committee of Statistics, the Jewish population during the 2001 census was estimated at 103,600, although some Jewish community leaders have said the number may be as high as 300 thousand.

There were a number of acts of anti-Semitism during the year; at least three of them involved physical attacks. On January 8 in Simferopol, a group of skinheads assaulted 13 students from a Chabad Jewish day school. Two of the students, girls aged 11 and 16, required hospitalization; one had a concussion, and another had a broken nose. Police were investigating at year's end. On August 28, a group of skinheads assaulted two Yeshiva students in Kiev. One of the students had his skull partially crushed with a beer bottle. On August 31, the police arrested three of the alleged assailants, who have been charged with criminal hooliganism. Deputy Minister of Internal Affairs Gennady Moskal told the press on September 1 that the attack was not motivated by anti-Semitism, an assertion that was publicly questioned by a few prominent members of the Jewish community. President Yushchenko publicly condemned the

assault. On September 11, a group of skinheads assaulted a rabbi and his son at the Kiev Expo Center. Police on the scene detained a group of suspects; two have been charged with criminal hooliganism.

There were also several instances in which synagogues and cemeteries were vandalized; police follow-up often appeared to be ineffectual because of lack of evidence and/or indifference. However, there was an official response in some cases. For example, four neo-Nazis were sentenced on February 7 for vandalizing gravestones in a cemetery in the Donetsk Region in 2004. The court issued suspended sentences for the two adult defendants and ordered "compulsory educational measures" under parental supervision for the two juveniles. According to media reports, the local Jewish community requested light sentences for the vandals, who came from extremely poor families. In Rivne, municipal authorities restored the desecrated Sosonky memorial, vandalized in April 2004.

Issues involving anti-Semitism also appeared in public life. The media reported on February 26 that renowned accordion player and Yanukovych supporter Jan Tabachnyk, who is Jewish, accused Deputy Prime Minister Mykola Tomenko of making anti-Semitic comments about him. Tomenko had said in a radio interview that "Ukrainian artists, and not simply some Tabachnyks or Kobzons" (a reference to Jewish Russian entertainer and Yanukovych supporter Iosif Kobzon) should perform in Ukraine. Tomenko denied the charge. The Jewish community was split over whether Tomenko's comments were anti-Semitic in nature.

According to a report by the AEN news agency, a group calling itself the "Party of National Patriots" handed out leaflets in Donetsk's Lenin Square on May 9 calling for the murder of Jews. Specifically, the leaflets called for "death by shooting" for "conspirators and leaders of international Zionist political and religious organizations acting on the territory of Ukraine." There were no reports of official action taken against the group.

In July 2004 the then-main opposition bloc in parliament, Our Ukraine, expelled Oleh Tyahnybok, a member of parliament who made an anti-Semitic speech during a 2004 campaign rally in Ivano-Frankivsk Region. A regional court ordered that charges of inciting ethnic hatred against Tyahnybok be dropped because of a lack of sufficient legal grounds to open a criminal case. In a March 29 national television interview, Tyahnybok refused to apologize for his campaign speech.

Anti-Semitic articles appeared frequently in small publications and irregular newsletters, although such articles rarely appeared in the national press.

On March 28, a small, openly anti-Semitic, political party officially registered with the government. The Ukrainian Conservative Party was associated with the anti-Semitic Inter-Regional Academy of Personnel Management, known in Ukrainian as MAUP. The party's charter calls for "a struggle against Zionism and fascism" and a return to the Soviet-era practice of indicating a person's ethnicity on their passport. MAUP also sponsored a June 3 conference in Kiev at which speakers reportedly called for the deportation of all Jews from Ukraine. According to Jewish leaders, a UOC-MP priest participated in this conference.

MAUP was the most persistent anti-Semitic presence in the country. It was allegedly funded by Libyan, Syrian, Iranian, and Palestinian government sources. It published a monthly journal *Personnel* and a weekly newspaper *Personnel Plus*. Jewish organizations said that MAUP accounted for nearly 85 percent of all anti-Semitic material published in Ukraine during the year. On December 5, President Yushchenko issued a statement specifically criticizing MAUP for its anti-Semitic publications.

A longstanding dispute between nationalists and Jews over the erection of crosses in an old Jewish cemetery in Sambir remained unresolved, despite mediation efforts by local Jewish and Greek Catholic leaders.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

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

The law provides for these rights, and the government generally respected them in practice; however, there were some limitations.

A new system of registration was introduced during the year, replacing most elements of the "*propyska*" system that inhibited the free movement of individuals. Human rights groups stressed that a major difference between the new system and the *propyska* system is that a person may live, work, and receive services anywhere in the country. There was no indication that individuals were denied access to services because they were not registered in the locality where they resided.

Citizens who wished to travel abroad generally were able to do so freely. Exit visas were required for citizens who intended to take up permanent residence in another country, but there were no known cases of exit visas being denied to citizens during the year. The government could deny passports to individuals in possession of state secrets, but those denied had the possibility of appealing.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided limited protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee or asylum status infrequently. In an April 20 meeting with the minister of justice, the Office of the UN High Commissioner for Refugees (UNHCR) regional representative called on Ukraine to abide by international standards in protecting the rights of refugees.

The government provided temporary protection for up to one year to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

According to UNHCR, the EU, and human rights groups, border guards unlawfully returned an unspecified number of Chechens to Russia who had applied for, or wanted to apply for, asylum. For example, Chechens detained in Zakarpattya Region were frequently put on a train to Kharkiv and turned over to Russian border guards at the nearby border crossing point. Chechens were reportedly forcibly returned to Russia in keeping with an alleged secret government instruction issued after the September 2004 Beslan school massacre in Russia; it reportedly requires border guards to return all Chechens to Russia and to refuse them entry into Ukraine.

The government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers and operated refugee reception centers in Vinnytsya and Odesa. However, the State Committee for Nationalities and Migration at times showed little interest in refugee protection, poorly implemented agreements with the UNHCR, and often refused to share important information with the UNHCR.

According to UNHCR officials, one of the biggest obstacles to the implementation of the government's commitments to the protection of refugees is a law, which authorities strictly enforced, requiring applicants for refugee status apply within three working days of their illegal entry, or within five working days of their legal entry, into the country. This led the authorities to refuse to initiate asylum procedures for approximately 70 percent of all asylum seekers during 2003, the latest year for which statistics were available. As a result, many asylum seekers remained undocumented and faced arrest, detention, and deportation. In addition the law allows for the deprivation of refugee status for mere suspicion of involvement in activities that pose a threat to the national security, public order, or health of the population of the country.

Police harassment of refugees with dark skin, and, to a lesser degree, Asians, continued during the year. There were also multiple, credible reports from human rights NGOs and diplomats that refugees, especially those from Africa and Asia, were regularly abused at detention centers in Zakarpattya Region, which borders EU member states Poland, Slovakia, and Hungary.

There were reports that the makeshift Pavchino detention center received no state funds during the year. Border guards generated income, including their own salaries, by "leasing" migrants to a neighboring factory (see section 6.c.). Border guards also illegally released detained migrants whose families paid bribes, usually in the amount of \$1,200 (UAH 6 thousand), transferred via wire. Border guards also stole food packages and phone cards provided to refugees by the EU. Moreover, border guards only accepted asylum applications prepared by lawyers whom the migrants had to pay for their services; the lawyers then split their fees with the guards. Applications prepared, for example, by NGO lawyers working *pro bono* were not accepted.

According to human rights NGOs and foreign diplomats, conditions at the Chop detention center near the border with Hungary and Slovakia were equally bad. Refugees were crammed into tiny cells, given polluted drinking water, and had to use outdoor toilets. The center was unheated in winter and many refugees lacked warm clothing; some had no shoes.

Conditions at the Mukacheve detention center for migrant women and children were somewhat better than at Chop. According to human rights groups, the temporary accommodation/refugee processing center in Latoritsa, which opened in June, met all standards set by the Geneva Refugee Convention.

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

The law provides citizens with the right to change their government peacefully through periodic elections, and citizens exercised this right in practice during the year through a small number of by-elections held on the basis of universal suffrage. However, the country's top electoral watchdog NGO noted that these elections frequently were marred by controversy.

Elections and Political Participation

A bitter and protracted presidential election between opposition leader Viktor Yushchenko and Prime Minister Viktor Yanukovich took place in the final months of 2004. The OSCE observer mission noted serious flaws in the October 2004 first round of voting, including a strong media bias in favor of Yanukovich, problems with voter lists, which excluded up to 10 percent of voters, and administrative pressure on students, government, and state enterprise employees to vote for Yanukovich. In the November 2004 second round held between the two frontrunners Yushchenko and Yanukovich, observers noted massive and systematic fraud through the abuse of mobile ballot boxes, absentee ballots, which were cast in exceedingly high numbers, and ballot stuffing. Following massive public protests against the electoral fraud, the Supreme Court invalidated the results and ordered a revote in December 2004. In order to reduce the scope for fraud, the parliament and president cooperated to amend the presidential election law to limit absentee and mobile ballot voting and appointed a new Central Election Commission (CEC). The December 2004 revote was judged by reputable international observers, including the OSCE, to have reflected the will of the voters and brought the country substantially closer to meeting international standards for free and democratic elections.

In recognition of the progress made in the December 2004 revote, the NGO Freedom House noted that Ukraine improved its electoral process.

According to the Committee of Voters of Ukraine (CVU), the country's top electoral watchdog NGO, the small number of local by-elections held during the year were often marred by controversy. For example, on March 19, two national newspapers, *Den* and *Dzerkalo Tyzhnya*, accused President Yushchenko of manipulating the courts to oust Odesa Mayor Ruslan Bodelan and replace him with former mayor and Yushchenko ally Eduard Hurvits. On April 4, a judge in Odesa's Prymorsky District Court invalidated the results of the 2002 Odesa mayoral election, which was ruled to have been fraudulent and directed that Hurvits be officially registered as mayor. Hurvits had run against Bodelan in the 2002 election, which was widely recognized as fraudulent. Much of the non-partisan criticism of the move focused on the proper role of the judiciary in determining an electoral result, arguing that the court rightfully invalidated the 2002 election, but should have called for a new election instead of seating Hurvits as mayor. On April 28, the media reported that Bodelan fled to Russia to avoid facing criminal charges in Odesa.

The CVU also criticized President Yushchenko's September 22 decision to introduce an amnesty law that could include individuals who participated in electoral fraud during the 2004 presidential election. The proposed amnesty was part of a broad political deal with Yanukovich that helped secure parliamentary approval of Prime Minister Yekhanurov. The CVU said that such an amnesty would allow individuals who committed violations in 2004 to serve again on polling station commissions. On the other hand, opposition politicians connected to the previous regime and the head of the CEC welcomed the step. The media reported on September 30 that, according to Presidential Chief of Staff Oleh Rybachuk, the amnesty would not cover the organizers of the electoral fraud; he specifically mentioned former Kuchma chief of staff Viktor Medvedchuk and former CEC Chairman Serhiy Kivalov as individuals not covered by the proposed amnesty. Observers also noted that under Ukrainian law, 2006 would be the earliest that the parliament could consider such an amnesty.

Individuals and parties could, and did, freely declare their candidacy and stand for election.

To be registered as a national-level party, political parties must maintain offices in one-half of the regions and may not receive financial support from the state or any foreign patron. The Supreme Court reserves the right to ban any political party upon the recommendation of the MOJ or the prosecutor general. No parties were banned during the year.

There were 25 women in the 450-seat parliament. Yuliya Tymoshenko served as prime minister in the Yushchenko administration until her dismissal on September 8. Oksana Bilozir served as minister of culture and tourism in the Yushchenko administration until she was dismissed along with the rest of the Tymoshenko cabinet. The 18-member Constitutional Court, which had 13 vacant seats as of year's end, had 1 female member.

The number of minorities in the parliament was not available due to privacy laws. Among parliament members there were ethnic Russians, Bulgarians, Crimean Tatars, Armenians, Hungarians, Georgians, and Jews. The prime minister at year's end, Yuriy Yekhanurov, is half ethnic Buryat. His cabinet included an ethnic Russian and an ethnic Hungarian.

Crimean Tatar leaders continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean Parliament; however, the representation of Crimean Tatars continued to increase in local and regional councils. According to statistics from the Mejlis, the Tatars, who comprise 13 percent of the population of Crimea, occupied 8 percent of the seats in the Crimean Parliament, 10.9 percent of the posts in the Crimean Ministry of Culture, 8.1 percent in the Crimean Ministry of Education, and 6.7 percent in the Crimean Ministry for Youth and Sport. Tatar representation in other Crimean ministries, including in law enforcement agencies, was 1 percent or less.

Government Corruption and Transparency

Corruption remained a serious problem in the executive, legislative, and judicial branches of the government, including

the armed services. According to a November public opinion survey by the Democratic Initiatives Foundation, 55 percent of the respondents described the government and 59 percent described the parliament as "seriously corrupt."

At a September 5 press conference, State Secretary Oleksandr Zinchenko resigned, complaining that key officials close to President Yushchenko were deeply corrupt. Zinchenko's resignation and his allegations of corruption triggered a political crisis that ended on September 8 with the resignation or dismissal of these officials and the firing of Prime Minister Yuliya Tymoshenko and her cabinet. Counter-accusations of corruption and abuse of authority were directed at Tymoshenko. On November 2, the media reported that head of an ad-hoc parliamentary commission investigating corruption among high-ranking officials, Volodymyr Zaplatynsky, confirmed "a number of the accusations" made by Zinchenko during his September 5 press conference. However, the government reported that the investigations did not find sufficient evidence of wrongdoing to pursue charges.

Human rights groups did note that the country made modest progress in combating corruption during the year. For example, the 2004 sale of the massive Kryvorizhstal steel works to government-connected insiders was invalidated by the courts. The government re-privatized the company during the year in an open and transparent process, whose proceedings were broadcast live on national television channels. The world's largest steel company, Mittal, acquired Kryvorizhstal for \$4.8 billion (UAH 24 billion), \$4 billion (UAH 20 billion) more than the "insiders" consortium (headed by President Kuchma's son-in-law) paid in the rigged 2004 privatization.

The law provides public access to certain government information, usually through websites, but Internet access was still relatively limited both in terms of technology and overall number of users. Prominent government watchdogs, including former member of parliament Inna Bogoslovskaya, noted that the government generally posted information on the Internet only after important decisions were made. Information on the process by which the government made important decisions usually was not available to the public.

The head of the nationally renowned Kharkiv Human Rights Protection Group, Yevhen Zakharov, criticized the Yushchenko government in October for continuing the Kuchma-era practice of limiting the public's access to official information. Zakharov noted that the "promises to ensure openness of information, transparency, and accountability of the government to society made on Independence Square during the Orange Revolution have largely not been kept."

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 generally operated without government restriction, investigating and publishing their findings on human rights cases. In contrast to 2004, government officials met with domestic and international human rights NGOs and often appeared attentive to their views. The NGO community complained, however, that the authorities remained generally unwilling to make policy changes in response to their recommendations. According to the Ukrainian Psychiatric Association, the Ministry of Health did not always cooperate with human rights groups attempting to monitor abuse of psychiatry (see section 1.d.).

Major independent, non-partisan, national human rights NGOs included the Committee of Voters of Ukraine, the Kharkiv Human Rights Protection Group, the Ukrainian Helsinki Human Rights Union, the Institute for Mass Information, Telekrytyka, and the Ukrainian-American Bureau for the Protection of Human Rights.

The government generally cooperated with international governmental organizations, including the UN and the Parliamentary Assembly of the Council of Europe (PACE). For example, senior government officials met on March 30 with the PACE rapporteur on the Gongadze case, and in July with members of a PACE delegation examining the progress of democratic reform in the country. However the authorities often refused to share important information regarding refugees with the UNHCR (see section 2.d.).

Citizens have the right to appeal to the ECHR about alleged human rights violations. The ECHR ruled on 21 Ukraine-related cases through October. On April 5, in a case that received national press attention, the ECHR determined that the government was obliged to pay Yevhen Nevmerzhytskyi \$32,500 (UAH 162,500) in damages stemming from his "humiliating mistreatment" in a pretrial detention facility.

All citizens and residents may address their concerns to the ombudsman, and the ombudsman serves as an intermediary between citizens and the Constitutional Court, since citizens cannot address the court directly. The position of ombudsman, officially designated as the Parliamentary Commissioner on Human Rights, is mandated by the constitution. The incumbent, Nina Karpachova, was reelected in June 2003 to a second five-year term. The law provides the ombudsman with unrestricted and unannounced access to any public official, including the president, and to any government installation. It also gives her the authority to oversee the implementation of human rights treaties and agreements to which the country is a party; however, it provides no penalties for those who obstruct the ombudsman's investigations and does not create sufficient enforcement authority for the ombudsman.

The ombudsman's office consisted of approximately 100 full- and part-time workers, but according to the ombudsman, limited funding of the office continued to hamper its effectiveness. The ombudsman continued to make the combating of trafficking in persons and improving pretrial detention facility conditions major priorities during the year.

Ombudsman Karpachova issued her annual human rights report to parliament on July 6. On December 29, a group of 18 major human rights groups called for Karpachova's resignation; the NGOs stressed that her decision to run in the March 2006 parliamentary elections on the Party of Regions ticket undermined the "impartiality and independence" of the ombudsman's office.

The parliament has a Committee on Human Rights, National Minorities, and Interethnic Relations chaired by former foreign minister Hennadiy Udovenko. Credible human rights NGOs considered the committee's work to be of significant value. For example, on April 12 the committee held, for the first time since independence, an extensive hearing on the situation of Roma in the country.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The laws prohibit discrimination on the basis of race, sex, and other grounds; however, the government did not enforce these provisions effectively, in part due to the continuing absence of an effective judicial system. Violence against women and children, trafficking in persons, and harassment and discrimination against ethnic minorities and homosexuals, were problems.

Women

Violence against women remained a serious problem. Spousal abuse is illegal but was common, and the authorities often pressured women not to press charges against their husbands. An April 8 article in the national newspaper *Sehodnya* noted that domestic violence was rarely prosecuted in the country. One major NGO estimated that at least 50 percent of all Ukrainian women have been subjected to physical violence or psychological abuse at home.

According to the MOI, during the first 11 months of the year, 70,888 domestic violence complaints were made to Ukrainian law enforcement agencies. During that same period, courts issued rulings in 67,639 domestic violence cases. Warnings were issued to 5,412 people, 52,739 people were fined, 277 were sentenced to community service, and 8,973 were jailed.

State-run hotlines, shelters, and other forms of practical support for victims of abuse were few. Municipal authorities in Kiev ran a women's center, one of only two municipally-supported shelters in the country; the other, located in the Crimean town of Izumrudne, opened on February 23. The authorities in Izumrudne permitted women to stay at that shelter for up to three months, according to media reports. NGOs attempted to provide services for abused women through the establishment of women's support centers in nine cities. Violence against women did not receive extensive media coverage despite the efforts of human rights groups to highlight the problem.

The law prohibits rape but does not explicitly address spousal rape. A law against "forced sex with a materially dependent person" may allow prosecution for spousal rape. According to statistics from the MOI, during the first 11 months of the year, there were 868 incidents of rape or attempted rape reported to the police.

Prostitution is illegal but widespread and largely ignored by the government. For example, the national newspaper *Den* reported on October 19 that since the 2001 introduction of criminal penalties for organized prostitution (payment of an unspecified fine or 120 hours of work on public projects, or both), no criminal cases for organized prostitution have been opened. However, the media reported on May 26 that two policemen were given seven-year prison sentences for protecting pimps and prostitutes in Mykolayiv. The English-language media reported that sex tourism was increasing in the country; there are no laws to address it.

Trafficking in women for sexual exploitation was a serious problem (see section 5, Trafficking).

Women's groups reported that there was continuing 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 experts regarded the safeguards against harassment as inadequate.

On September 8, President Yushchenko signed a law mandating equal legal rights for men and women and establishing legal protection against gender discrimination. However, human rights observers and women's groups noted that discrimination against women continued to be a common problem in the workplace. The government and private businesses regularly specified the gender of employees in their help-wanted advertisements, and employers frequently demanded information about a woman's family situation and subsequently used it to deny employment to women who were likely to become pregnant. Physical appearance and age were often taken into account in employment decisions involving women.

Labor laws establish the legal equality of men and women, including equal pay for equal work, a principle that generally was observed. However, industries that were dominated by female workers were also those with the lowest relative wages and the ones that were most likely to be affected by wage arrears problems.

Few women held top managerial positions in the government or in state-owned or private industry. However, for most

of the year, a woman, Yuliya Tymoshenko, served as prime minister. President Yushchenko also appointed the first female governors in modern Ukrainian history, Nadiya Deyeva in Dnipropetrovsk Region and Nina Harkava in Sumy Region.

Children

The government was publicly committed to the defense of children's rights, but budgetary considerations severely limited its ability to ensure these rights. Few government bodies or NGOs aggressively promoted children's rights, except for a small number of faith-based organizations that primarily worked with orphans and street children.

Education is free, universal, and compulsory until the age of 15; however, the public education system continued to suffer from chronic inadequate funding. Teachers were usually paid their salaries during the year, but other monetary benefits due them were not paid in some localities. Increasing numbers of children from poor families dropped out of school, and illiteracy, previously very rare, remained a problem. According to the State Statistics Committee, 5.731 million children attended primary and secondary school during the 2004-05 school year. The All-Ukraine Committee for the Protection of Children reported that lack of schooling remained a significant problem among the rural population. The problem of growing violence and crime in and outside of schools persisted, particularly in the notoriously violent vocational schools, and discouraged some children from attending school.

Health care was provided equally to girls and boys, but the overall quality of the health care system was poor.

Children continued to be victims of violence and abuse. The *Voice of Ukraine* newspaper reported that, in response to a January 2004 poll by the State Institute of Family and Youth, 43 percent of minors said that they had been victims of some form of violence. During 2003, 300 criminal cases were opened against parents for neglect of parental duties. The majority of complaints of abuse of children related to child prostitution, pornographic video sales, child molestation, and illegal child labor. For example, the media reported on February 9 that 2 adults in the Donetsk Region town of Snizhne were given suspended 4-year prison sentences for forcing their 11 foster children to work in an illegal coalmine. The MOI reported that during 2004, 6,200 parents received administrative sanctions, predominantly in the form of fines, for abusing their children.

The legal marriage age is 18 for males and 17 for females, but the law stipulates that a person who has reached the age of 14 may apply to a court for permission to marry if "it is established that marriage is in the person's best interest," a formulation not further defined. Women under the age of 18 entered into 9 percent of marriages registered in rural areas and 3.2 percent of those in urban areas. Experts stated that underage marriage was not a significant problem; however, media in Zakarpattia Region have characterized underage marriage among Roma as a problem.

Trafficking in children was a serious problem (see section 5, Trafficking).

The commercial sexual exploitation of children remained a serious problem. According to domestic and foreign law enforcement officials, a significant portion of the child pornography available on the Internet continued to originate in Ukraine.

In contrast to 2004, the government took steps to combat child pornography. For example, in March, Ukraine sent law enforcement representatives to work with colleagues from a number of foreign countries to investigate the cross-border sale of child pornography. According to the MOI, by the end of May, 87 criminal cases had been opened related to the manufacture and circulation of child pornography, and police had closed major child pornography studios in Dnipropetrovsk, Donetsk, Luhansk, and Lviv.

On April 11, the news website *Proua.com* also reported on criminal charges filed against the operators of a major child pornography studio in an unidentified city. The studio reportedly used approximately 1,500 girls between the ages of 8 and 16 to create pornographic images for the Internet.

Child labor was a problem (see section 6.d.).

The number of homeless children, usually children who fled poorly maintained orphanages or poor domestic conditions, remained high. Estimates of the number of homeless children varied widely. The vice premier for humanitarian and social affairs told the press on April 21 that there were approximately 150 thousand homeless children in the country, but the State Service for Minors reported on July 11 that there were only 30 thousand. In June the respected independent national newspaper *Ukraina Moloda* quoted experts as putting the number at 129 thousand.

During the year national political leaders gave significant attention to the issue of homeless children. On April 22, then-Prime Minister Tymoshenko held a day-long cabinet meeting on the issue. On June 7, the parliament held widely-publicized hearings on children's rights.

On August 31, Minister of Family, Youth and Sports Yuriy Pavlenko told a special rapporteur from PACE that the

country was working to create a transparent system of adoption that protected children. The PACE rapporteur, Swiss lawmaker Ruth-Gaby Vermot-Mangold, visited the country to examine allegations of the trafficking of children (see section 5, Trafficking).

Trafficking In Persons

The law prohibits trafficking in persons; however, there were numerous reports that persons were trafficked to, from, and within the country. There were also credible reports that local officials abetted or assisted organized crime groups involved in trafficking. Although trafficking may be prosecuted through a number of statutes, as of year's end the legal framework did not address the full scope of trafficking. Corruption within the government facilitated trafficking in persons.

The law provides for penalties of generally three to eight years' imprisonment for trafficking in persons, including for sexual exploitation, pornography, and forced labor. Under some circumstances--for example, trafficking of minors aged 14 to 18, or of groups of victims--traffickers may be sentenced to prison terms from 5 to 12 years, and traffickers of minors under the age of 14 or members of organized trafficking groups may be sentenced to terms from 8 to 15 years. Experts urged the authorities to improve their antitrafficking prosecutions by establishing a special witness protection program for trafficking victims and broadening the existing law to correspond to international norms. However, the MOI continued to cite insufficient financial resources as the reason for not implementing a witness protection program in any sphere, beyond a limited protection detail for the duration of a trial.

The government increased its investigation and prosecution of suspected traffickers during the year, largely due to an increase in the resources allotted by the MOI to its newly created antitrafficking department. However, resources allotted to combating trafficking in persons by the PGO remained far from adequate. During the first 9 months of the year, according to statistics supplied by the MOI, 354 cases were filed involving 217 suspected traffickers and 390 victims, including 41 minors. The authorities broke up 32 organized criminal rings involved in human trafficking in the same period. During the first 6 months, at least 149 criminal cases were brought to trial. Sentences were handed down on 58 defendants, including 31 women; 38 defendants received suspended sentences, 4 were sentenced to up to 5 years in prison, 9 received 3-to-5-years, 6 received 5-to-7 years, and 1 was sentenced to 8 years.

At the beginning of the year, the MOI raised the status of its unit that specializes in antitrafficking matters to that of a stand-alone antitrafficking department; it had previously been part of the criminal investigation department. As of year's end the antitrafficking department had branches in each of the ministry's 27 regional directorates, and more than 500 officers are exclusively dedicated to combating trafficking in persons. In 2004, in contrast, only 200 officers were assigned to the trafficking unit, but they also worked on non-trafficking cases. The department received training and equipment from international donors.

The government reported that it regularly reviewed the licenses of domestic employment agencies. In a limited number of cases during the year, the Ministry of Labor and Social Policy withdrew agency licenses because of involvement in trafficking.

The government sought to cooperate with foreign governments to investigate and prosecute trafficking cases; however, efforts were hampered by a number of factors, including insufficient investigative resources, the reluctance of many victims to give evidence against traffickers, and a lack of timely cooperation from law enforcement officials in most destination countries.

The country remained a point of origin for internationally trafficked men, women, and children. The main destinations were Turkey, Russia, West and Central Europe, especially Poland, and the Middle East. There were also reports that women and girls were trafficked to South Korea, Japan, Nigeria, and Liberia.

The country also was increasingly a transit route for individuals from Central Asia, Russia, and Moldova. The International Organization for Migration (IOM) reported that as of September 30, at least 78 individuals from Moldova, Russia, Kyrgyzstan, and Uzbekistan had been trafficked through Ukraine to Turkey.

Ukraine was also a destination country for individuals trafficked from former Soviet republics and South Asia. For example, the IOM reported one case of trafficking from Moldova to Ukraine. A much larger problem involved trafficking of individuals within the country. As of September 30, the IOM reported three cases of internal trafficking. However, the IOM believed the actual number was 100 times greater. There were a few reports that mothers trafficked their underage children and forced them to beg.

There were also reports that both women and men were forced to work in agriculture, especially in the southern regions, in summer and autumn. Children were exploited in industrial cities in the east. For example, 2 adults in the eastern town of Snizhne, Donetsk Region, were arrested and given 4-year suspended sentences for creating a foster home and then forcing 11 foster children to work in their illegal coal mine (see section 5, Children).

Men were mainly trafficked as construction workers and miners. Children who were trafficked across the border or within the country were forced to provide sexual services, engage in unpaid work, or beg. The overwhelming majority

of trafficking victims were women, who were used as sex-workers, housekeepers, seamstresses, and dishwashers. Trafficked women were also used to bear children for infertile couples. There was a lack of information regarding male victims of trafficking, because men generally did not recognize themselves as victims of trafficking. As a result, men rarely addressed complaints to law enforcement agencies.

Estimates regarding the number of trafficked citizens varied, but the IOM stated that one 1 of every 10 persons knew someone in their community who has been trafficked. According to Human Rights Ombudsman Karpachova, approximately five to seven million citizens lived and worked abroad, many without legal protection, and were therefore potentially vulnerable to traffickers.

Traffickers used a variety of methods to recruit victims, including advertisements in newspapers and on television and radio that offered jobs abroad with high salaries and promises of modelling contracts, marriage proposals, and trips through travel agencies. Traffickers often presented themselves as friends of other friends and deceived the relatives of potential victims. Most of the traffickers were members of organized crime groups. The traffickers often paid for the processing of passports and travel documents for the victims, thus placing them into debt bondage. In some cases the traffickers simply kidnapped their victims.

Corruption in the judiciary and police continued to impede the government's ability to combat trafficking. Local officials reportedly aided organized crime groups involved in trafficking; a police officer, for example, allegedly assisted an organized crime gang that trafficked minors to Russian pedophiles. NGOs asserted that local police and border guards received bribes in return for ignoring trafficking. The authorities did not disclose official statistics on corruption related to trafficking, but some law enforcement investigations of human trafficking revealed abuses of power by governmental officials responsible for issuing passports. Officials issued passports to minors, for example, with false age or other information. The low number of prosecutions of government officials for such activities raised questions about whether the government was willing to take serious disciplinary action, especially against high-level officials.

Although some victims testified against traffickers during the year, victims often were reluctant to seek legal action against them. This reluctance was due largely to lack of trust in law enforcement agencies, negative public opinion toward trafficking victims, and the insufficient protection offered to witnesses as a result of budgetary considerations.

From January to October, the IOM helped 488 trafficking victims to return and reintegrate into society. The IOM continued to operate a comprehensive medical center and shelter for victims of trafficking in Kiev, providing medical and psychological services, including vocational counseling, to 174 individuals during the first 9 months of the year. However, these victims represented only a small percentage of the total number of Ukrainians trafficked abroad. Limited medical, psychological, and legal assistance was available, as was job skills training, job placement, and micro-credits. Psychological assistance was widely available through state institutions, but medical assistance was only available from shelters funded by international organizations and was not fully provided in all cases.

Between February and August, the international NGO Caritas provided 51 victims of trafficking with reintegration assistance in their shelter. Caritas also established a network of counseling centers providing social services to trafficked women in Khmelnytsky, Ivano-Frankivsk, Sokal, and Drohobych. Between February and August these centers provided 1,189 consultations regarding the prevention of trafficking.

Another 31 smaller NGOs facilitate cooperation between victims, communities, and law enforcement organizations in addressing trafficking issues. With foreign government assistance, the help of local administrations, and their own resources, local NGOs continued to serve as trafficking prevention and women's support centers in the regions. Among other things, the centers provided legal and psychological counseling to trafficking victims. NGOs also operated 18 regional hotlines for trafficking victims in different cities.

The government worked to improve assistance provided by its diplomatic missions to victims in destination countries. In 2004 the country's consulates abroad identified 560 missing citizens and helped repatriate 825 women who were victims of trafficking. The Ministry of Foreign Affairs set up a center in Kiev for the protection of citizens abroad. It provided free consultations regarding their rights in foreign countries.

During the year the Ministry of Family, Youth and Sports, in conjunction with the IOM and with funding provided by the European Commission, opened three shelters, in Odesa, Lutsk and Zhytomyr, for the rehabilitation and reintegration of trafficking victims.

Government cooperation with NGOs on trafficking issues was steady during the year. Local administrations continued to include NGOs as partner organizations in their regional action plans.

During the year several television stations broadcast documentary films and informational programs highlighting the danger of human trafficking. NGOs conducted general awareness campaigns throughout the country, often in cooperation with government entities. International organizations also started trafficking-prevention information campaigns featuring popular Ukrainian celebrities such as 2004 Eurovision contest winner Ruslana. At a nationally televised event, public figures, including First Lady Kateryna Yushchenko, urged the public to be supportive of trafficking victims.

Persons With Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or other state services. However, the government did little to increase opportunities for persons with disabilities, and advocacy groups maintained that there was societal discrimination against persons with disabilities. The law mandates access to buildings and other public facilities for persons with disabilities but it was poorly enforced. The media reported on June 1 that President Yushchenko issued a decree ordering the government to ensure that persons with disabilities could physically access government and public buildings but, while there were some efforts made to comply with the decree, most public buildings remained inaccessible.

Only 14 percent of the country's 2.47 million persons with disabilities were employed, according to a September 21 report in the national newspaper *Den*, which cited the State Committee for Statistics.

At a September 29 press conference in Kiev, the head of the National Assembly of Ukrainian Invalids, member of parliament Valeriy Sushkevych, complained that the deaf continued to encounter problems in receiving high-quality education and good jobs. Sushkevych said that there were about 50 schools for children with hearing problems but teaching standards were very low. According to the Ukrainian Society for the Deaf, as of year's end, there were approximately 57 thousand persons with hearing problems, including approximately 2 thousand children under the age of 14. According to the society's statistics, 2,600 deaf children attended primary and secondary schools, while about 1 thousand were students of higher educational establishments.

In 2004 the government supported the efforts of the NGO Parostok to involve individuals with disabilities in politics and to help ensure that they were able to cast votes at polling stations during the presidential elections.

National/Racial/Ethnic Minorities

Harassment of racial minorities was a continuing problem. The police routinely detained dark-skinned persons for arbitrary document checks, whereas document checks of light-skinned individuals were rare. Although the authorities disciplined police who engaged in this harassment when incidents were brought to their attention, such behavior remained common. There were multiple reports of racially motivated violence against persons of African and Asian heritage by skinheads. Representatives of minority groups claimed that police officials routinely ignored, and sometimes abetted, violence against them.

Roma are located throughout the country, but there are concentrations in Zakarpattia Region, Crimea, and around Odesa. Police continued to abuse them and use violence against them. For example, according to the human rights NGO Romani Yag, on January 20 police in Uzhhorod conducted early-morning raids on the homes of Romani families in the city's Radvanka and Telmana neighborhoods. All Romani men seized in the operation, including the elderly and the ill, were taken by the police for fingerprinting. At a February 8 roundtable with Romani leaders in the city, Deputy Uzhhorod Police Chief Myhailo Turzhanytsa defended the operation, characterizing it as a "prophylactic action which was carried out as a consequence of increased criminality" in the Romani community.

Roma also faced considerable societal hostility. Opinion polls indicated that social intolerance is greater toward Roma than toward any other ethnic group. The media reported on August 10 that riot police in Krasnoyilsk, Chernivtsi Region, deployed to protect a Roma camp from vigilante violence by local residents seeking the alleged killers of an eight-year-old girl.

The constitution provides for the "free development, use, and protection of the Russian language and other minority languages," but some pro-Russian organizations in the eastern part of the country and in Crimea complained about the increased use of Ukrainian in schools, the media, and the courts. These groups claimed, for example, that their children were disadvantaged when taking academic entrance examinations, since all applicants were required to take a Ukrainian language test. Government representatives disagreed. Deputy Minister of Education and Science Viktor Ohnevyyuk noted in an August 31 interview with Interfax that "every fifth student in Ukraine is taught in Russian." According to Ohnevyyuk, 1,500 schools teach students in the Russian language. In addition, he said that 550 schools teach students in two languages, either Russian and Ukrainian or Russian and Crimean-Tatar. Ohnevyyuk also related that over 27 thousand schoolchildren studied in Romanian, around 20 thousand were taught in Hungarian (primarily in Zakarpattia Region), 6,500 in Moldovan (primarily in Odesa Region), 6 thousand in Crimean-Tatar, and 1,400 in Polish.

A poll conducted in April by the Democratic Initiatives Fund showed that 76 percent of the respondents supported the granting of official status to the Russian language.

The Russian cultural center in Lviv was vandalized multiple times during the year. The media reported that, on the night of June 7, a bust of the Russian writer Pushkin was destroyed. According to media reports, unidentified vandals spray-painted a swastika on the center's facade on September 21 and on November 16 smashed several of the center's windows.

Ukrainian and Crimean Tatar minorities credibly complained of discrimination by the ethnic-Russian majority in Crimea and called for the Ukrainian and Crimean-Tatar languages to be given a status equal to Russian. Crimean Tatar leaders also continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean legislature (see section 3).

Crimean Tatar leaders complained that their community, whose members have returned to Ukraine over recent decades after having been forcibly exiled from their traditional Crimean homeland during World War II, were not receiving adequate assistance in resettling. Returning Tatars were given land plots on the peninsula, but only inland, and not along Crimea's desirable southern coast from which Tatars claimed they were exiled. The previously onerous process of acquiring citizenship excluded many of them from participating in elections and deprived them of a fair opportunity to participate in the privatization of land and state assets in the 1990's. The newly privatized land was subsequently priced beyond their means. They asserted that discrimination at the hands of (largely ethnic-Russian) officials in Crimea deprived them of employment in local administrations and that propaganda campaigns, particularly by Russian Cossacks, fomented hostility toward them among other inhabitants of Crimea.

Muslim leaders in Crimea, as well as members of the Crimean Tatar Mejlis, accused the UOC-MP of encouraging anti-Muslim and anti-Tatar violence in Crimea. UOC-MP priests in Crimea reportedly assured ethnic Russian vigilantes, who refer to themselves as Cossacks, that violence against Muslim Tatars was justified in order to "protect Orthodoxy" in Crimea.

Rusyns (Ruthenians) continued to call for status as an official ethnic group in the country, noting that neighboring countries accept them as minorities.

Other Societal Abuses and Discrimination

The media reported on March 22 that the anti-Semitic MAUP expelled a gay student from its law college because the student had circulated leaflets among fellow students calling for the protection of the rights of gays and lesbians. The gay student sued MAUP. On August 19, the Holosivskiy District Court in Kiev ruled in favor of the student and ordered MAUP to pay him compensation of \$120 (UAH 600). The student subsequently transferred to Kiev State University.

There were no indications that two cases of possible mistreatment of homosexuals were being pursued by the authorities. One case involved a February 2004 complaint to the ombudsman's office by two gay men about harassment by police in Volyn Region. The other was the suspicious death in September 2004 of a gay man in Kryvyi Rih while in police custody.

From September 30 until October 3, Nash Mir, the country's leading NGO that advocates for gays and lesbians, hosted a conference in Kiev to publicize the results of a one-year study, financed by the EU and the International Renaissance Foundation, on discrimination against homosexuals. The final results were based on more than 900 interviews and questionnaires involving homosexuals of different sexes, ages, places of residence, and social status. It concluded that homosexuals were generally treated with prejudice in Ukrainian society. It noted that homosexuals faced discrimination from law enforcement agencies and the country's health care workers, among others, and that the media frequently provided a "distorted representation" of persons with nontraditional sexual orientations.

Persons living with HIV/AIDS continued to face discrimination in the workplace, job loss without legal recourse, harassment by law enforcement, prosecutorial, and judicial authorities, and social isolation and stigmatization within their communities.

Incitement to Acts of Discrimination

Mejlis members and Crimea-based human rights groups criticized the Crimean government for permitting schools to use officially-sanctioned textbooks that contain inflammatory and historically inaccurate material about Tatar Muslims. Human rights activists specifically noted that a popular textbook for fifth graders, Viktor Misan's *Stories on the History of Ukraine*, contains more than 20 pejorative references to Muslims, including the assertion that Tatar children had frequently used "elderly and disabled Ukrainian captives for archery and saber practice." Similarly, A.K. Shchvidko's eighth-grade textbook, *History of Ukraine, 16-18th Centuries*, depicts Muslims in a negative light, asserting, for example, that "there wasn't a year when Tatars didn't invade Ukraine, burn its villages and towns, slaughter its citizens, and take prisoners." One major Crimea-based human rights group noted that such misinformation collectively created an impression among young persons that "Tatars are bad for Ukraine and that to kill and rob them is a blessed deed."

Section 6 Worker Rights

a. The Right of Association

The law provides for the right of most workers to join unions to defend professional, social and economic interests, and this right was generally respected in practice. The law prohibits certain categories of workers, such as nuclear power

plant employees, from joining unions. Large companies and some local government officials continued to resist the formation of unions.

Under the law, all trade unions have equal status, and the establishment of a trade union does not require government permission. However, unions affiliated with the Federation of Trade Unions (FPU), which maintained strong ties with the government and inherited assets from the official Soviet-era unions, enjoyed an advantage in organizing workers.

Since 2003 unions no longer need prior approval from the Ministry of Justice to be established. But in order to function as an organization for all practical purposes, a union must obtain proof of registration as a legal entity. Unions report this registration process is extremely burdensome, entailing visiting up to 10 different offices, submitting extensive documentation, and paying a number of fees.

In order to acquire national status, which allows a union to negotiate directly and sign agreements with government ministries and to communicate officially with the cabinet and president, a union must either have branches in more than half of the administrative regions or have branches in more than half of the administrative regions where the enterprises of this sector are located. The Law on Citizens' Organizations (which include 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. There were both "official" and "independent" trade unions.

All unions affiliated with the FPU, which maintained strong ties to the government and inherited assets from the official Soviet-era unions, as well as several new, independent labor unions, were registered. However, some independent unions, including newer affiliates of the Independent Miners Union of Ukraine whose member unions represented a wide variety of trades and professions, chose not to register, considering themselves legal entities under the 2003 Law on Trade Unions and thus exempt from registration requirements. Although often coordinating its activities with the government, the FPU continued to work independently on some labor matters and advocated the right of workers to strike. The FPU has supported the protests of some professions over unpaid wages, but most FPU affiliates worked closely with management. Enterprise managers were free to join the FPU. The FPU leadership had a political party, the All-Ukrainian Party of Workers.

Independent unions provided an alternative to the official unions in many sectors of the economy. As of October 1, there were 109 trade unions registered with the MOJ, including 40 national-level industrial sector FPU unions and 69 new trade unions. The Confederation of Free Trade Unions of Ukraine (CFTU) reported that, as of October, they had only six national-level unions registered with the MOJ. The CFTU estimated its total membership at 211 thousand. While exact membership figures were unknown, there were estimated to be fewer than 2 million non-FPU members (down from 3 million in 2002) and 11 million (down from 14.5 million in 2002 and 12 million in 2004) members of FPU-affiliated unions. The drop in union membership was attributed to general apathy and cynicism regarding the benefits of union membership, as well as the fact that membership was no longer required for certain benefits, such as sick leave.

Despite heightened expectations of a change in policy following the Orange Revolution, independent unions continued to be denied a share of the former Soviet trade unions' huge property and financial holdings. These included the social insurance benefit funds, a Soviet-era legacy on whose boards FPU-affiliated unions held the majority of seats, giving them a benefit the independent unions could not offer.

Independent trade union leaders complained that government representatives sought to influence union votes and pressure members to report on union activities. At the same time, independent trade union leaders reported a decline in the intense level of harassment experienced prior to the 2004 presidential elections.

Despite the independent unions' strong efforts on behalf of President Yushchenko's presidential campaign, the new government did not enact any serious labor reforms. Some restructuring, such as the April 20 presidential decree that abolished the State Labor Safety Committee and incorporated its functions into the Ministry of Emergencies, was, in fact, detrimental to workers. Independent trade union leaders believed subordination to the Ministry of Emergencies meant labor safety officials were no longer able to act independently as the primary coalmine watchdogs.

Oleksandr Yurkin, former head of the Nuclear Power Workers Union, became chairman of the FPU on January 21. Yurkin was reportedly more open to reform than prior leaders, but his actions were hampered by the rest of the FPU management that had not changed. Large companies and some local government officials continued to restrict union activities.

b. The Right to Organize and Bargain Collectively

The law permits trade unions to organize and participate in collective bargaining, but these rights were not always respected in practice.

According to the law, joint worker-management commissions should resolve problems concerning wages, working conditions, and the rights and duties of management at the enterprise level. Although the law provides the right to

collective bargaining, overlapping spheres of responsibility frequently impeded the collective bargaining process, and the manner in which the collective bargaining law was applied prejudiced the bargaining process against independent unions and favored the official unions (affiliates of the FPU). In the formal sector, collective bargaining agreements covered 90 percent of unionized employees, according to a November World Bank study. Most workers were not informed that they were not obligated to join an official union. Renouncing membership in an official union and joining an independent union could be bureaucratically onerous and typically was discouraged by management. The law allows an independent union to be removed easily from the collective bargaining process at the enterprise level. Under the law, if several unions at an enterprise fail to agree on joint representation, the largest union--that is, the FPU--represents labor in the bargaining process.

The law established the National Mediation and Reconciliation Service to mediate labor disputes. According to official statistics, the service addressed 213 labor disputes during first nine months of the year, resolving 70 of them.

The law provides for the right to strike "to defend one's economic and social interests," as long as strikes do not jeopardize national security, public health, or the rights and liberties of others; the government generally respected this right. It does not extend the right to strike to personnel of the PGO, the judiciary, armed forces, security services, law enforcement agencies, the transportation sector, or public servants. Workers who strike in prohibited sectors may receive prison terms of up to three years. As of October, one enterprise (with 408 employees) had participated in a strike.

Approximately 90 thousand workers were employed in the country's 11 export processing zones. Tax and customs privileges granted to the companies in the zones were eliminated on March 29. The changes led to restructuring and job losses among enterprises in the zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred (see section 5 and section 6.d.).

Human rights groups asserted that alternative service military conscripts were used as compulsory labor in the construction and refurbishing of private houses for military and government officials. There were reports that, at Zakarpattya Region's Pavchino detention center, border guards generated income, including their own salaries, by "leasing" migrants to a neighboring factory. The migrants were forced to work long shifts, including at night, without compensation; those who refused to work were beaten and, in one case, mauled by a guard dog.

d. Prohibition of Child Labor and Minimum Age for Employment

The government recognized child labor problems but did not effectively enforce laws to protect children from exploitation in the workplace. The legal minimum age for employment in most spheres of the economy is 16, but in certain non-hazardous industries, enterprises may negotiate with the government to hire employees as young as 15 with the consent of one parent. Children aged 14 can legally work on a short-term basis in the social sector and agriculture with the consent of one parent.

The State Department for Monitoring Enforcement of Labor Legislation within the Ministry of Labor and Social Policy is responsible for enforcing child labor laws and was generally effective; however, some children under the minimum employment age worked in the informal sector. An amendment to the Law on Child Protection, adopted in February, prohibits trafficking in children and children working in hazardous conditions.

Children worked in the agricultural sector, and trafficking of children for the purpose of forced labor and sexual exploitation was a problem (see section 5). Begging by children existed, although it was limited. In the formal sector, the State Department of Surveillance Over Labor Legislation Observance and the State Labor Inspectorate are responsible for enforcing child labor laws and policies. The Department of Juvenile Affairs and the police are responsible for identifying children in the informal sector that are involved in worst forms of child labor. During the year enforcement measures were often inadequate to deter violations. The International Labor Organization's International Program on the Elimination of Child Labor (ILO/IPEC) has a country-specific project aimed at eradicating the worst forms of child labor in the informal economy. The ILO/IPEC also continued a project for prevention of trafficking in children.

e. Acceptable Conditions of Work

The new government substantially increased the monthly minimum wage, pensions and other social payments with the March 29 budget. The government raised the minimum wage three times during the year, to \$66 (UAH 330) to make it equal to the subsistence level for persons with disabilities set by the 2005 budget. Nonetheless, the minimum wage and associated pension levels did not provide a decent standard of living for a worker and family. The State Labor Inspectorate is responsible for enforcing the minimum wage but was unable to thoroughly monitor all employers. Many workers, especially in the informal sector, received far below the minimum wage.

Since the beginning of the year, wage arrears have increased by 15.9 percent and as of August 1 stood at \$258 million (UAH 1.29 billion). Most arrears accumulated in industry (48.1 percent), agriculture (23.3 percent), and construction (10.1 percent).

The law 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 significantly reduced the workweek for some categories of workers. The law provides for double pay for overtime work and regulates the amount of overtime hours allowed. However, regulations covering rest periods, maximum hours, and overtime were not always effectively enforced.

Although the law contains occupational safety and health standards, these frequently were ignored in practice. In particular, illegal coalmines connected to organized crime and corrupt leaders operated in unsafe conditions, resulting in scores of deaths. A 10-day inspection in Donetsk Region by officials in April uncovered 1,300 violations of labor safety and resulted in the closure of 60 facilities at 10 mining sites. Lax safety standards and aging equipment caused many injuries on the job. During the first 9 months of the year, there were 15,011 injuries (1,781 fewer than for the same period in 2004), including 762 job-related fatalities (96 fewer than in the previous year). The number of miners injured in the coal sector was 7,768 (down from 9,218 in 2004), including 157 fatalities (compared with 200 in 2004).

In the coalmining sector, experts estimated that in the first eight months of the year there were 1.98 deaths (down from 2.57 in 2004) for every million tons of raw coal extracted. Increased enforcement of safety regulations was a major factor in this reduction, although the numbers remained quite high. The new government established in May a coal industry development program, as well as working groups to analyze the situation in the mining and metallurgical sector, but these efforts have not yet resulted in any substantial improvements in health and safety in the mines.

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



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