



U.S. DEPARTMENT of STATE

Ukraine

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Ukraine is a mixed parliamentary and presidential republic governed by a directly elected President, a Prime Minister who heads a Cabinet of Ministers, and a unicameral Parliament (Rada). The Prime Minister is nominated by the President and approved by the Rada. The cabinet is nominated by the Prime Minister and approved by the President but generally is under the President's direction. The Rada is elected partially according to proportional representation and partially by direct constituency mandate. Parliamentary elections, which took place in March, were an improvement over the 1998 parliamentary polls in some respects, but important flaws persisted. Incumbent President Leonid Kuchma was reelected in 1999 in an election described by the Organization for Security and Cooperation in Europe (OSCE) as having failed to meet a significant number of the OSCE election-related commitments. The Constitution provides for an independent judiciary; however, the courts were subject to political interference and corruption and are inefficient.

There are two principal security agencies, which have equal responsibility for internal security: The Security Service of Ukraine (SBU), which is responsible for intelligence gathering, and the Ministry of Internal Affairs, which controls the various police forces. The Minister of Internal Affairs is a member of the Cabinet of Ministers, while the SBU enjoys special status within the executive branch and reports directly to the President. The State Tax Administration also has law enforcement powers, which it exercises through the tax police. The Office of the Prosecutor General prosecutes criminal cases and is responsible for enforcement of court decisions in criminal cases. The armed forces largely remained outside of politics. However, government agencies interfered indirectly in the political process through criminal and tax investigations of politicians, journalists, and influential businessmen. Civilian authorities generally maintained effective control of the security forces. Members of the security forces committed human rights abuses; however, the extent to which the authorities were complicit or acquiescent in these abuses was uncertain.

The economy is mixed, with the private sector accounting for 65 to 70 percent of gross domestic product (GDP). The country has a total population of 48,457,000. While the official GDP was only approximately 48 percent of its pre-independence (1990) level, the economy grew by 5.8 percent in 2000, 9 percent in 2001, and 4.1 percent during the year. The economy was burdened by wage nonpayment and arrears, and the shadow economy (defined as activity deliberately unreported for purposes of tax evasion) accounted for a significant proportion of real income. Wage arrears decreased by approximately 20 percent in 2001. Investment remained at low levels, with many potential investors discouraged by rampant corruption, onerous taxation, arbitrary licensing practices, and an inefficient judicial system that yielded to political pressure. Wealth was concentrated in the political elite and among directors of the state-dominated sectors such as metals, oil, and gas.

The Government's human rights record remained poor and in some cases worsened; however, there were also some improvements in some areas. Police and prison officials tortured and beat detainees and prisoners, with unconfirmed reports that they killed one detainee. The beating of conscripts in the army by fellow soldiers was common and at times resulted in death. Police abuse and harassment of racial minorities was a continuing problem. The Government rarely punished officials who committed abuses. Prison conditions remained harsh and life-threatening, particularly

because of exposure to disease. Arbitrary arrest and detention were problems, as was lengthy pretrial detention in very poor conditions; however, the courts continued to release defendants from confinement pending trial. Political interference and corruption affected the judicial process. The judiciary also was overburdened, inefficient, and lacked sufficient funding and staff. Long delays in trials were a problem. In July 2001, a series of amendments to the laws that regulate the system of courts and the administration of justice were implemented and included the transfer of the right to issue arrest warrants, residential search warrants, and wiretap orders from prosecutors to the courts. At year's end, it was still too early to evaluate the overall effects of these changes.

Authorities interfered with the news media by intimidating journalists, issuing written and oral instructions about events to cover and not to cover, and pressuring them into applying self-censorship. Nevertheless a wide range of opinion was available in newspapers, periodicals, and Internet news sources. There were some limits on freedom of assembly, and the authorities impeded people from participating in some demonstrations. Freedom of association was restricted. The Government generally respected, and made efforts to address some concerns of religious communities; however, there were some problems. Local officials continued to present bureaucratic difficulties to minority and nontraditional religions on matters of land and building acquisition permits for religious activities and on the issue of property restitution. The Government continued to return properties and establishments to religious groups although the pace was slow, in part because of lack of funding. There were some limits on freedom of movement. Violence and discrimination against women, including sexual harassment in the workplace, were problems. Violence against children was a problem. There were reported instances of anti-Semitic acts, including cemetery desecration. Ethnic minorities and Muslims complained of frequent identity checks. The Government discouraged some workers from organizing unions. Trafficking in women and girls for sexual exploitation was a serious problem that the Government, through the Ombudsman's office and many government agencies, took steps to combat. Ukraine was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

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 confirmed reports of political killings; however, unidentified assailants killed one politician on the eve of parliamentary elections (see Section 3). Abuse of prisoners and detainees and harsh prison conditions at times led to death (see Section 1.c.). There was an unconfirmed report that an individual who was taken into custody at the Shevchenkivskyi precinct in Zaporizhzhya on December 16 was beaten to death. According to the Ombudsman's office, during 2001 there were 1,381 deaths in prison and detention facilities, many due to harsh conditions.

Human rights groups stated that soldiers continued to be killed during violent hazing events, although no official data was available for the year (see Section 1.c.). According to a government official, in 1998 (the latest year for which information was available) 10 to 12 military personnel were beaten to death, and a total of 20 to 30 died as an indirect result of injuries sustained from hazing. At times the authorities reportedly labeled these deaths as suicides.

During the year, local authorities in the Cherkasy region closed their investigation into the alleged 2001 police torture of Yevhen Kornuta without any results.

The pervasiveness of corruption, connections between government officials and organized crime, and the political activities of organized crime figures, often blurred the distinction between political and criminal acts. Politicians, politically connected businessmen, and journalists were the victims of attacks that were sometimes fatal and possibly politically motivated. No official statistics for contract killings during the year were available. On August 23, in the only known case of conviction for a contract murder, a court sentenced two top officials of the alcohol company Soyuz Viktan to 15-year jail sentences for ordering the murder of two individuals who tried to extort money from them. The contracted murderer received a 14-year prison term.

According to the nongovernmental organization (NGO) Reporters Without Borders, four journalists died during the year in ways that may have been connected with their professional duties. A journalist, Mykhailo Kolomiyets, who disappeared from Kiev on October 28, was found hanged in neighboring Belarus on November 20. The Kiev prosecutor's office invited a team of foreign investigators to help determine whether Kolomiyets committed suicide (see section 2.a.).

On March 29, 2 days before parliamentary elections, unknown gunmen shot dead the Ivano-Frankivsk Oblast Deputy Governor, Mykola Shkribliak in the stairwell of his house. Shkribliak was running for a constituency Rada seat (see Section 3).

The killing of prominent journalist Heorhiy Gongadze remained unsolved, although an investigation officially continued. Gongadze disappeared in September 2000; in November 2000, police found a decapitated body outside of Kiev, which DNA and other examinations confirmed to be his. The Government asserted that it was conducting a full-scale investigation into his disappearance, but members of the media and the public seriously criticized the Government's handling of the case, while others accused the President and other senior officials of complicity. In April the authorities refused to share the Gongadze case file with foreign investigators whom they had invited to assist with the investigation. In September the Prosecutor General's office announced that the murder was politically motivated; however, it made no arrests nor did it give any specific details to substantiate such claims. The investigation of the killing officially still was ongoing at year's end. In May 2001, the Ministry of Internal Affairs claimed that two thieves had murdered Gongadze and had had been killed subsequently, but the Prosecutor General's Office did not uphold this charge. An audio recording exists alleged to contain conversations between President Kuchma and other senior government officials discussing the desirability of Gongadze's removal. One other recording allegedly from the same source has been judged to be authentic.

The July 2001 beating and subsequent death of Ihor Aleksandrov, a director of a Donetsk regional television station, remained unsolved. Aleksandrov had aired a number of critical reports about Donetsk-based politicians and was a noted critic of alleged corruption among local law enforcement authorities. According to the police, Yuri Verediuk, a homeless man, confessed that he had been hired to kill the head of the television station's legal department and had mistaken Aleksandrov for this person. In May the Donetsk Oblast Appeals Court acquitted Verediuk, who earlier had been found guilty. On July 19, Verediuk died, reportedly of heart deficiency. The judge of the Donetsk Appeals Court had warned earlier, however, that Verediuk's life could be at risk. On July 25, upon the Procuracy's appeal, the Supreme Court rescinded Verediuk's acquittal and sent the case back to the Procuracy for a new investigation, a decision that the Appeals Court judge strongly criticized. Police refused to open criminal proceedings in connection with Verediuk's death, however, asserting that he had died of natural causes.

The European Roma Rights Center (ERRC) based in Hungary pressed Ukrainian authorities to investigate the October 28, 2001, deaths of five members of a Roma family in Malaya Kakhovka, Poltava region. According to the ERRC, police Major Ivanov of the Kryukov Area Police Department and two unknown accomplices torched the home of Jurij Fedorchenko with seven family members inside. The five who died ranged in age from 3 to 25. Two members of the family survived. One of the survivors, 50 year old Jurij Fedorchenko, claimed that Major Ivanov burned the house because the family refused to pay the police officer an approximate \$40 (215 hryvnia) monthly bribe to ensure Ivanov's protection for drug dealing, in which Jurij Fedorchenko's daughter had engaged previously. Police reportedly took two individuals into custody and suspended Major Ivanov from his duties, although no legal action was taken against him.

b. Disappearance

In April Oleksandr Olynyk, an election monitor from the Ukrainian NGO, Committee of Voters of Ukraine (CVU), disappeared from Kirovohrad approximately 1 week after the March 30 elections. Initial reports did not indicate that his disappearance was related to his monitoring activities; however, subsequent inquiries suggested that he may have received threats while observing the elections. Local authorities filed a missing persons report and launched a criminal investigation into the case. No progress had been reported by year's end. Andriy Tatarчук, Vice Chairman of the Reforms and Order Party of Odesa (Our Ukraine Bloc) and former city council candidate,

disappeared November 27 while returning home from work. Police in Odesa have launched an investigation and reportedly detained two individuals in mid-December in connection with the case. No conclusions as to the cause of his disappearance had been reached by year's end.

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

The Constitution prohibits torture; however, police and prison officials regularly beat detainees and prisoners, and there were numerous reports of torture. Although human rights groups did not receive specific reports that special militia detachments known as Berkut ("Golden Eagles") tortured and beat inmates as part of regular training exercises, they believe the practice continued. The media and human rights groups reported that police subjected detainees to various methods of physical torture, including the "swallow," in which officials place the detainee on his stomach and tie his feet to his hands behind him, forcing his back to arch. Another abuse was the "baby elephant," in which officials place a gas mask on the prisoner's head and slowly reduce the flow of oxygen. Detainees also were subjected to a method called the "monument," in which a prisoner is suspended by his hands on a rope and beaten. Human rights lawyers reported that requesting an attorney often leads to a worse beating, and detainees may be beaten until they waive their right to an attorney.

On December 16 police in Zaporizhzhya detained a drug addict suspected of burglary. He died in custody from injuries sustained from an alleged beating. Police claimed that the detainee had been beaten before entering police custody. In 2001 Volodymyr Ivanchenko, who was charged with plotting the killing of former presidential candidate Nataliya Vitrenko, claimed in his trial that police suffocated, beat, and used electroshock on him and his codefendants while they were in pretrial detention. Authorities took no action on his complaints.

There was no effective mechanism for registering complaints about mistreatment or for obtaining redress for such actions, although detainees were permitted to address complaints directly to the court instead of the Ministry of Internal Affairs. Prisoners and detainees also addressed complaints to the Ombudsman for Human Rights, and that office received several hundred reports of torture in pretrial detention during the year. According to the Office of the Ombudsman, most of the complaints that it received centered on human rights violations by law enforcement personnel. The Ombudsman also maintained that detainees who were unable to pay a deposit for meals went hungry and that this qualifies as another form of torture. The Ombudsman actively publicized reports of such practices; however, the Ombudsman had no enforcement authority.

Authorities made little documented effort to end abuse; disciplinary action against law enforcement authorities that committed abuses was limited. According to the authorities, 62 police officers were charged with mistreatment of suspects in the period January through August. According to the Ombudsman's office, in 2001 authorities opened 25 criminal cases against 48 law enforcement officers for exceeding their authority. Of these, 14 had been convicted as of year's end. On August 30, the Prosecutor General dismissed the prosecutor and an investigator in the Tarashcha District of Kiev Oblast. The two faced criminal proceedings for abuse of office and fraud during the Gongadze investigation (see Section 1.d.). They allegedly forged protocols from the inspection of the place where Gongadze's body was found. Many observers considered the charges to be only political scapegoating in an already highly politicized case. In its 2000 report, the Ombudsman noted that in 1998 and 1999, 285 members of the police were charged with torture and mistreatment of prisoners. The new Criminal Code, which came into effect in September 2001, mandates 3 to 10 years of imprisonment for torture; however, human rights groups reported that during the year there were no prosecutions for torture under the new Criminal Code.

Police also abused Roma and harassed and abused dark-skinned persons. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them (see Section 5). Police also harassed refugees (see Section 2.d.).

In September the police forcibly dispersed antipresidential demonstrators who had set up a tent city illegally in downtown Kiev. Police also took down tents in Kharkiv. Local authorities undertook a variety of measures, including impoundment of vehicles and arbitrary detentions, to dissuade people from attending such demonstrations. On December 26, the courts sentenced 13 members of

the opposition nationalist party, the National Ukrainian Assembly-Ukrainian People's Self-Defense (UNA/UNSO) to 2 to 5 years' imprisonment on charges of staging mass unrest during March 9, 2001 demonstrations in Kiev (see Section 2.b.). Police also harassed journalists (see Section 2.a.).

Despite extensive legislation on the protection of service member rights and official regulations concerning relations among military personnel, reports continued during the year of harsh conditions and violence against conscripts in the armed forces. In August a quarry landslide claimed the lives of two conscript soldiers who were digging sand for the construction of a private garage for a junior military officer in Lviv Oblast. The officer was placed in custody pending investigation. Senior conscripts often beat recruits, sometimes to death (see Section 1.a.) and forced them to give them money and gifts that they received from home. According to human rights associations, garrison prosecutors often did not investigate complaints of physical harassment. Punishment administered for committing or condoning such activities did not serve as an effective deterrent to the further practice of such abuses. Although official statistics on the incidence of hazing during the year were unavailable, human rights groups, including the Association of Soldiers' Mothers, reported that violent hazing continued to be widespread. They reported that the Procuracy opened 129 criminal cases pertaining to violent hazing. However, it was unknown how many of those resulted in convictions. Death by hazing was frequently described as suicide.

Police corruption remained a serious problem. There were reports that local officials abetted or aided organized crime groups involved in trafficking (see Section 6.f.).

Prison conditions remained harsh and life threatening. According to official sources, information on the physical state of prison walls and fences, as well as pretrial detention blocks, was considered to be a government secret. Nevertheless the press reported freely about harsh prison conditions. According to complaints received from the Office of the Ombudsman and human rights NGOs, prison officials intimidated and mistreated inmates. Due in part to severe economic conditions, prisons and detention centers were severely overcrowded and lacked adequate sanitation and medical facilities. According to official statistics of the Penal Department, in the first 6 months of 2001, there were 865 deaths in the prisons. Poor sanitary conditions resulted in 300 deaths from diseases such as tuberculosis and 13 from dysentery during the first half of 2001. There were frequent incidents of killings by fellow inmates, and in the first half of 2001, 13 individuals were reported officially to have committed suicide, although human rights groups believed the actual figure to be higher.

Prisoners were permitted to file complaints to the Ombudsman about the conditions of detention, but human rights groups reported that inmates were punished for doing so. In January 2001, the Rada passed amendments to the Penal Code that relaxed Soviet-era restrictions in high-security prisons and removed a requirement that all prisoners' letters should be read.

Conditions in pretrial detention facilities also were harsh. Inmates sometimes were held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. Overcrowding was common in these centers. Although there were no official figures, local lawyers believed that the pretrial detention center in Kiev housed as many as 6,000 persons, although its capacity was estimated to be 3,500. The SBU still maintained its own pretrial centers at year's end, although it had announced in 2001 that it would close them. According to Human Rights Ombudsman Nina Karpachova, approximately one-third of detainees were tortured.

Conditions in the Corrective Labor and Treatment Centers for Alcoholics (LTPs), operated by the State Penal Department, where violent alcoholics were confined forcibly by court decision, differed little from those in prisons. Although some centers were transferred to the Health Ministry in 2000, and the number of centers decreased, the Government did not meet its earlier commitment to transfer all of the LTPs to the ministry. Virtually no treatment for alcoholism was available in these centers. Despite a 1999 government decree directing the closure of LTPs by the end of 2000, they continued to operate during the year.

According to human rights groups, a reorganization of the penal department to ensure greater independence of the penal system did not affect the Department's practices, and there was little

civilian oversight of its activities. Although the Government implemented some programs for the retraining of prison and police officials, it punished only a small minority of those who committed or condoned violence against detainees and prisoners. The Ombudsman drew attention to the state of the penitentiary system by visiting prisons and raising prison-related issues in public. During a February visit to the Lukianivka detention center in Kiev, the Ombudsman noted some improvements with regard to prison conditions. Candidates and observers of the March elections also were allowed access to some, but not all, prisons to campaign and monitor respectively.

The Government continued to allow prison visits from human rights observers; however, some of them reported that at times it was difficult to obtain access to prisons to visit specific prisoners and they were not allowed full access to the insides of prison facilities. On January 10, following persistent requests by the public and Reporters Without Borders, the Zaliznychny Local Court in Simferopol suspended the remaining 1½ years of the jail term of Serhiy Potomanov, a journalist imprisoned in Simferopol in 2001. Potomanov had complained of severe beatings by other inmates.

During the year, the Ombudsman continued to make the treatment of prisoners a priority and to investigate conditions in a number of prisons. In September 2001, the Rada ratified the first and second protocols of the European Convention on Prevention of Torture, which mandates the inspection of prisons by international observers. The Government agreed to permit the Council of Europe Anti-Torture Committee to publish three reports on Ukraine. The reports, from 1998-2000, cited numerous allegations of torture as a means of extracting confessions, a general fear among detainees to discuss abuses, and poor conditions in a number of prisons.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, arbitrary arrest and detention remained problems. The Constitution provides for compensation for unlawful conviction and the law allows compensation for illegal arrests; however, these provisions rarely were invoked.

The law provides that authorities may detain a suspect for 3 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 also may petition the court for an additional 15-day detention. The law further provides that pretrial detentions may not last more than 2 months. In cases involving exceptionally grave offenses, the Prosecutor General may petition a judge of the Supreme Court to extend the period of detention to 18 months. The law does not limit the aggregate time of detention before and during a trial. The law permits citizens to contest an arrest in court or appeal to the prosecutor. The Constitution requires that officials notify family members immediately concerning an arrest, but they did not often do so in practice.

By law a trial must begin no later than 3 weeks after criminal charges have been filed formally with the court, but this requirement rarely was met by the overburdened court system (see Section 1.e.). Months may pass before a defendant finally is brought to trial, and the situation did not improve during the year. Complicated cases may take years to go to trial. Although an amendment to the Criminal Procedures Code provides for the imposition of monetary bail, it has been used rarely; many of the defendants cannot pay the monetary bail amounts imposed by law. Instead courts imposed restrictions on travel outside a given area as an alternative measure to pretrial confinement. Approximately 70 percent of defendants awaiting trial--approximately 150,000 individuals--were released from pretrial confinement during the year, many of them under restrictive travel conditions.

According to the State Executive Service, the prison population was nearly 220,000 persons, including 156,000 in prisons and 40,000 in remand centers. Many of the individuals in pretrial confinement were charged with serious violent crimes. Since only the courts may authorize the continuation of pretrial detention pursuant to 2001 amendments, they closely examined cases in which authorities confined the defendants for extended periods in pretrial detention based on previous authorization by prosecutors.

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. There were insufficient numbers of defense attorneys to protect suspects from unlawful and lengthy imprisonment under extremely poor conditions. Although the concept of providing attorneys from the state system exists in principle, public attorneys often refused to defend indigents for the low Government fee. While in custody, a suspect or a prisoner is allowed by law to talk with a lawyer in private; however, human rights groups reported that prison or investigative officials occasionally denied the client-attorney privilege. To protect the defendant, each investigative file must contain a document signed by the defendant attesting that the charges against him, his right to an attorney, and his right not to give evidence against himself or his relatives have been explained to him. An appeals court may dismiss a conviction or order a new trial if this document is missing. As defendants increasingly became aware of their rights, they insisted on observance of these procedures; however, many persons remained unaware of these safeguards.

As a result of legal changes enacted in 2001, the prosecutor's office may no longer initiate new criminal investigations without prior court approval, with the exception of a number of serious offenses (see Section 1.e.).

The Government occasionally employed such charges as criminal libel or tax evasion to detain persons (usually opposition activists or journalists) who were openly critical of the Government or challenged the interests of powerful business or political figures close to the Government (see Section 2.a.). During the year, the Prosecutor General continued to pursue criminal charges against Yuliya Tymoshenko, head of the opposition political grouping named after her. Tymoshenko's earlier efforts to reform the energy sector, when she was Deputy Prime Minister for Energy, had drawn strong opposition, most notably from powerful businesspersons closely tied to the Government. After joining the opposition, Tymoshenko became an outspoken critic of the Government. She claimed that the charges against her were politically motivated. In May a Kiev court closed some of the Procuracy's criminal cases against Tymoshenko and her husband. In September the Prosecutor General requested that the Rada lift her parliamentary immunity, which would permit the filing of further criminal charges against her. The Rada speaker returned the petition requesting that the Prosecutor General more thoroughly justify his request. At the request of the Government, Turkish authorities detained Yuliya Tymoshenko's father-in-law, Gennadiy, and three of his business partners in June. In October Turkish authorities extradited them to Ukraine. On September 14, the Luhansk Appeals Court upheld the April conviction of Borys Feldman, former vice president of Bank Slovyanskyy, which managed some of Yuliya Tymoshenko's business interests. Feldman received a 9-year prison sentence for tax evasion and financial mismanagement. The Appeals Court had refused to honor the Supreme Court's decision to release Feldman, who said that he was prevented from practicing the Jewish faith while in detention pending appeal of his case. Feldman's attorney, Andriy Fedur, complained of harassment by the Tax Police and claimed that he received unidentified death threats during the year. In September Tax Police impounded Fedur's car, which allegedly contained defense materials for the Feldman case. In October police detained Fedur for 3 days on accusations that he falsified documents. He was released without being charged.

On September 17, Kiev police arrested 64 antipresidential protesters and charged them with various administrative infractions related to blocking public thoroughfares. All were released within 10 days.

Human rights groups reported that they continued to receive complaints from Roma regarding arbitrary detention and physical harassment by the police.

Police arbitrarily detained persons for extensive document checks and vehicle inspections (see Section 1.f.). They routinely detained dark-skinned persons for arbitrary document checks (see Section 5). There were reports that local authorities temporarily detained individuals they considered likely to attend nationwide antipresidential demonstrations in September. Prior to the demonstrations, there were also credible reports that police impounded vehicles belonging to opposition activists and NGO leaders technical checkups. Police reportedly returned the vehicles after the conclusion of the demonstrations. On June 29, police in Poltava detained the leader of the opposition party UNA-UNSO, Serhiy Kuzovka, for 2 days on charges of hooliganism, allegedly to prevent him from attending a UNA-UNSO congress in Kiev on July 30. After 2 days in police

custody, a court in Poltava acquitted him.

At times persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and confined to psychiatric institutions.

The Constitution prohibits forced exile, and the Government did not employ it.

e. Denial of a Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice the judiciary was subject to considerable political interference from the executive branch and also suffered from corruption and inefficiency. The courts were funded through the Ministry of Justice, which controlled the organizational support of the courts, including staffing matters, training for judges, logistics and procurement, and statistical and information support. The Presidential Administration also reportedly continued the practice of telephoning justices directly to influence their decisions.

Legislation enacted in 2001 and during the year to regulate the court system and the administration of justice brought the legal framework more in line with constitutional requirements for an independent judiciary; however, the judiciary lacked sufficient staff and funds, which engendered inefficiency and corruption and increased its dependence on the executive, since the court received all its funding from the Ministry of Justice. The court reorganization necessitated by the July amendment package required more funds than were allotted in the budget and observers believed that significant additional funding would be needed to modernize the court system in general and to provide the courts with adequate facilities and equipment.

The authority and independence of the judicial system also were undermined by a lack of compliance with court decisions in civil cases. Provisions calling for criminal punishment for noncompliance with court decisions rarely were used. Compliance was particularly poor if the decision clashed with government interests. The Chairman of the Supreme Court, the chairmen of regional courts, and the chairman of the Kiev municipal court (or the deputies of these officials) have the authority to suspend court decisions, which led to interference, manipulation, and corruption. The Justice Minister was quoted as saying that by year's end, slightly under 50 percent of court decisions had been enforced.

In 1999 the State Executive Service was established as a special department in the Ministry of Justice to execute court decisions. The State Executive Service was authorized specifically to enforce judgements in civil cases; decisions in criminal and administrative courts involving monetary compensation; and judgements of foreign courts, the Constitutional Court, and other authorities. The number of court decisions involving monetary or material compensation referred to the department has grown substantially. In the first half of 2001, over 1 million court decisions were executed, representing approximately 48 percent of the judgements referred to the State Executive Service.

Critics of the Government claimed credibly that the Government abused its authority over officers of the court by selectively charging and dismissing politically unsympathetic judges. In July Lubov Budiakova, judge of Babushkinsky District Court in Dnipropetrovsk Oblast, complained in the press about harassment by the head of the court after she ruled that the eviction of the Socialist Party from its office in Dnipropetrovsk had been unlawful. Independent-minded judges also complained that they did not receive politically sensitive cases. In July 2001, President Kuchma dismissed Mykola Zamkovenko, Chairman of a Kiev district court, for intentionally withholding case files in order to delay citizens' appeals to the court. Zamkovenko's supporters charged that authorities targeted him because of his release of former Deputy Prime Minister Yuliya Tymoshenko from pretrial custody and his recognition of Heorhiy Gongadze's mother and wife as victims of a crime (see Section 1.a.). In June the Supreme Court ruled that President Kuchma's dismissal of Zamkovenko was lawful.

Amendments to a series of laws concerning the judiciary and the administration of justice enacted in 2001 and additional legislation passed in July introduced important reforms to the court system. The amendments provided 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 (formerly arbitration) 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. The arbitration courts were redesignated as commercial courts and were intended to operate as specialized courts within the single unified system of courts. As a result, the Supreme Court may review their judgements, including those rendered by the High Commercial Court. Military courts are specialized courts that hear cases only involving military personnel.

On February 7, the Parliament passed a Law on the Judicial System of Ukraine, which the Government began implementing in the last half of the year. While the law helped modernize the judicial system, some observers contended that it granted excessive authority to the President. The law created a new State Judicial Administration (SJA), independent of the Ministry of Justice, to act as a central executive body overseeing the administration, including the finances, of the judicial system. Under the new law, the President also has the authority, with the agreement of the Ministry of Justice 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 recommendation of the SJA and with the agreement of the Chair of the Supreme Court); appoint and remove chairs and deputy chairs of courts for 5-year terms (upon submission of the Chair of the Supreme Court, based on recommendation of the Judicial Council); and 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. The law also established a Judicial Academy to train new judges and continue the education of sitting judges.

The new Court of Cassation was put in place December 1, although it was not fully functional by year's end. The SJA and Judicial Academy were scheduled to begin operations on January 1, 2003.

Regional courts, including the Supreme Court of Crimea and the Kiev and Sevastopol City courts, serve as appellate courts for the lower-level courts. They may examine evidence independently in a case, call for additional witnesses or evidence, and render a decision that supercedes the judgement of a lower court.

The Constitutional Court consists of 18 members appointed for 9-year terms in equal numbers by the President, the Parliament, and the Congress of Judges. The Constitutional Court is the ultimate interpreter of legislation and the Constitution, and it determines the constitutionality of legislation, Presidential edicts, cabinet acts, and acts of the Crimean Autonomous Republic. The President, at least 45 Members of Parliament, the Supreme Court, the Ombudsman, and the Crimean legislature may request that the Constitutional Court hear a case. Citizens may apply to the Constitutional Court through the Ombudsman, who started to exercise this right in selected cases. In some limited cases, the Constitutional Court can interpret law for individual citizens, when the applying citizen provides compelling proof that a constitutional provision was violated or that it was interpreted differently by different government bodies.

Many local observers regarded the Constitutional Court as the country's most independent judicial body. Human rights groups stated that the Constitutional Court has generally maintained a balance of fairness. However, observers charged pro-presidential bias when, in March 2000, the Court ruled that the President's proposed referendum on expanding presidential authority was constitutional, although it threw out two of the six original questions.

The Constitution includes procedural provisions to ensure a fair trial, including the right of suspects or witnesses to refuse to testify against themselves or their relatives; however, pending the passage of legislation to implement these constitutional provisions, a largely Soviet-era criminal justice system remained in place, which limited these rights. While the defendant is presumed innocent, conviction rates have changed little since the Soviet era, and nearly all completed cases resulted in convictions. According to the most recent official statistics available, in the first half of 2000 there were 113,902 convictions and 375 acquittals. However, since judges frequently sent back to the prosecutor for "additional investigation" cases that lacked sufficient evidence to support the charges

(which usually led to the dropping of the case), these statistics are somewhat misleading. During the period of 1999-2000, the courts returned more than 10 percent of pending criminal cases to investigative agencies because of the lack of sufficient evidence. In addition, there were indications that suspects often bribed court officials to drop charges before cases went to trial or to lessen or commute sentences.

Under the existing court system cases are decided by judges who sit singly, occasionally with two public assessors (lay judges or professional jurors with some legal training), or in groups of three for more serious cases. The Constitution provides for public, adversarial, trials, including a judge, public assessors, state prosecutor, defense, and jury (when required by law). With some exceptions, these requirements were respected in practice. The 2001 legislative amendments provide for a jury system, including procedures for the selection of jurors, but the amendments did not address the function and jurisdiction of jurors. Observers believed that the jury system would not function until a comprehensive judicial reform is completed and additional funding is provided for the courts.

Complicated cases can take years to go to trial, and pretrial detention was a problem; however, in increasing numbers, defendants were released from confinement pending trial (see Section 1.d.). The condition normally imposed by the court was nonmonetary bail in the form of restrictions on travel. Many of the remaining defendants in pretrial confinement were awaiting trial for very serious criminal offenses.

Prosecutors, like the courts, are organized into offices at the rayon (district), oblast (regional), and national levels. They are responsible ultimately to the Prosecutor General, who is appointed by the President and confirmed by the parliament for a 5-year term. Regional and district prosecutors are appointed by the Prosecutor General. Although by law prosecutors and defense attorneys have equal status, in practice prosecutors are more influential. Prosecutors as well as defense attorneys may file appeals. The Office of the Prosecutor General practiced selective prosecution and initiated investigations against the political or economic opponents of the President and his allies (see Section 1.d.). The Prosecutor General also ignored parliamentary and court requests for investigations into high ranking persons if the accused were presidential allies. Before the 2001 amendments took effect, the Procuracy at times used its judicial review powers to annul court decisions unfavorable to the administration's economic or political interests and ordered cases reexamined by a different court.

Legislative changes in 2001 curtailed prosecutors' authority greatly, limiting it to prosecution, representing the public interest in court, oversight of most investigations, and implementation of court decisions in criminal cases. However, prosecutors retained the right to conduct investigations in cases initiated before the amendments were implemented and in cases involving a range of serious offenses, including murder, corruption, and high economic crimes. The Procuracy no longer may initiate new criminal cases; its powers are limited to supervising the observance of laws by law enforcement agencies only. In May 2001, the Constitutional Court ruled that citizens may challenge court actions by the prosecutors and investigative agencies, as well as government actions regarding national security, foreign policy, and state secrets.

During the year, the Rada voted to dismiss 13 judges, 11 on the grounds of violating the judge's oath and 2 who were prosecuted for undisclosed offenses.

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; however, the unit had not yet been formed and trial participants were vulnerable to pressure. A witness protection law was in abeyance because of lack of funding. The law provides that the names and addresses of victims and witnesses can be kept confidential if they request protection due to fear for their lives. On July 30, Judge Ihor Tkachuk of the Donetsk Oblast Commercial Court was found hanged at his dacha in Odesa Oblast. The press speculated that the judge may have been killed in connection with litigation in the Odesa Oblast Commercial Court between the Odesa Port and a private company, Sintez Oil. Tkachuk previously had participated in the Procuracy's investigation into plunder of the Black Sea Merchant Fleet. In September Judge Natalia Achynovych of the Nikopol Municipal Court was found hanged in a hotel room while on a

vacation in Turkey. The press questioned whether her death could have been linked to the Nikopol Municipal Court's politically sensitive decision to invalidate parliamentary election results at eight polling stations in a hotly contested constituency in Dnipropetrovsk Oblast.

There were no reports of political prisoners.

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

The authorities infringed on citizens' privacy rights. Legislative amendments that took effect in 2001 provided that only courts could approve warrants for searches of residential properties and wiretaps (see Section 1.e.); however, prosecutors retained the right to issue warrants for searches of nonresidential properties.

In accordance with the 2001 amendments, the SBU may not conduct intrusive surveillance and searches without a court-issued warrant. The Office of the Prosecutor General has the constitutional responsibility to oversee the observance of the law by law enforcement agencies, including the SBU; 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 provides citizens with the right to examine any dossier on them in the possession of the SBU and to sue for physical and emotional damages incurred by an investigation; however, necessary implementing legislation had not been passed and the authorities did not respect this right in practice. During the summer months, police reportedly stopped their surveillance of the leader of the Independent Miners Union, and opposition parliamentarian, Mykhailo Volynets after he threatened to bring a busload of miners to his home to detain surveillance agents. In September Socialist Party leader Oleksandr Moroz complained of surveillance and phone tapping. The head of a charitable organization that ran a foster home in Brusilov, Zhytomyr Oblast, alleged that local authorities conducted illegal searches of his home. Some NGOs reported that authorities had opened and searched some of their mail during the year. The SBU also monitored the activities of certain NGOs active in democracy development projects.

Under the law, the police have the right to stop and search a person based on a suspicion that the person has committed a criminal offense. A person suspected of committing an especially grave crime may be arrested and searched without a warrant, but the court must be informed of the arrest within 72 hours. In 2000 the Rada enacted legislation prohibiting the police from stopping vehicles and levying immediate fines; only courts subsequently had the right to impose such fines. The law had an increasing deterrent effect on the police, who legally no longer could collect spot fines after stopping vehicles for alleged traffic violations, although abuses still occurred. However, the police may detain a person arbitrarily for up to 3 hours to verify identity (see Sections 1.d. and 1.e.). There were reports that police sometimes abused this right.

Journalists whose reports were critical of the Government, or who covered opposition politicians and NGOs that engaged in nonpartisan political activity, reported that they frequently were followed by SBU agents and that their telephones and offices were wiretapped (see Section 2.a.).

In November 2001, the Constitutional Court ruled that the "propyska" mandatory registration system was unconstitutional; a new "informational" registration mechanism was envisioned but had not been implemented by year's end. Additionally, access to public services such as housing, pensions, medical care, and schooling were still based on the propyska system. In its report on the March Parliamentary elections, the OSCE noted that authorities relied on the outdated propyska system to register voters, since no other system existed.

On a few occasions, persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and confined to psychiatric institutions. The disputes often entailed the corruption of psychiatric experts and court officials. In February 2000, the Rada adopted a new Law on Psychiatry which bans abuse of psychiatry for political and nonmedical reasons and provides safeguards against such abuse; however, human rights observers reported that procedures regarding the application of psychological treatment have not been determined, and the Soviet system of classifying mental illness was still in use. Persons diagnosed with mental illness risked being confined and treated forcibly, declared not responsible for their actions, and stripped of

their civil rights without being present at the hearings or notified of the ruling. There were approximately 1.2 million registered psychiatric patients in the country. Within 3 days after forcible confinement to a hospital, a patient must be examined by three doctors. Patients (including convicted prisoners) subsequently must be examined by the senior regional psychiatric commission within 6 months. According to the Ukrainian Psychiatric Association, the Health Care Ministry did not always cooperate with human rights groups attempting to monitor abuse of psychiatry.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution and a 1991 law provide for freedom of speech and of the press; however, authorities did not always respect these rights in practice. During the year, the authorities took a direct role in instructing the media on events and issues it should cover and how they should be covered. They continued to take steps to strengthen their control over the broadcasting sector.

The authorities continued to interfere with news media by intimidating journalists through the use of the libel laws, although this practice declined in comparison with the previous year. Despite this interference, a wide variety of privately owned newspapers and periodicals that espoused different political points of view were available, and there was an active debate over sensitive questions in the mass media, including coverage of such debates in Parliament.

Frequent, credible, allegations surfaced in the latter part of the year that the Presidential Administration gave media houses specific instructions on events to cover and how to cover them, as well as subjects not to cover. Representatives of the Presidential Administration denied these allegations. However, virtually all major media outlets in Kiev confirmed that prior to the September antipresidential demonstrations the media received instructions about how to cover the period leading up to the demonstrations and the demonstrations themselves. For example, media were advised to focus coverage on a report about an air show airplane crash that occurred in Lviv earlier in the year, as opposed to the September demonstrations. As a result of these pressures to direct the media in its coverage of events, several prominent journalists resigned from their positions. Approximately 450 journalists from across the political spectrum signed a public statement criticizing the authorities' actions. In September journalists began forming an independent union to resist censorship and protect journalists from job loss or other forms of harassment. In November journalists from other media houses walked out of a briefing in the Prosecutor General's office in solidarity with journalists from *Ukrainska Pravda* who were denied accreditation for the briefing. The authorities based their denial on the assertion that the online periodical was not a registered media outlet.

On December 4, the Rada held public hearings on freedom of speech and media censorship. The hearings were broadcast live on television and received widespread media coverage. Some media executives complained that the Government wiretapped their offices. President Kuchma was cited in the press as suggesting that complaints about censorship were exaggerated.

Many major newspapers were financed by wealthy businessmen with political interests that often favored the Government. This backing gave these newspapers an advantage over smaller, more independent, newspapers.

Despite government pressure and media self-censorship, the numerous newspapers and periodicals on the market, each espousing the view of its respective sponsor, provided a variety of opinions. Foreign newspapers and periodicals circulated freely.

Broadcast media, the primary source of news for most citizens, were either state-owned or owned by oligarchs and powerful business interests. There were six national television stations. State-run television had the widest geographic coverage but low viewership. Most other television stations were associated with political parties or powerful business interests; such interests may or may not coincide with the interests of government authorities, depending on the issue. The third and fourth most popular stations were seen as propresidential. Two of the more outspoken stations had

considerable foreign ownership.

During the year, the authorities took steps to strengthen their control over the broadcasting sector. The President and the Rada each appoint half of the members of the National Council for Television and Radio Broadcasting, which issues licenses and allocates broadcasting time. The Council made decisions that showed a bias in favor of business interests closely allied politically with the Government. In April 2001, the Council decided against renewing the license of Radio Kontynent (RK), an independent radio station that rebroadcast news reports of the British Broadcasting Corporation (BBC), Voice of America (VOA), and Deutsche Welle. RK has been critical of the Government in its own broadcasts, and its owner has been highly critical of President Kuchma's relationship with the media. After a successful challenge to its initial rationale that RK's rebroadcasts of foreign stations were illegal, the Council cited a debt owed by the station to the Government as grounds for its decision. In October 2001, the Kiev Municipal Arbitration Court denied RK's request to block the sale of the radio station's frequency. RK continued to operate at year's end pending further appeal. The European Court for Human Rights (ECHR) was reviewing the case at year's end. Also in April, the Council stripped the Kiev-based Television Company UTAR of its broadcasting license and awarded the frequency to TV Tabachuk. The press speculated that the license revocation related to the suspicion that opposition politician Yuliya Tymoshenko financially supported UTAR. UTAR stopped broadcasting after losing its license. The station appealed the decision and the Shevchenkivsky district court ruled in favor of UTAR; however, the decision had not been implemented by year's end.

Government entities used criminal libel cases or civil suits based on alleged damage to a "person's honor and integrity" to influence or intimidate the press; however, the use of such cases decreased during the year. Article 7 of the Civil Code allows anyone, including public officials, to sue for damages if circulated information is untrue or insults a person's honor or dignity. Article 125 of the Criminal Code, in effect until September 2001, prescribed imprisonment of up to 3 years for libel. The Criminal Code that entered into effect in September 2001 eliminated any criminal penalty for libel. In addition, a May 2001 Resolution of the Plenum of the Supreme Court mandated that in order to prove libel, plaintiffs must demonstrate that journalists had prior knowledge of the falsity of information before publishing it. There is no limit to the damages that may be awarded under a civil libel suit. Lower courts still may order that the accounts of a newspaper be frozen pending an appeal of a civil libel case. Journalists complained that because the law did not limit damages, it was used to drive opposition newspapers out of business. While figures were unavailable, the number of libel cases during the year reportedly decreased. In June authorities froze the assets of the Zaporizhzhya newspaper *Industriálne Zaporizhzhya* to cover court-imposed fines for publishing libelous pre-election publications. The case was settled after several months and the newspaper made no claims against the Tax Administration. The commercial publishing house, Taki Spravy, experienced harassment by tax police and inspectors from other government agencies that appeared to be politically motivated. Taki Spravy attributed the harassment to its printing a book about the opposition parliamentarian Yuliya Tymoshenko prior to the March parliamentary elections. In June the tax police froze Taki Spravy's bank accounts pending criminal investigation of alleged tax evasion. On September 12, the Kiev Commercial Court ruled that the Tax Administration's charges against Taki Spravy were baseless; however, visits by tax administration officials continued. The case involving two libel suits originally filed in 2001 against Radio Free Europe/Radio Liberty was reheard for the third time due to a change in judges; however, no decision or settlement had been reached by year's end for either suit.

The Procuracy applied other portions of the law, especially article 182 of the Criminal Code that deals with the collection, storage, use or dissemination of confidential information about a person without his consent, to limit press freedom and opposition activities. Early in the year, the Procuracy initiated criminal proceedings against former opposition parliamentarian Dmytro Chobit on charges of "unlawfully collecting and circulating information about an individual without an individual's consent." Chobit authored a book, *Narcissus*, about political party leader Viktor Medvedchuk. On July 8, an appeals court in Rivne Oblast ordered police to return to Chobit a vanload of copies of his critical book about President Kuchma, *Svystun*, which police confiscated in October 1999, prior to the 1999 presidential election. In March the Procuracy opened a criminal case against the publishing house *Respublika* in Cherkasy on charges of "circulating confidential information about citizens without their consent" for publishing a critical article about (then) Prosecutor General Potebenko.

In July the National Council on Television and Radio Broadcasting signed a letter warning Radio Dovira that it was rebroadcasting Radio Liberty illegally. Dovira appealed the decision and applied for an expanded license that would allow them to continue rebroadcasting Radio Liberty. The case was ongoing at year's end. The National Council announced on October 30 that effective January 1, 2003, Ukrainian broadcasters would require new, special licenses to rebroadcast foreign programs. On November 13, after numerous complaints about the new regulations, the Council rescinded its decision saying it would apply the rules only after the Government could set regulations to govern the new licensing process.

As of the end of the year, the legal appeals of the Fifth Channel private Television station in the town of Nikopol and of the Zaporizhzhya-based television station Khortytsia against deprivation of their licenses had not been heard. The stations remained off the air. Both stations alleged that they were being penalized for criticizing local officials. In 2000 the National Council held an auction for the use of the Fifth Channel private TV station in the town of Nikopol, Dnipropetrovsk Oblast, allegedly without informing Fifth Channel. ICTV won the bidding for the frequency. On January 31, a Kiev court suspended the National Council's decision. However, on March 4, the State Inspectorate of Electrical Communications, the government frequency regulatory agency, blocked access to transmitters of Fifth Channel in Nikopol on the grounds that Fifth Channel had no broadcasting license. Fifth Channel argued that it was not to blame for the expiration of its license because the National Council for Television and Radio Broadcasting delayed the auction. Fifth Channel attributed the licensing problems to its criticism of local authorities while some observers believed that the organization did not meet the licensing requirements. Fifth Channel pursued the case in the Kiev Commercial Court of Appeal. At almost the same time, Zaporizhzhya-based television station Khortytsia had almost identical problems with the Council and with the State Inspectorate of Electrical Communications. Khortytsia also lost its license, which the Council awarded to TV-Khortytsia, a completely separate entity. Khortytsia attributed its difficulties to its criticism of local authorities, namely of the mayor of Zaporizhzhya. Khortytsia's case was under appeal in the courts at year's end.

As in the 1999 presidential election, the March parliamentary election campaign saw a marked imbalance in the coverage of candidates on national television and radio channels, with opposition candidates receiving limited and often negative coverage at the national level. Opposition candidates had more success in obtaining access to smaller local and regional television channels. The OSCE reported that media coverage of the elections was "highly biased," with the state-funded national channel giving "disproportionate coverage to the pro-presidential candidates"; however, candidates' access to the media improved compared to previous elections.

The Government at times directed key businesses either to purchase advertising from regional television stations or to withdraw from advertising contracts, depending on the news coverage the stations offered.

In February 2001, the State Tax Administration, in a gesture of transparency, began publishing a monthly list of media outlets scheduled for audits, rather than conducting audits arbitrarily. Following the publication of this list there were no reported cases in which the State Tax Administration targeted media outlets for arbitrary inspection. The publisher Taki Spravy, and Internet publication Obkom announced in October that they would form an association to inform the public about tax inspections of the media. According to tax chief Mykola Azarov, the State Tax Administration inspected 80 mass media outlets in the first 9 months of the year.

State and independent channels were subject to the same rates for the majority of broadcasting fees as State channels; however, the Government rarely enforced fee payments for state channels. Private and foreign companies also must obtain licenses in order to establish and operate their own transmission facilities.

The SBU had broad powers over the media in regard to the publication of state secrets, which included information on executions, the physical state of prison infrastructure, pretrial detention facilities, and centers for the forcible treatment of alcoholics. In contrast to the previous year, when there was one instance of interference, journalists reported that, in general, the SBU did not interfere with their activities during the year and that they were able to report about harsh prison

conditions without any inhibition (see Section 1.c.).

On January 24, an unknown man wearing a military cadet uniform robbed Oleh Lyashko, editor of the opposition newspaper Svoboda. Lyashko intended to pay the deposit required of candidates for parliament in the March elections. Lyashko charged that the security services staged the robbery to prevent him from registering as a candidate.

The print media, both independent and government-owned, sometimes demonstrated a tendency toward self-censorship on matters that the Government deemed sensitive. Private newspapers were established and were free to function on a purely commercial basis, although very few were profitable. However, they were subject to various pressures, such as dependence on political patrons who may facilitate financial support from the State Press Support Fund and close scrutiny from government officials, especially at the local level. The dependence of some of the press on government patronage inhibited criticism, particularly at the local level. This type of pressure was particularly acute prior to and during the March parliamentary elections.

In January the prosecutor's office launched a criminal investigation concerning the alleged misuse of budgetary funds by the parliament's newspaper Voice of Ukraine. The newspaper's editor, Serhiy Pravdenko, a member of Yulia Tymoshenko's parliamentary faction, denied the charges. Some observers attributed the accusations to the newspaper's positive coverage of Tymoshenko prior to the March elections. The charges against the Voice of Ukraine were dropped after Pravdenko resigned in July. Pravdenko explained that he resigned in order to save the newspaper from the baseless, politically motivated charges.

The Tax Administration also appeared to have harassed media outlets that exposed corruption or provided positive coverage to opposition figures. On February 19, the tax police raided the office of the Internet newspaper Obkom, confiscating computers and documentation in connection with an investigation into an unspecified criminal case. Obkom attributed the raid to its critical publications about the head of the Tax Administration. Two Obkom staffers were taken to the tax police office and released several hours later. The following day, the tax police allegedly acknowledged that they had searched Obkom's office by mistake and explained that they were looking for illegal foreign currency exchange centers. Obkom's office happened to be in the same building with the suspect bank. Tax police refused to return Obkom's computers, however, "pending further investigation," and reportedly later claimed that Obkom was linked to Koral bank, which was under investigation for illegal hard-currency transactions. The tax police said that they might return Obkom's computers, except for one that contained a pornography clip, which could entail prosecution. Obkom resumed its operations in December with new computer systems.

The opposition newspaper Svoboda continued to come under close scrutiny. On March 24, police stopped a van with approximately 100,000 copies of the newspaper on a highway in Cherkasy Oblast and threw the newspapers into a nearby river. The edition carried a statement by an opposition parliamentarian accusing the Prosecutor General of bribery. Police allegedly pushed the van driver into the back seat of the police car, face down on the seat, and then let him out of the police car onto the road several hundred meters away. Later the same day, police raided the publishing house Respublika in Cherkasy and confiscated another 100,000 copies of the same edition of Svoboda. Police reportedly possessed a warrant only for the search of the premises of the publishing house, not for the confiscation of the papers. The Procuracy opened a criminal case against the publishing house in connection with the "circulation of confidential information about citizens without their consent" and "abuse of office" while circulating such information.

On April 9, the editor of the paper, Oleh Lyashko, was taken to the Procuracy for questioning in connection with the criminal case against him on charges of resisting police during a March 24 police raid on the publishing house Respublika. Also on April 9, officials confiscated documentation from Svoboda's office in Kiev. On April 15, Lyashko was formally arrested on charges of resisting police during the police raid of Respublika. He was placed in a pretrial detention center in Cherkasy for several days before being released with a travel ban. In recent years, government officials initiated more than 20 criminal and civil libel cases against Lyashko and his publication Polityka (which was forced to close in 1999), asking for more than \$40 million (200 million hryvnia) in damages.

On June 25, Volodymyr Boyko, investigative journalist and writer for the Internet newspapers Obkom and Criminal Ukraine, and also for the Donetsk-based newspaper Salon, was detained in Donetsk by the Donetsk Oblast Tax police on charges of tax evasion. A criminal case against Boyko was opened on May 10. In violation of the criminal procedures, Boyko was questioned for the first time only on June 25. Boyko attributed his arrest to the fact that he wrote about embezzlement by Chief of the Donetsk Oblast Tax Administration, Olexandr Papaika. On July 6, Boyko was released by court on bail of \$3,000 (17 thousand hryvnia) pending further investigation. On August 19, the Donetsk Appeals Court ruled that Boyko's detention on June 25 was unlawful. In August the Procuracy closed the criminal case against Boyko. The Procuracy officially apologized to Boyko.

In early December, the Crimean Court of Appeal reversed the decision of the Simferopol Central Court and released Volodymyr Lutyev, the editor of the Yevpatoria Week newspaper in Crimea, on his own recognizance. Lutyev was arrested on November 11 and charged with complicity in ordering the murder of a member of the Crimean parliament. He asserted that the charges were brought in revenge for articles in his newspaper criticizing regional government officials and discussing organized crime.

During the year, some journalists were subjected to physical attacks that may have been related to their professional activities. The national affiliate of Reporters Without Borders reported that 28 incidents of physical and verbal harassment against journalists occurred during the year and that four journalists died during the year in ways that may have been connected with their professional activities. On October 28, Mykhailo Kolomiyets, a journalist who was editor of the Ukrainsky Novyny news agency, disappeared from Kiev. He was found hanged in neighboring Belarus on November 20. Ukrainian and Belarusian police concluded that the death was a suicide, but relatives demanded further investigation. The Kiev prosecutor's office invited a team of foreign investigators to help determine whether Kolomiyets committed suicide.

On January 28, an unknown assailant threw acid in the face of Tatiana Goryacheva, the chief editor of Berdyansk Delovoi, an independent newspaper based in Zaporizhia. Goryacheva sustained second degree burns on her face and eyes. She believed the attack was in retaliation for her stories about illegal exports of metal through Berdyansk ports, corruption among local authorities, improper behavior of court officials, as well as unbiased coverage of candidates and parties in the pre-election period.

On February 2, Ivan Besiada, reporter of the Lviv-based newspaper Za Vilnu Ukrayinu and an activist of Yushchenko's bloc, Our Ukraine, was assaulted in Lviv. He sustained a broken jaw and a concussion. He said that the assault may have been linked to his journalistic activities. In September unknown assailants assaulted Petro Kobevko, editor of Chernivtsi-based opposition newspaper Chas. Local reporters alleged a link between the assault and the newspaper's criticism of the Chernivtsi Oblast governor.

As of year's end, no suspect had been identified in the June 24, 2001, killing of Oleh Breus, the publisher of the regional weekly XXI Vek in Luhansk. Breus was shot to death in front of his home; the motive for the killing was unclear. Breus was a businessman and held a senior position in the regional Communist Party of Workers and Peasants. He had experienced at least one previous attempt on his life in December 2000, and his colleagues at the newspaper also had received threats. On February 5, police arrested a man in connection with the 2001 attack on Izvestia correspondent Yanina Sokolovskaya. The man reportedly confessed to the crime saying he intended to rob Sokolovskaya. The courts found him guilty of the crime. The courts also convicted two men who severely beat Luhansk television reporter Oleksiy Movsesyan in August 2001. The television station claims the attacks were related to the reporter's professional activities, whereas police cite hooliganism as the motivation.

Journalists who pursued allegations of high-level government involvement in the killing of journalist Heorhiy Gongadze continued to be subject to harassment by the Government (see Section 1.a.). Olena Prytula, editor of the Internet publication Ukrainska Pravda, requested that the Government provide her with bodyguards after individuals in the Procurator General's office advised her that there was a credible threat to her life, apparently linked to the Gongadze case. The Government

complied with her request. While the press continued to cover the disappearance of Gongadze, they practiced some self-censorship.

The 2000 disappearance and killing of journalist Heorhiy Gongadze and the 2001 killing of Ihor Aleksandrov raised serious concerns regarding whether the authorities targeted journalists specifically for critical political reporting (see Sections 1.a. and 1.c.). On December 13, 2001, the Minister of Internal Affairs issued a ruling allowing journalists covering politics, corruption, and crime to carry guns firing rubber bullets.

There were instances in which the authorities restricted or banned some publications critical of governmental entities or officials. In June and July, the Dnipropetrovsk-based independent newspaper *Litsa* complained about local government pressure following its publication of articles about the local government's interference in July 14 by-elections in Dnipropetrovsk Oblast. On June 19, oblast police, led by the deputy police chief, briefly detained a van full of *Litsa* newspapers as if for inspection. Several publishing houses also refused to publish the newspaper, allegedly due to government pressure. The paper's landlord evicted the newspaper from its leased office, reportedly under police pressure. On June 25, the newspaper's major advertising client terminated its partnership with the publication.

A July 2000 Presidential decree identified the development of the Internet as a priority of national information policy and instructed the Government to design a state program to develop the Internet network. According to the SBU, it has set up an Internet monitoring network in order to fight corruption and further the country's integration into the European Community; however, human rights organizations feared that this network has increased the SBU's ability to supervise citizens without cause. Though limited in readership, Internet publications, in particular *Ukrayinska Pravda*, played a key role in covering the disappearance of Heorhiy Gongadze and the scandal surrounding allegations of Presidential involvement in the case (see Section 1.a.).

While major universities were state-owned, they operated for the most part under full autonomy; however, academic freedom was an underdeveloped and poorly understood concept. Nepotism and bribery reportedly were common during entrance exams and also influenced the granting of degrees. 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, or directly terminating them. Restrictions by the Communications Ministry on the mailing of scientific documents also caused concern. Student protesters complained that university administrators across the country pressured them not to participate in antipresidential demonstrations held in September (see Section 2.b.). The SBU maintained offices for the protection of state secrets in state scientific and research institutes, including those not conducting any classified research. All private and religiously affiliated universities operated without any reported state interference or harassment.

b. Freedom of Peaceful Assembly and Association

The Constitution and law provide for freedom of assembly and association; however, extensive actions were taken to preclude participation in antigovernment demonstrations in September. While the Constitution requires that demonstrators merely inform the authorities of a planned demonstration in advance, the law on public assembly stipulates that organizations must apply for permission to their respective local administration at least 10 days before a planned event or demonstration. The 2001 Criminal Code prescribes up to 2 months of corrective labor or a fine for repeatedly staging unauthorized demonstrations. Under the law, demonstrators are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. In practice unlicensed demonstrations were common; most but not all occurred without police interference, fines, or detention.

Antipresidential demonstrations took place in central Kiev and in most major cities in the fall. While such demonstrations generally were peaceful, on the morning of September 17, the police forcibly dispersed antipresidential demonstrators who had illegally set up tent cities around the Rada and Presidential Administration in downtown Kiev the night before. Authorities nationwide took extensive measures to prevent demonstrators from traveling to Kiev and from gathering in other cities.

Authorities allegedly detained individuals prior to the demonstrations and impounded opposition activists' cars for "technical" reasons. Police turned buses around to prevent potential demonstrators from entering the Kiev city limits, and the rail services reportedly provided fewer train cars traveling to Kiev on the day of the demonstrations. There were television blackouts on the morning of the September 16 demonstrations and the majority of foreign currency exchange booths in Kiev were closed without explanation the weekend prior to the protest rallies.

In late December, a Kiev court sentenced 18 participants in a March 2001 antigovernment demonstration to up to 5 years in prison for disturbing public order. The demonstration had led to clashes with police. Those convicted were members of UNA-UNSO, known for its nationalist views. The leader of the group, Andriy Shkil, was not subject to prosecution because of his immunity as a member of parliament. During the sentencing, a disturbance erupted in the courtroom when one of the defendants attempted self-immolation. During the disturbance, opposition Rada Deputy Mykhailo Volynets suffered rib injuries; Volynets said he was beaten by the police.

The Constitution, the law, and government regulations restrict freedom of association to varying degrees. A May 2001 law on political parties provides that a party must inform the Government about its financial holdings and any change in its leadership or program. Political parties may not receive financial support from the state or any foreign patron. In accordance with the Constitution, the law also forbids the establishment of political parties in the executive and judicial branches, military units, law enforcement organizations, state-owned enterprises, and other public institutions; however, this prohibition often was ignored in practice. The Supreme Court reserves the right to ban any political party upon the recommendation of the Ministry of Justice or the Prosecutor General.

The 2001 law requires that a political party maintain offices in one-half of the regions; however, in practice regional parties existed. Ethnic minorities occupied leadership positions in national political parties (see Section 3). Groups must register with the Government to pursue almost any purpose. Unregistered groups are prohibited from opening bank accounts, acquiring property, or entering into contracts. The registration law also gives the Government the right to inspect the activities of all registered groups. This law requires that a party specify all its activities in its charter, but the party is not required to notify the authorities of all its meetings. A change in the group's charter necessitates reregistration. As of year's end, the Government had not reregistered the Ukraine offices of the National Democratic Institute (NDI), the International Republican Institute (IRI), and the Institute for Sustainable Communities.

In the past, some authorities interpreted a provision in the Law on Public Organizations—it states that public organizations are created to protect the interests of their members—to mean that public organizations may offer services only to their members. However, there were no reports that this requirement was used to restrict the activities of any group during the year.

The law provides also for restrictions on organizations that are considered dangerous, such as those which advocate violence or racial and religious hatred or which threaten the public order or health. The Government had not identified publicly any such groups as "dangerous" as of year's end; however, far-right political organizations reported that they were subject to harassment and surveillance by government authorities.

c. Freedom of Religion

The Constitution and the law provide for freedom of religion, and the Government generally respected this right in practice. Religious groups of all beliefs flourished; however, some minority and nontraditional religions continued to experience difficulties registering and buying or leasing property at the local level, although there were fewer reports of such difficulties than in the past. The Constitution and the law provide for the separation of church and state.

There was no state religion. The Ukrainian Orthodox Church, Moscow Patriarchate, tended to predominate in the east; the Ukrainian Orthodox Church, Kiev Patriarchate, and the smaller Ukrainian Autocephalous Orthodox Church were strong in the central regions, and the Ukrainian Greek Catholic Church predominated in the west. These churches exerted significant political

influence at the local and regional levels. Reportedly each of these churches, within its respective sphere of influence, also pressured local officials to restrict the activities of the others.

The law requires all religious organizations to register with the State Committee on Religious Affairs (SCRA). Registration is necessary to own property or carry out many economic activities, such as publishing religious materials and opening bank accounts.

Some nonnative and minority religious organizations reported that, especially at the local or regional levels, officials of the SCRA delayed registration of their organizations for extended periods. However, there were fewer such reports during the year. Representatives of Progressive Jewish Community claimed that pressure from Chabad Lubavitch officials and local Dnipropetrovsk authorities led to a 5-year delay in the granting of registration to a Progressive Jewish Community in the city. In October 2001, members of the Community withdrew their petition for registration, citing harassment by local authorities. The Progressive Jewish Community also reported that its application for registration in Kryvyi Rih, Dnipropetrovsk Oblast, had been under examination since 2001.

Representatives of Evangelical Christian communities expressed concern over instances of discrimination against their adherents. In December the Suvorov District court ordered a Pentecostal Church in Kherson closed for holding public services in June and July without permission from the local authorities. However, such incidents appeared to be isolated. Evangelical Churches, like many other religious communities, experienced difficulties in obtaining land plots.

Disputes among competing Orthodox Christian administrative bodies continued. The SCRA, although supportive of a unified, independent Orthodox Church for the country, has maintained neutrality in its relations with the various Orthodox churches. The Kiev Patriarchate of the Orthodox Church and the Greek Catholic church complained of harassment by local authorities in the predominantly Russian-speaking eastern region of the country, while the Moscow Patriarchate of the Orthodox Church complained that local governments ignored the appropriation of its churches by Greek Catholics in the western region.

The Government generally permitted religious organizations to establish places of worship and to train clergy. The Government continued to facilitate the building of houses of worship by allocation of land plots for new construction and through restitution of religious buildings to their rightful owners.

Representatives of the Ukrainian Autocephalous Orthodox Church cited instances of difficulties in providing religious services to soldiers and of the need to obtain approval from prison chaplains of the Moscow Patriarchate for prison ministry activities.

Members of numerous religious communities encountered difficulties in dealing with the Kiev municipal administration to obtain land permits and building permits, problems not limited to religious groups. Representatives of the Jewish community in Poltava complained that, despite assistance from the national authorities, the Poltava mayor's office refused to address their concerns about obtaining property for a synagogue.

The law restricts the activities of nonnative, foreign-based, religious organizations ("native religions" are defined as Orthodox, Greek Catholic, and Jewish), and narrowly defines the permissible activities of members of the clergy, preachers, teachers, and other foreign citizen representatives of foreign-based religious organizations. They may preach, administer religious ordinances, or practice other canonical activities only in those religious organizations which invited them to Ukraine and with official approval of the governmental body that registered the statutes and the articles of the pertinent religious organization. However, in practice the Government has not used the law to limit greatly the activity of nonnative religious organizations. There were no reports that nonnative foreign religious workers encountered difficulties obtaining visas or carrying out their activities during the year.

Religious instruction is prohibited in the public school curriculum. Schools run by religious

communities can and do include religious education as an extracurricular activity. In 2001 the Government began attempts to introduce training in "basic Christian ethics" into the schools. While the country's Jewish leaders support the teaching of ethics and civics in school, they insist on a nonsectarian approach to this training.

A large number of high-level government officials took part in the commemoration of the massacre at Babyn Yar in Kiev, one of the most serious Nazi crimes of the Holocaust, which the Government commemorates each September.

The Government continued to return properties expropriated during the Soviet era to religious groups; however, not all groups regarded the pace of restitution as satisfactory, and all major religious communities continued to have outstanding restitution claims. In 2001 the government completed the return of a number of major religious edifices for use by the main Orthodox churches in Ukraine. According to the State Committee for Religious Affairs, during 2002 the Government transferred ownership of 187 buildings that were originally constructed as places of worship to religious communities, for a total of 8,776 since independence in 1991. In addition, during the year religious communities received ownership of 358 premises (i.e. buildings or sections of buildings) converted into places of worship and another 524 religious buildings that were not designated for worship, such as former religious schools, hospitals, and clerical residences, totaling 2,388 and 1,313, respectively, since independence. Intra-communal competition for particular properties complicated the restitution issue, both for some Christian and for some Jewish communities. Some groups asserted that restitution generally was progressing satisfactorily, although more could be done, while others not receiving property reported a lack of progress. The slow pace of restitution was a reflection, among other things, of the country's difficult economic condition, which severely limits funds available for the relocation of the occupants of seized religious property. On September 27, the cabinet approved an action plan, drawn up at the instruction of President Kuchma, designed to return religious buildings to the religious organizations that formerly owned them.

The March parliamentary elections, in which some priests of various Orthodox communities were accused of endorsing particular political parties or candidates in their sermons, had a negative impact on inter-Orthodox relations, which had already been tense.

Disputes over the erection of crosses in Jewish cemeteries in Sambir, Kiev, remained unresolved. In 2000 in Sambir, Lviv Oblast, Jews, with foreign assistance, began construction of a memorial park at the site of an old Jewish cemetery, which was the scene of Nazi atrocities. Nationalists erected crosses on the site to commemorate Christian victims of Nazi terror, who had been buried in a mass grave at the site. While memorial organizers supported the recognition of all groups who suffered on the Sambir site, they opposed the use of Christian religious symbols on the grounds of the Jewish cemetery. At the same time, local nationalists remained opposed to the use of Jewish symbols or Hebrew in the memorial. Jewish and Greek Catholic leaders intervened in an attempt to find a solution to the dispute. In spite of a proposal by the memorial's foreign sponsor to relocate the crosses to another site at his expense, local government leaders still had not resolved the conflict by year's end. Local officials in Volodymyr-Volynsky, Western Ukraine, continued to allow construction of an apartment building on the site of an old Jewish cemetery despite a December 17 court ruling to halt construction.

Some ultranationalist groups and newspapers continued to publish and distribute anti-Semitic tracts. Anti-Semitic publications also were imported from Russia and distributed without the necessary state license. The Procuracy warned certain publications against publishing anti-Semitic material. Leaders of the Jewish community welcomed changes in the editorial staffs of the newspapers Vechirniy Kyiv and Za Vilnu Ukrayinu in late 2000. Under new editors, these newspapers, which had been among the chief offenders in publishing anti-Semitic articles, ceased such activity. While acts of anti-Semitic violence were uncommon, an attack on the Great Synagogue of Kiev in April by inebriated youths following a soccer match was a source of concern to the Jewish community. However, there were no other attacks on the synagogue during the year, and most observers believed that the April incident was not premeditated.

Evangelical Christian missionaries reported some instances of societal discrimination against members of their churches, such as public criticism for betraying native religions, although there

were no reports of harassment.

For a more detailed discussion see the 2002 International Religious Freedom Report.

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

The Constitution provides for these rights, and the Government generally respected them in practice; however, there were some limitations. Until November 2001, the propyska system—a nationwide requirement to register at the workplace and place of residence in order to be eligible for social benefits—remained in place; access to certain social benefits was limited to the place where one was registered. The Government had not implemented a substitute informational register by year's end and, while fines for failing to register at a place of residence were no longer imposed, information was insufficient at year's end to determine whether individuals who had not been registered had access to the social benefits they had been denied previously. Police also arbitrarily detained persons for extensive document checks and vehicle inspections (see Sections 1.f. and 2.b.).

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.

A 2001 Citizenship Law provides the right to citizenship to all individuals who were born or lived in the country before independence and to their descendants who lived outside the country as of November 13, 1991. Dual citizenship is not recognized. Under the terms of the Citizenship Law, refugees may acquire citizenship if they have lived legally in the country for 3 years (instead of 5 years for other foreigners) and can communicate in the Ukrainian language. Refugees do not have to terminate foreign citizenship with their home country formally unless the Government has signed a specific agreement with that country mandating such a procedure; they must only notify the authorities of their rejection of foreign citizenship. Since independence over 1.5 million Ukrainians have returned to the country, while over 1 million persons, mostly ethnic Russians, have left the country.

The Government has not supported a foreign-funded program to facilitate travel to the country of some emigrants who qualified for resettlement as refugees; however, more than 260,000 Crimean Tatars have returned from exile to Crimea, mainly from Central Asia. Amendments to the 1991 Citizenship Law facilitated the acquisition of citizenship by Crimean Tatars, who were deported victims of political oppression, by waiving some of the usual residence and language requirements. According to the U.N. High Commission for Refugees (UNHCR), approximately 98 percent of the Tatar returnees have acquired citizenship. Crimean Tatar leaders have complained that their community has not received adequate assistance in resettling and that an onerous process of acquiring citizenship previously excluded many of them from participation in elections and from the right to take part in the privatization of land and state assets.

In August 2001, a revised Law on Refugees entered into effect. It provides for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, which Ukraine ratified on January 10. The new law governs the treatment of refugees and entitles refugees to all of the benefits accorded to citizens. It also extends the term of refugee status from 3 months to 1 year. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees; however, the UNHCR and refugee protection groups reported that in practice the Government did not consider petitions for refugee status until mid-year. The regional centers began forwarding cases to the central authorities in July and August. This new process slowed the adjudication of cases; however, it standardized decision-making. The Law on Refugees raised the Department for Nationalities and Migration to the rank of a State Committee and transferred authority for refugee adjudication from local branches of the former Department to the Committee. However, the law did not prescribe an adjudication mechanism for this new body. The number of individuals who received refugee status during the year declined greatly. Largely as a result of the change in procedures, the UNHCR reported that

only two persons were granted refugee status during the year. A commitment was made to award refugee status to all Afghans who arrived in the country before 1995. Under the new Citizenship Law, legally registered refugees may apply for citizenship after 3 years of permanent residence. As of July 1, according to statistics in the Government Courier newspaper, 2,961 persons had official refugee status. Under the Refugee Law, refugees are entitled to material assistance. The Cabinet allocates funds in the national budget for payment of refugee pensions and small allowances for indigent refugees, plus transportation fare to a refugee center. Refugee reception centers operated in Vynitsya and Odesa.

According to the State Committee for Nationalities and Migration, the Government has a first asylum policy, but no data was available on the number of persons granted first asylum status during the year.

Instances of police harassment of certain categories of refugees reportedly continued during the year. The UNHCR issued beneficiary cards to persons it recognized as refugees. Presentation of this card to law enforcement authorities reportedly led to some reduction in harassment, although this procedure did not help the large numbers of unrecognized refugees. In 2001 the UNHCR began holding training seminars for police to prevent further harassment.

There were no reports during the year of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully through periodic elections; the OSCE noted some improvements in the March parliamentary elections, but significant flaws persisted.

The Constitution provides universal suffrage for citizens at least 18 years of age and for periodic elections every 4 years for the Rada and every 5 years for President. Parliamentary elections took place in March. The most recent presidential election was held in October and November 1999. Improvements noted by the OSCE monitoring mission for the March parliamentary elections included a new Election Law that took into account international recommendations and a civil society engaged in the electoral process. For example, extensive NGO monitoring of the preelection and election processes and prompt release of exit polling immediately after the voting ended helped to improve the electoral process. However, a general atmosphere of distrust pervaded the pre-electoral environment due to factors that included flawed implementation of the legal framework, illegal interference by the authorities in the electoral process, and abuse of administrative resources, including alleged pressure on public employees to vote for certain candidates. Media coverage was highly biased, and opposition candidates did not have equal access to electronic media. The Government did not move in a proactive manner to ensure a level playing field for all political parties. Officials did not take steps to curb the widespread and open abuse of authority, including the use of government positions and facilities, to the unfair advantage of certain parties. According to the OSCE report, voter lists were unreliable, containing outdated information, including voters who have moved to other districts or left the country, and deceased persons whose names remain on voter lists. During the parliamentary elections, there were numerous reports that the Government relied on local and regional authorities to pressure voters into supporting pro-presidential parties. Authorities also used administrative resources to support pro-presidential party campaigning activities. The OSCE noted a "surprising" contrast between the party-list vote and the single-mandate results. Election experts consider single district constituencies more easily manipulated than party list elections. There were many instances of harassment during campaigning, and as with previous elections, opposition candidates complained of voting irregularities, a lack of access to the media, and government pressure on behalf of pro-presidential candidates. On February 27, police raided the Kiev election office of Oles Doniy, a candidate for parliament in Kiev and head of the youth wing of Tymoshenko's Bloc. According to Bloc activists, police searched the office, confiscated the lists of Doniy's supporters, threatened 1 supporter with arrest, and demanded that 20 other supporters come to the police station for questioning. Doniy claimed that the raid was designed to put pressure on Tymoshenko's Bloc and his own supporters.

Some violent incidents, including one killing, in the preelection period may have been politically motivated (see Section 1.d.). On March 29, the day before the elections, unknown gunmen shot dead the Ivano-Frankivsk Oblast Deputy Governor, Mykola Shkribliak, in the stairwell of his apartment complex. Shkribliak was the Social Democratic Party of Ukraine (United) candidate for the Rada constituency seat. On March 2, according to Parliamentarian Valentyn Zubov, unknown persons in Donetsk Oblast assaulted him and a regional leader of Batkivshchyna, Anatoliy Tkachenko. The assailants, Zubov claimed, grabbed the schedule of Tymoshenko's March 5-6 visit to Donetsk Oblast. Tymoshenko's election headquarters in Donetsk Oblast accused agents of the security services of the attack. On April 9, the local election commission invalidated the results, which the Central Elections Commission (CEC) and the courts later revalidated. The murder investigation was ongoing at year's end.

The former head of the Rada inquiry commission on the Gongadze case, Oleksandr Zhyr, appeared to have lost his bid for reelection through vote rigging and manipulation of the judiciary. Zhyr showed video footage apparently depicting an April 8 meeting between the deputy governor in Dnipropetrovsk Oblast, Vitaliy Rudnychenko, and the leaders of all election commissions in Zhyr's constituency. The deputy governor dictated to leaders of all the election commissions in Zhyr's constituency what the "correct" election results must be in Zhyr's constituency. During the elections, Zhyr alleged the existence of duplicate protocols in eight polling stations. Although the Supreme Court confirmed the fraud, the CEC did not refer the case for further investigation. In the July 14 by-election, the election authorities revoked Zhyr's candidacy a day before the election, based on a court decision that he had engaged in improper campaign spending. The timing of the revocation reinforced the impression of political motivation.

The NGO Committee of Voters of Ukraine (CVU) cited government interference in July 14 by-elections for three vacant seats. The CVU also complained about government interference and massive irregularities during a June 9 repeat mayoral election in Kirovohrad.

CVU election monitor Oleksandr Olynyk disappeared following the March elections. Investigations into his disappearance were ongoing at year's end (see Section 1.b.).

In an April 2000 referendum on constitutional amendments that would increase presidential powers, the voting process was conducted in a generally free and fair manner; however, there were some serious problems, which included unbalanced media coverage, inappropriate involvement of government officials in influencing voters on behalf of President Kuchma, and alleged manipulation of voter turnout. However, most observers reported that the outcome generally reflected the will of the electorate.

International observers noted violations of election day procedures in the 1999 presidential election, with more numerous and serious violations occurring in the second round of voting. A representative of the Parliamentary Assembly of the Council of Europe declared that the election was "far from fair and democratic." However, because of President Kuchma's 18-point margin of victory, observers concluded that it was unlikely that these problems significantly altered the final outcome of the election.

There were 23 women in the 450 seat Rada, down from 37 in the previous Rada. No women held ministerial posts. The 18-member Constitutional Court had 2 female members. Women occupied approximately 10 percent of local council seats, according to statistics from the State Committee for Family and Youth.

Jews were well represented among the political elite and held several parliamentary seats. The representation of Crimean Tatars increased in local and regional councils. Crimean Tatars had the third largest representation on the Supreme Council of Crimea, due largely to citizenship laws that increased the number of eligible voters from the Crimean Tatar community.

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; however, there were confirmed reports that the SBU monitored NGOs engaged in nonpartisan political activity during the 1999 presidential election campaign, and there were recent reports that the Government monitored the activities of NGOs involved in democracy development and election programs (see Section 3). Government officials frequently were cooperative and responsive to the views of NGOs; however, human rights groups reported continued difficulties in investigating penal conditions and abuse of conscripts in the military, both of which were significant human rights problems (see Section 1.c.).

The Parliamentary Commissioner on Human Rights is a constitutionally mandated independent human rights ombudsman. In 1998 the Rada elected the first Ombudsman, who serves a 5-year term and, in principle, is invested by law with very broad powers. The law provides the Ombudsman with unrestricted and unannounced access to any public official, including the President; unrestricted access to any government installation; and oversight of the implementation of human rights treaties and agreements to which the country is a party; however, the law provides no penalties for those who obstruct the Ombudsman's investigations, nor does it create sufficient enforcement authority for the Ombudsman. The law requires the Government to submit amendments to existing laws in order to establish a legal framework for the operation of the Ombudsman's office; however, although the Ombudsman noted the lack of effective mechanisms for protection of human rights in a November 2000 report to Parliament, that body had not enacted any such amendments by year's end. All citizens and residents can 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 (see Section 1.e.).

The Ombudsman's office reported that it had received more than 63,000 letters and other requests for information from individuals during the year. It is unclear how many of those requests were complaints of human rights violations. The office consisted of approximately 90 full- and part-time workers; however, according to the Ombudsman, underfunding of the office continued to hamper its activities. The Ombudsman continued to make the combating of trafficking in persons (see Section 6.f.) and improving prison conditions (see Section 1.c.) major priorities during the year.

On November 17, the President signed the Law on the Ratification of Protocol No. 13 to the European Convention on the Protection of Human Rights and Fundamental Freedoms. The Rada ratified the Protocol on November 28.

Citizens have the right to file appeals with the ECHR about alleged human rights violations. Since 1997, Ukrainians have filed approximately 4,000 applications with the court. There were 10 decisions on Ukrainian cases during the year: 8 cases were ruled inadmissible, 1 was found partially admissible, and in 1 case the Court ruled that the applicant had been deprived of his right to an impartial tribunal in Ukraine.

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

The Constitution prohibits discrimination on the basis of race, sex, and other grounds; however, the Government did not enforce these provisions effectively due in part to the absence of an effective judicial system.

Women

Violence against women reportedly was pervasive. While statistics compiled by the U.N. Development Program (UNDP) showed that the number of reported rapes and attempted rapes had decreased over the previous few years, surveys indicated that the majority of rapes and other cases of physical abuse went unreported. Past surveys by women's groups indicated that between 10 and 15 percent of women had been raped and that over 25 percent were abused physically in their lifetimes. The International Helsinki Federation for Human Rights reported in 2000 that 20 percent of women aged 17 to 21 had faced attempted rape. In 2001 1,051 rape cases under Article 117 of the old Criminal Code and another 152 under the new Criminal Code were opened. Information on convictions was not available. Spousal abuse is illegal, but the authorities often pressured women

not to press charges against their husbands. The Criminal Code outlaws rape and "forced sex with a materially dependent person," which may allow prosecution for spousal rape. Official statistics on prosecutions for wife beating or on average sentences were not available; however, the Institute of Sociological Research reported in September 2000 that 12 percent of women under the age of 28 had been victims of domestic violence.

Violence against women did not receive extensive media coverage, despite the efforts of human rights groups to highlight the problem. State-run hot lines, shelters, and other forms of practical support for victims of abuse were few. Municipal authorities in Kiev ran a women's center, the only municipally supported shelter in the country. NGOs attempted to provide services for abused women through the establishment of women's support centers in seven cities (see Section 6.f).

The country was a significant source and transit country for women trafficked abroad for sexual exploitation (see Section 6.f.).

Women's groups reported that there was widespread sexual harassment in the workplace, including coerced sex. Apart from the law that prohibits forced sex with a "materially dependent person," which applies to employees, legal safeguards against harassment were inadequate. No statistics were available concerning the number of prosecutions for sexual harassment during the year.

Labor laws establish the legal equality of men and women, including equal pay for equal work, a principle that generally was observed; however, the economic decline of the past decade has harmed women disproportionately. Women were much more likely to be laid off than men. At the beginning of 2001, according to the State Committee on Statistics, overall unemployment was 3.7 percent, and women accounted for 65 to 70 percent of the unemployed. 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. According to statistics from the State Committee for Family and Youth released in June, women's average pay was 27 percent lower than the average wage for men.

The Constitution and the Law on Protection of Motherhood and Childhood prohibit the employment of women in jobs that are hazardous to their health, such as those that involved heavy lifting; however, enforcement of these laws remained poor despite the implementation of a government program to combat dangerous labor. According to the Ministry of Labor, in 2001 619,000 women were employed in hazardous jobs, 7.7 percent fewer than in 2000. Many women's rights advocates expressed concern that the law may be used to bar women from the best paying blue-collar jobs. By law pregnant women and mothers with small children enjoy paid maternity leave until their children reach the age of 3 years. This benefit is cited as a disincentive for employers to hire women for high-responsibility or career-track jobs. However, according to the UNDP, Ukraine is the only country with an over 50 percent female representation in the workforce.

Few women attain top managerial positions in state and private industry. A March 2000 business survey found that half of private-sector employees were women and that women ran 30 percent of private small businesses and 13 percent each of large and medium businesses. According to Government statistics, at the end of 2000, 72.7 percent of the country's approximately 1,825 million civil servants were female, including 52.2 percent of those in managerial positions. However, of the highest "first category" offices, only 8.3 percent were held by women. (These numbers did not include the "power ministries"--the Ministries of Defense, Internal Affairs, Foreign Affairs, and the SBU--which had substantially more male employees at all levels.)

Educational opportunities for women generally continued to be equal to those enjoyed by men; however, the Government limited the number of women who can receive military officer training to only 20 percent of the total number of students accepted. In addition the military forces limited the role of women to certain functions, which limited their chances for promotion and training opportunities; women in the military generally occupied low-paying, routine positions.

Children

The Government is committed publicly to the defense of children's rights, but budgetary constraints severely limited its ability to ensure these rights. There were few government bodies or NGOs that aggressively promoted children's rights, although the Ombudsman spoke publicly on the need to provide for youth. In May 2001, a law on child protection took effect. It was designed to bring the country into conformity with international standards regarding children's safety and quality of life. In 2002 child and family protection laws were amended with the aim of helping to regulate child-refugee protection and address financial assistance for families in need. However, it was too early at year's end to evaluate the impact of these measures.

Education is free, universal, and compulsory until the age of 15; however, the public education system has deteriorated as a result of the Government's financial disarray. Teachers were paid their salaries during the year, but other monetary benefits due to them were not paid in some localities. Increasing numbers of children from poor families dropped out of school, and illiteracy, which previously was very rare, has become a problem. Of the nearly 6.5 million children attending school during the 2001-02 school year, 3.2 million were girls and 3.3 million were boys. Official statistics on the proportion of school-age children attending school were not available at year's end; however, according to a Ministry of Education sponsored organization, Vseobuch, more than 8,000 school-age children did not attend school. According to statistics released in June by the State Committee for Family and Youth, 10.7 million children younger than 18 years of age, including 456,000 children aged 7 to 17, worked. Of these, 87,000 were in the most vulnerable age group of 7- to 12-year-olds. The All-Ukrainian 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 continued, especially in the notoriously violent vocational schools. The Government has ignored this problem.

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

Child abuse was a problem, although recent statistics on its dimension were unavailable. An October 2000 UNICEF survey found that 38 percent of the children polled had suffered some form of violence. In 1997 the All-Ukrainian Committee for Protection of Children released a survey that revealed that every fifth or sixth child under age 18 of both sexes (including every third girl), suffered from sexual harassment, and that every tenth girl had been raped. Drug use and child prostitution were widespread and received substantial media attention during the year, although statistics were unavailable. Several charity groups were formed to assist these children, but they have not been able to reduce the problem. In 2001 45 individuals were convicted of child rape, and 191 were convicted of seduction of minors. It was too early at year's end to determine whether the new criminal code which took effect in September 2001 had any impact on the number of these cases.

Trafficking in children was a serious problem (see Section 6.f.).

The number of homeless children, who usually fled poor orphanages or poor domestic conditions, remained high. According to a 2000 press release from the Ministry of Internal Affairs, 100,000 children were registered as homeless; of those, 14 percent were under 7 years old. According to the Family/Youth Committee, the Government identified 2,600 homeless children during the year. Deteriorating conditions in the state orphanages has led the Government to encourage families to provide foster homes for orphans and to facilitate the establishment of private, government-supervised orphanages. There were 75 such orphanages with approximately 800 children.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities; however, the Government did little to support programs designed to increase opportunities for persons with disabilities. Legally mandated levels of employment of such persons at state enterprises were not observed. There were only five special vocational schools for persons with disabilities. As a result, according to one NGO, approximately 7,000 children with disabilities received an incomplete secondary education. Advocacy groups for persons with disabilities maintain that there was societal discrimination against such persons. In an effort to improve public perception of them, the Government made significant

efforts to raise the profile of athletes with disabilities participating in international competitions, including the Winter Paralympics in March.

The law mandates access to buildings and other public facilities for persons with disabilities; however, the law was enforced poorly.

National/Racial/Ethnic Minorities

The frequent harassment of racial minorities was an increasing problem. The police routinely detained dark-skinned persons for arbitrary document checks, whereas document checks of foreigners of European descent were rare (see Section 1.d.). Although the authorities disciplined police who engaged in this harassment when incidents were brought to their attention, such behavior remained common. In addition, there were increased reports of racially motivated violence against persons of African and Asian heritage. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them.

Roma faced considerable societal discrimination. Opinion polls have shown that among all ethnic groups, the level of intolerance is highest toward Roma. Roma continued to be subject to violence and abuse by police (see Section 1.c.). On September 11, a fight between local Romani and non-Romani youths in a village near Odesa led to the death of 2 non-Romani boys; villagers subsequently burned as many as 10 Romani homes. Villagers who were interviewed on television claimed that the youths were involved in a drug dispute. Five Romani youth reportedly surrendered to police several weeks after the incident. Local authorities temporarily called in police teams to maintain the peace; however, there were no reports of subsequent violence.

The Constitution provides for the "free development, use, and protection of the Russian language and other minority languages in Ukraine." This provision expands a 1992 law on national minorities which played an instrumental role in preventing ethnic strife by allowing individual citizens to use their respective national languages to conduct personal business and by allowing minority groups to establish their own schools. However, some pro-Russian organizations in the eastern part of the country complained about the increased use of Ukrainian in schools and in the media. They claimed that their children were disadvantaged when taking academic entrance examinations, since all applicants were required to take a Ukrainian language test. According to official statistics, there were 16,532 Ukrainian schools, 2,215 Russian schools, 97 Romanian schools, 68 Hungarian schools, 9 Moldovan schools, 10 Crimean-Tatar schools, and 3 Polish schools in the country.

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

The Crimean Government, pleading insufficient funds, did not assent to requests from the Crimean Tatar community for assistance in reestablishing its cultural heritage through Tatar language publications and educational institutions. However, the central Government continued to work with the UNDP, OSCE, and the International Organization for Migration (IOM) on support for the Crimean Tatar community. According to the UNHCR, 98 percent of the approximately 260,000 Crimean Tatars who returned to the country from exile in Central Asia have received citizenship. However, Crimean Tatar leaders complained that their community has not received adequate assistance in resettling and that the previously onerous process of acquiring citizenship excluded many of them from participating in elections and from the right to take part in the privatization of land and state assets (see Section 2.d.).

Romanians continued to call for university-level instruction in Romanian or the establishment of a Romanian technical college. There are 86 Romanian-language schools in the Chernivtsi Oblast.

Rusyns (Ruthenians) continued to call for status as an official ethnic group in the country. Representatives of the Rusyn community have called for Rusyn-language schools, a Rusyn-language department at Uzhhorod University, and for Rusyn to be included as one of the country's

ethnic groups in the 2001 census. According to Rusyn leaders, more than 700,000 Rusyns live in the country.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right to join trade unions to defend "professional, social and economic interests;" however, while in principle all workers and civil servants (including members of the armed forces) were free to form unions, in practice the Government discouraged certain categories of workers, for example, nuclear power plant employees, from doing so. Under the Constitution, all trade unions have equal status, and no government permission is required to establish a trade union. The Law on Citizens' Organizations (which includes trade unions) stipulates noninterference by public authorities in the activities of these organizations, which have the right to establish and join federations on a voluntary basis. There are both official and independent trade unions.

On January 16, amendments to the trade union law took effect. The amendments cancel the requirement that labor unions have specific numbers of members in order to acquire all-Ukrainian status. However, to acquire national status under the amendments 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 amendments also grant labor unions the status of "legal entities," allowing them to acquire property and open bank accounts without being registered at the Ministry of Justice. The amended law still requires that a union be registered before engaging in collective bargaining or participating in the management of social insurance funds. The Justice Ministry can deny registration if the union does not meet the requirements.

Unlike in previous years, there were no reports during the year that the Ministry had denied registration to unions not loyal to the Government; however, some independent unions, including the Independent Miners Union of Ukraine (NPGU), chose not to register because the courts had declared the requirement unconstitutional. The NPGU reported that management refused to recognize and cooperate with its local affiliates because their national organization was not registered. All unions affiliated with the Federation of Trade Unions (FPU), which maintained strong ties to the Government and inherited assets from the official Soviet unions, as well as 14 independent unions, were registered. The International Labor Organization (ILO) has stated that the labor union law violates ILO Conventions 87 and 98 on the freedom of association, and the Constitutional Court struck down restrictive provisions. Nevertheless, the Rada failed to pass legislation to make the law conform to the ruling. The ILO was working with Rada deputies to draft new labor legislation.

Although the FPU often coordinates its activity with the Government, it continued to work independently of the Government some of the time and advocated workers' right to strike. The FPU has supported the protests of some professions over unpaid wages; however, most FPU affiliates worked closely with management. Enterprise managers were free to join the FPU. In 1997 the FPU leadership created a political party, the All-Ukrainian Party of Workers.

Independent unions provided an alternative to the official unions in many sectors of the economy. There were 80 registered trade unions, including 40 traditional (FPU) and 40 new trade unions. The NPGU, unions representing pilots, civil air traffic controllers, locomotive engineers, aviation ground crews, and other unions operated either independently or within one of three national confederations. While exact membership is unknown, there were estimated to be 3 million members of non-FPU members and 14.5 million members of FPU-affiliated unions. Independent unions have been denied a share of the former Soviet trade unions' huge property and financial holdings, especially the social insurance benefits funds, a Soviet-era legacy on whose boards FPU-affiliated unions held the majority of seats. Independent trade union leaders also have complained that state representatives sought to influence union votes and pressure members to report on union activities. Independent trade union leaders also reported that they and their family members were subjected regularly to surveillance by law enforcement authorities.

According to additional provisions of the law, management no longer is obligated to provide free accommodations and telephone lines to unions. However, the law gives unions a say in labor safety and in the allotment of newly built public housing. These aspects of the law have not been contested.

There were no official restrictions on the right of unions to affiliate with international trade union bodies. The NPGU was a member of the Federation of Chemical, Energy, Mine, and General Workers' Unions.

b. The Right to Organize and Bargain Collectively

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. The Law on Collective Bargaining provides the right to collective bargaining; however, 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). Most workers were not informed that they were not obligated to join the official union. Renouncing membership in the official union and joining an independent union could be bureaucratically onerous and typically was discouraged by management. The law provides that an independent union may be removed easily from the collective bargaining process at the enterprise level. Under earlier legislation, if several unions at an enterprise failed to agree on joint representation, the larger union—that is the FPU—represented labor in the bargaining process. Neither the 1999 law nor the January amendments to the Trade Union Law addressed this problem.

The Government, in a negotiation with trade unions in which all unions were invited to participate, established wages in each industrial sector in the form of a General Collective Bargaining Agreement, last signed in April 2001. The Law on Labor Disputes Resolution establishes an arbitration service and a National Mediation and Reconciliation Service to mediate labor disputes. According to official statistics, the service resolved 263 out of 554 labor disputes during 2001. The collective bargaining law prohibits antiunion discrimination. Under the law, discrimination disputes involving a union that is barred from participating in a collective bargaining agreement should be resolved by the courts. There have been cases in which such disputes were not settled in a fair and equitable manner.

The Constitution provides for the right to strike "to defend one's economic and social interests" but states that strikes must not jeopardize national security, public health, or the rights and liberties of others. The law prohibits strikes that jeopardize life, health, or the environment or that might hinder disaster, accident, or epidemic-related operations. The law does not prohibit specifically strikes based on political demands; however, it prohibits strikes based on demands to change the constitutional order, state borders, or the administrative division of the country, as well as on demands that infringe on human rights. The law does not extend the right to strike to members of the Procuracy, judiciary, armed forces, security services, law enforcement agencies, and public servants. The law extends the right to strike to employees of "continuing process plants," for example, metallurgical factories, provided that they give 15 days' advance notice of their intent to strike. According to the International Confederation of Free Trade Unions (ICFTU) 1999 annual report, the Law on Transportation does not allow strikes in the transport sector. Workers who strike in prohibited sectors can receive imprisonment of up to 3 years.

The Government has relied on prosecutors and the courts to deal with strikes that it considered illegal. The law does not extend the immunity from discipline or dismissal to strikers who take part in strikes that later are declared illegal by the courts. A union that organizes an illegal strike is liable for strike-inflicted losses. During 2001 31 enterprises and 6,776 workers took part in strikes. These figures illustrated a significant drop in strike participation from 2000, when an estimated 20,600 workers from 76 enterprises participated in strikes.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor

The Constitution and the Labor Code prohibit forced or bonded labor, including by children; however there were reports that such practices occurred (see Section 6.f.). Human rights groups described as compulsory labor the common use of army conscripts in the alternative service for refurbishing and building private houses for army and government officials (see Section 1.c.).

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

The minimum age for employment is 16; however, in certain nonhazardous 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. According to research conducted by the Ukrainian Institute of Social Research in cooperation with the ILO, 6.8 percent of children between the ages of 7 and 17 work. In August 2001, an interagency commission released a report on the status of child labor in the country and the Government's steps to minimize it.

The Criminal Code prescribes up to 5 years in prison for involving children in criminal activities, drinking, begging, prostitution, gambling, or other exploitation. Children worked in the agricultural sector, although child labor was also a trafficking issue (see Section 6.f.). Begging by children existed, although it was limited. On June 20, the press reported that an estimated 400,000 children aged 7 to 17 were working. During the first quarter of the year, police identified almost 1,500 offenders for involvement in child labor, 111 of them for involvement in begging.

e. Acceptable Conditions of Work

Working conditions and pay levels were affected adversely by the overall poor state of the economy. The minimum monthly wage was approximately \$26 (140 hryvnia) for the first half of the year and \$31 (165 hryvnia) after July 1, and the minimum monthly pension was approximately \$6.37 (34 hryvnia). Monthly pensioners also received a supplementary social benefit of just under \$4 (20 hryvnia). In December the Rada passed and the President signed into law an increase in the minimum wage to approximately \$35 (185 hryvnia), effective January 1, 2003. The minimum wage was enforced in the official economy for employees who worked full time; however, the official subsistence level was set by parliament at approximately \$64 (342 hryvnia) per month. The average monthly salary was approximately \$73 (390 hryvnia); the average wage exceeded the subsistence level for the first time in June. While the government sector has repaid wage arrears in most areas, in some parts of the country teachers were not paid monetary benefits (back holiday pay and service bonuses) owed to them. As of September 1, back wages to teachers totaled approximately \$840,000 (4.5 million hryvnia); all wage arrears in the economy totaled approximately \$449 million (2.39 billion hryvnia). Wage arrears remained a problem in the private sector (which includes large enterprises in which the State was a shareholder). Official estimates placed arrears at about \$636 million (3.4 billion hryvnia) as of October. The national pension system repaid all arrears during 2000. However, average wages were not as low as these statistics suggest, since the untaxed and unreported shadow economy was estimated to account for 50 percent of total economic activity. Activity in the shadow economy tended to be concentrated in retail trade and services but touched every sector and provided a means for individuals to supplement their often-meager salaries. In rural areas, where reported incomes tended to be the lowest, families subsidized their incomes by growing fruit and vegetables and raising livestock.

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

The law contains occupational safety and health standards; however, these frequently were ignored in practice. In particular, illegal coal mines connected to organized crime and corrupt leaders operated in unsafe conditions, resulting in scores of deaths. Lax safety standards and aging equipment caused 26,102 serious accidents (down from 30,841 in 2001), resulting in 1,285 deaths (114 fewer than 2001). During the first 11 months of the year, there were 250 deaths in the coal

sector, 288 in the agricultural sector, and 106 in construction. In the coal-mining sector, it was estimated that there had been 5.2 deaths for every million tons of raw coal extracted.

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

f. Trafficking in Persons

The law prohibits trafficking in persons; however trafficking in women and girls was a significant problem. The country was a major country of origin and transit for women and girls trafficked abroad for sexual exploitation. There were some reports of men and boys being trafficked abroad primarily for labor purposes; however, the majority of trafficking victims were women. No reliable figures were available on the extent of the problem, and estimates varied widely. There were reports that individual members of government forces facilitated trafficking in persons.

The Criminal Code imposes harsh penalties for trafficking in human beings, including for sexual exploitation and pornography. Article 149 mandates 3 to 15 years in prison for trafficking. Under some circumstances—for example trafficking of children or groups of victims—traffickers can be sentenced to prison terms of up to 10 years. The Government did not routinely prosecute suspected traffickers, although the number of such cases has increased in the last year. According to the IOM, 107 cases were filed against traffickers in the first 8 months of the year, and since 1998, 298 criminal cases have been filed, not counting cases opened under other applicable laws, such as brothel keeping, organized crime, and fraud. In 2001 84 victims testified against traffickers; 202 testified in the first 10 months of the year. A total of 52 cases have resulted in prosecution since 1998, 12 of which have fully concluded and 40 awaited appeal or final sentencing. Sentences for those convicted of trafficking ranged from fines to up to 9 years in prison. The Government reported that it regularly reviewed the licenses of Ukrainian employment agencies, and suspended the licenses of 69 travel, marriage, and job agencies between January 2001 and June 2002 for involvement in trafficking.

Trafficking was becoming a higher priority for law enforcement agencies, but these agencies often lacked the financial and personnel resources to combat well-established criminal organizations that ran trafficking operations. The Ministry of Internal Affairs established special antitrafficking units at the national and oblast levels. These units became operational in 2000; however, they have had a limited impact. They suffered from lack of adequate resources and often were tasked to work on cases involving other crimes.

The Government generally cooperated with other governments in the investigation and prosecution of trafficking cases; however, efforts were hampered by a number of factors, including insufficient investigative resources, the reluctance of victims to give evidence against traffickers, and in some cases, by a lack of cooperation from officials in destination countries. The law permits the extradition of foreign nationals charged with trafficking when appropriate bilateral agreements with the country in question have been signed, when the crime was committed within the jurisdiction of another country, and when trafficking is a crime under the laws of the requesting country; however, there have been no cases of extradition of trafficking suspects. The Constitution prohibits the extradition of Ukrainian citizens. Government cooperation with NGOs improved during the year. A June 5 decree by the Cabinet of Ministers mandated that central, regional, and local administrations develop and approve measures to combat trafficking in persons and mobilize funds to implement actions. The oblast governments responded quickly to the decree. For the first time, almost all the local and regional authorities included NGOs as partner organizations in their regional action plans. The relevant authorities, however, had yet to budget for any new activities.

Between January 2000 and August 2002, the IOM assisted 582 trafficking victims (including 286 during the first 11 months of the year) to return to Ukraine and reintegrate into society. From January 2001 to June 2002, the NGO La Strada assisted an additional 172 victims to return home and reintegrate. These numbers, however, represented a small fraction of the total number of women trafficked abroad. The IOM estimated in 1998 that 100,000 citizens had been trafficked abroad since 1991. In 1999 La Strada estimated that 420,000 women had been trafficked abroad

between 1991 and 1998. In unofficial estimates, Winrock representatives conservatively projected that between 8,000 and 10,000 individuals were trafficked from Ukraine during the year. There were unconfirmed reports that local officials abetted or assisted organized crime groups involved in trafficking.

Women and girls were trafficked to Central and Western Europe (including the Balkans, Austria, Italy, France, Germany, Switzerland, the Czech Republic, Hungary, Portugal, Spain, Poland, Greece, and Turkey), the United States, and the Middle East (including Israel, Lebanon, and the United Arab Emirates) for sexual exploitation; there also were reports that women and girls were trafficked from the country to Australia, Japan, and South Africa. Women who were trafficked out of the country often were recruited by firms operating abroad and subsequently were taken out of the country with legal documentation. They were solicited with promises of work as waitresses, dancers, or housemaids or were invited by marriage agencies allegedly to make the acquaintance of a potential bridegroom. Once abroad the women found the work to be very different from what was represented to them initially. There were credible reports of widespread involvement of organized crime in trafficking.

NGOs reported that local militia and border guards received bribes in return for ignoring trafficking. Some reports alleged that local public officials abetted or assisted organized criminal groups in trafficking women abroad. In a 1999 report, the UNDP identified graft of officials and political corruption as two of the factors causing the spread of trafficking and prostitution; however, data on the possible prosecution of law enforcement and border control authorities for their involvement in trafficking was unavailable.

Victims often were reluctant to seek legal action against traffickers out of fear of reprisals or unwillingness to tell their stories publicly. Societal attitudes toward trafficking victims often were harsh, which deterred women from pursuing legal action against traffickers. In addition, law enforcement officials did not provide sufficient protection to witnesses to encourage them to testify against traffickers, and traffickers were able to intimidate victims to withdraw or change their testimony. A witness protection law exists but was in abeyance because of lack of funding. Under the law, names and addresses of victims of crimes can be kept confidential if they request protection due to fear for their lives.

The Government was unable to assist victims effectively, primarily due to lack of funds. NGOs such as the domestic affiliates of La Strada and Winrock International offered some support services for victims of trafficking, but these groups also suffered from a shortage of funds. The IOM's Kiev mission, in cooperation with its missions in destination countries, began providing return and reintegration assistance to victims. The IOM and NGOs, particularly La Strada and Winrock International, worked closely with government officials; however, NGOs reported that lack of a central government authority on trafficking issues could be frustrating, and the Government did not provide assistance to victims. With foreign government assistance, seven regional trafficking prevention and women's support centers were in operation at year's end in Donetsk, Lviv, Dnipropetrovsk, Chernivtsi, Kherson, Rivne, and Zhytomyr. The centers offered job-skill training and telephone hot lines and served as referral centers for health, legal, and psychological counseling. On February 8, the IOM opened a comprehensive medical center and shelter for victims of trafficking. Between February and August, the center provided medical and psychological services, including vocational counseling, to 88 trafficking victims. These centers, as well as additional NGOs funded by the IOM, also played an important role in facilitating good relations and cooperation between victims, communities, and law enforcement organizations in addressing trafficking issues. NGOs also operated hot lines in Luhansk, Odesa, Kharkiv, Ternopil, and Sevastopol. During the year, La Strada hot lines received 4,061 calls, 72 percent of which concerned consultation on working abroad. Since November 1997, La Strada has received over 12,526 calls. Winrock International reported 16,854 calls to its hot lines during the year; 15 percent concerned trafficking, and the majority of the callers were between 19 and 30 years of age. The Government worked to improve assistance provided by its diplomatic missions to victims in destination countries.

The Deputy Prime Minister for humanitarian affairs is responsible for implementing all antitrafficking programs. In 1999 the Human Rights Ombudsman established a National Coordinating Council for the Prevention of Trafficking in Human Beings, and the organization increasingly has become an

outspoken and leading advocate in the Government for raising public and international awareness of the trafficking problem; however, the Ombudsman's office lacked enforcement powers and has not demonstrated its practical effectiveness (see Section 4). A National Action Plan to Counter Trafficking for 2002-05 was approved by the Cabinet of Ministers on June 5. In 1999 the Ministry of Education adopted a curriculum in trafficking as part of the first national program on trafficking prevention and awareness in high schools.

During the year, several television stations broadcast documentary films and informational programs highlighting the danger of trafficking. During the year, there were several international roundtable discussions and a major conference on trafficking held in Kiev.

NGOs conducted general awareness campaigns throughout Ukraine, often in cooperation with government entities. For example, an international conference on trafficking took place in Kiev in October. Winrock also produced and showed a film documentary on trafficking. These activities, together with the constant attention to the trafficking problem by the Ombudsman, helped to raise public awareness.

