



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights Reports](#) » [2009 Country Reports on Human Rights Practices](#) » [Europe and Eurasia](#) » [Ukraine](#)

2009 Human Rights Reports: Ukraine

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

March 11, 2010

Ukraine, with a population of 46 million, is a multiparty, democratic republic with a parliamentary-presidential system of government. Executive authority is shared by a directly elected president and a unicameral Verkhovna Rada (parliament), which selects a prime minister as head of government. Elections in 2007 for the 450-seat parliament were considered free and fair. A presidential election is scheduled for January 2010. Civilian authorities generally maintained effective control of the security forces.

Human rights problems included reports of serious police abuse, beatings, and torture of detainees and prisoners; harsh conditions in prisons and detention facilities; arbitrary and lengthy pretrial detention; an inefficient and corrupt judicial system; and incidents of anti-Semitism. Corruption in the government and society was widespread. There was violence and discrimination against women, children, Roma, Crimean Tatars, and persons of non-Slavic appearance. Trafficking in persons continued to be a serious problem, and there were reports of police harassment of the gay community. Workers continued to face limitations to form and join unions, and to bargain collectively.

During the year the government established the Office of the Governmental Commissioner for Anticorruption Policy, and the Ministry of Internal Affairs and the Prosecutor General's Office introduced a new system to improve the recording of hate-motivated crimes.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, the media reported that one person in Cherkasy Oblast was killed while in custody.

As of October 1, the Ministry of Internal Affairs reported that five criminal investigations of police personnel had been initiated on suspicion of, or charges of, unlawful killing. No further information about the investigations was available.

There were few developments in the government's ongoing investigation of the 2004 dioxin poisoning of then opposition presidential candidate Viktor Yushchenko. On March 31, parliament established a one-year, ad hoc commission to

investigate the poisoning. In 2008 President Yushchenko stated that he knew who organized the poisoning and that the government had requested extradition of the suspect from Russia. Russia's prosecutor general denied that the request was made. On July 8, the head of the parliamentary commission, Volodymyr Sivkovych, announced that the commission found no proof that Yushchenko was intentionally poisoned and attributed the lack of progress in the investigation to inactivity by the Prosecutor General's Office (PGO) and investigators.

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On April 23, *Hazeta po-Ukrayinsky* reported that the body of Oleh Parkhomenko, a 34-year-old Cherkasy oblast resident who had been in administrative detention, was found near a road outside the town of Monastyrshche. Parkhomenko's body was covered with bruises, and his legs, ribs, and nose were broken. His relatives claimed he was tortured by district police. Forensic experts could not establish the cause of his death; police declined to explain why his body was found on the road and denied torturing him. Parkhomenko's coworker, Ihor Melnyk, who was also detained by police, told journalists that he too was tortured by police who tried to force him to confess to stealing two tractors. He alleged that police promised that he would be released in two years if he pleaded guilty and threatened additional charges if he refused to confess.

On June 16, Valeriy Oliynyk of Kirovohrad Oblast died under suspicious circumstances following an incident involving a member of parliament, the oblast district prosecutor, and the local chief of police. According to reports the three men pursued Oliynyk into a wooded area where they assaulted him, broke his leg, and shot him multiple times. The Prosecutor General's Office opened a criminal case into the death. On July 3, parliament stripped Viktor Lozynskiy of his mandate; he remained missing. Authorities arrested and dismissed the district prosecutor and the police chief.

On June 24, Human Rights Ombudsman Nina Karpachova reported in an address to parliament that a court in Ivano-Frankivsk Oblast sentenced its chief of investigations to nine years in prison, and his subordinate police officers to eight years for the beating death in 2007 of detainee Petro Khudak.

On July 21, authorities arrested a former senior Ministry of Internal Affairs official in connection with the high-profile murder in 2000 of investigative journalist Georgiy Gongadze. Prosecutors alleged that Oleksiy Pukach, who headed the ministry's surveillance department at the time of the killing, led a group of police officers in the abduction and murder of Gongadze, whose headless corpse was found in a forest outside of the capital, Kyiv. In 2008 three police officers were convicted and sentenced to long jail terms for the killing. Pukach was first detained in 2003 on suspicion of involvement with the murder. He was subsequently released and was missing until his arrest. Members of Gongadze's family and journalists who investigated the case continued to maintain that Pukach acted on orders from senior government officials in the presidential administration who wanted to silence Gongadze. The case was ongoing at year's end.

On December 16, a court in Sumy Oblast found six police officers guilty of the October 2008 death of Serhiy Kuntsevsky who died in custody after police raped and beat him to extract a confession. Two senior officers, who were personally involved in torturing the suspect, were sentenced to eight years in prison; two others received four-year prison sentences, and the remaining two received suspended sentences of 42 months and three years. Three other officers were acquitted, but prosecutors appealed the ruling.

There were no reported developments in several cases from previous years, including that of a Roma man who died in the Vinnytsia penal colony in July 2008 after he was allegedly beaten by facility personnel; of the police officer from Sumy Oblast who allegedly shot and killed a suspect from Trostyanets during interrogation in 2007; and of personnel at the Lukianivka pretrial detention facility charged with negligence that resulted in two deaths in 2007.

There was at least one report of a death of soldiers from hazing or other mistreatment. On November 18, the LIGA news service reported that the Odesa garrison procuracy launched a criminal case against a captain who allegedly shot and killed 18-year-old Anton Morozov in Chornomorske village. The government ordered the Defense Ministry to investigate this and similar incidents.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution and the law prohibit such practices; however, there were reports that police continued to abuse and torture persons in custody.

On February 9, a report of the UN Working Group on Arbitrary Detention cited multiple concerns that arose from a monitoring visit in October 2008 to 21 facilities in eight cities. Among them were "numerous, consistent and often credible allegations received from various sources...of confessions obtained under torture from detainees of the militia, the Ukrainian police force."

According to the Ukrainian Helsinki Human Rights Union (UHHRU) and other local nongovernmental organizations (NGOs), an estimated one-third of criminal suspects were routinely mistreated or beaten by law enforcement officers to extract confessions and information. On December 3, the chief of the Ministry of Internal Affairs human rights monitoring department, Oleh Martynenko, stated that 2 percent of citizen complaints about police mistreatment resulted in criminal investigations.

Police officers were often not adequately trained or equipped to gather evidence through investigations and depended on confessions to solve cases. The law does not clearly prohibit confessions or other statements made under duress from being introduced as evidence in court proceedings. Efforts to check these practices were made more difficult by an ineffective system for investigating allegations of abuse and by detainees' lack of access to defense lawyers and doctors.

Another concern noted by the UN working group was the low acquittal rate by the Prosecutor General's Office when presented with well-founded accusations that incriminating evidence had been gathered by using methods that violated proper criminal procedures, including by torture. Of 100,000 such complaints, the prosecutor general considered 30 to be violations. According to the working group, "impunity for perpetrators of ill-treatment largely prevails."

During the year the European Court of Human Rights (ECHR) issued nine decisions against the country for violation of Article 3 (inhuman or degrading treatment) of the European Convention of Human Rights. This compared with four violations in 2008 and six in 2007.

The media reported several instances of police abuse. For example, on January 17, the 1+1 television channel reported that police in the Ordzhonikidzevskiy district in Kharkiv tortured two women to obtain confessions. One of the victims, Svitlana Pomelyaika, worked at a local tile factory. Police detained her and a coworker on suspicion of theft. According to the victims, police took them to different rooms, where they were kicked and hooded with plastic bags; pliers were used to squeeze their nipples. When they refused to sign confessions, they were forced to write that they had no complaints against police before being released. Both women were hospitalized, and their injuries were documented. According to Kharkiv oblast police chief Viktor Razvadovskiy, two officers were dismissed after an investigation found pliers and other implements of torture in police offices. The Kharkiv district prosecutor launched a criminal case against the officers on charges of abuse of official duties. The case continued at year's end.

In August Radio Svoboda (Radio Liberty) reported that a newly appointed chief of the State Penal Department dismissed the administrators of the Vinnytsia pretrial detention facility for humiliating and using force unlawfully against prisoners. On August 21, human rights activists posted video testimony on the Internet of an inmate who showed beating marks on his body and accused the facility's chief of abusing him because he demanded that refrigerators be placed in each cell.

On September 9, the newspaper *Fakty* reported that Interior Minister Yuriy Lutsenko dismissed the deputy chief of criminal investigations in Odesa's Kominternivskiy district and reprimanded and demoted 15 police officers on charges of discrediting the police and neglect of duties. The chief of the district police also received a professional incompetence warning. The officers reportedly tortured a 39-year-old theft suspect by beating him with a crowbar and shocking him with electricity.

No developments were reported in the following 2008 cases: the investigation of Volodymyr Hetmanenko's torture case from Crimea; the investigation of three police officers from Sumy Oblast who allegedly forced victims to carry illegal drugs and then arrested them for possession; the investigation of 20 police officers at the Simferopol railway station who allegedly detained, robbed, and extorted money from passengers; and an incident involving the violent beating of inmates at the Stryzhavska correctional colony in Vinnytsia Oblast in June.

During the year authorities prosecuted police officers who abused persons in detention.

According to the prosecutor's general office, during the first nine months of the year, courts heard 20 cases of police torture or inhuman and degrading treatment and issued 30 guilty verdicts. Six officers received prison sentences, one was sentenced to a correctional institution, 22 received probation, and one was fined.

As Of October 1, three police officers were convicted of torture, according to the Ministry of Internal Affairs. Authorities also initiated nine criminal investigations of law-enforcement personnel suspected of inflicting bodily injuries and four investigations of suspected torture and physical violence. According to the PGO, 28 law-enforcement personnel were convicted of torture or inhuman treatment during the first nine months of the year. In addition, 93 cases of alleged police torture or inhuman and degrading treatment were initiated, and 14 criminal cases with recommended guilty verdicts against 31 police officers were forwarded to the courts.

There was no information available on whether the parents of Sumy Oblast resident Oleksandr Voskoboinikov filed an appeal following their son's murder conviction in August 2008. They claimed that he and codefendant Oleksandr Sapon were tortured into confessing to the fatal stabbing of a swimming coach in 2006. The court case of Yuriy Moseyenko continued. The State Penitentiary Directorate (SPD) confirmed that he was wrongfully confined for 20 months beginning in 2005 on suspicion of murder. The officials involved in the wrongful detention were disciplined.

There were reports of military hazing violence against conscripts in the armed forces. On August 7, the UNIAN press service reported that the Zhytomyr garrison prosecutor launched a criminal case concerning the beating in June of a soldier.

According to the State Judicial Administration (SJA), 49 hazing-related guilty verdicts were issued in the first six months of the year. The PGO confirmed that in the first nine months of the year, 133 servicemen were convicted of hazing out of 158 hazing-related criminal cases forwarded to courts.

Prison and Detention Center Conditions

Prison and detention center conditions generally did not meet international standards. Overcrowding, abuse, inadequate sanitation, light, food, water, and medical care were persistent problems. The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

Conditions remained poor in state prisons despite some improvements due to reforms in the penal system and a reduction in the prison population due to more humane sentencing. Human rights groups continued to call for full civilian oversight of the SPD by subordinating it to the Ministry of Justice. According to the UHHRU, the absence of rigorous and impartial public oversight in SPD-controlled facilities allowed for abuse of prisoners and poor conditions.

On July 28, the human rights ombudsman reported that she had received a report from the PGO confirming poor detention conditions in 16 police facilities in cities around the country, including Donetsk, Kyiv, Kirovohrad, and Sevastopol. They were located in old buildings that lacked ventilation, sufficient water supply, adequate lighting, and proper sewage and sanitary systems. These facilities frequently violated regulations limiting the length of detention and did not guard against the spread of tuberculosis and other infectious diseases.

According to the SPD, an estimated 659 persons in custody had HIV-associated tuberculosis (TB). In TB hospitals controlled by the prison department, 42 percent of patients were terminally ill with TB, and 44 percent were terminally ill with AIDs. The SPD acknowledged that TB was one of the major communicable diseases in its facilities because of poor conditions and inadequate medical resources for examining and treating TB-infected persons in pretrial detention facilities.

As of October 2008 according to the latest available statistics from the SPD, 146,827 persons were detained in 184 facilities under its control. In 2007, 729 individuals died in custody, including pretrial detention facilities. Illness caused 673 of the deaths, while 54 resulted from suicide; two were homicides. In 2008 the PGO reported that 397 prisoners died in the first six months of the year in SPD-controlled prisons. Suicides accounted for 21 of the deaths.

As of January 1, according to the annual report by the UHHRU, 145,715 persons were detained in SDP-controlled facilities, including 109,961 persons in 136 penal facilities and 34,148 persons in pretrial detention facilities.

As of October 1, authorities held almost 122,000 persons in 483 police-controlled temporary holding facilities. The Ministry of Internal Affairs confirmed 14 suicide attempts in police-controlled special facilities. There were six deaths; three were alcohol-related and three were due to illness.

Conditions in police temporary holding facilities and pretrial detention facilities were harsher than in low- and medium-security prisons. The former were often overcrowded and lacked adequate sanitation and medical facilities. As of September 1, according to the Prosecutor General's Office, more than 200 individuals serving life sentences were held in pretrial detention facilities.

In contrast to the previous year, there were occasional media reports of self-inflicted injuries and violent incidents in prisons and detention centers to protest poor conditions. For example, on January 26, according to informed experts, six inmates at a correctional colony in Alchevsk in Luhansk Oblast cut their veins to protest abuse by the facility administration. On July 7, television Channel 5 reported that more than 100 prisoners refused food and 20 cut their veins to protest abuse by penal facility officials in Khmelnytskyi Oblast.

Overcrowding and poor conditions in prisons and detention centers exacerbated the problem of TB. Authorities stated that mandatory screening of all new inmates for TB reduced infection rates; human rights organizations said the presence of x-ray machines in several prison facilities was a positive development.

The government allowed independent monitoring of prison conditions and detention centers. On September 9, a delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a two-week visit to the country. It was the CPT's fifth visit.

Mobile monitoring groups consisting of Ministry of Internal Affairs personnel and human rights NGOs continued to visit police temporary holding facilities. The NGOs called for the establishment of similar mobile monitoring for prisons run by the SPD.

However, human rights activists asserted that regional police did not always cooperate with Ministry of Internal Affairs mobile monitoring groups and civic advisory councils. For example, on October 2, Kharkiv Human Rights Group (KHRG)

Chairman Yevhen Zakharov reported at a hearing on human rights that police chiefs in Dnipropetrovsk and Sumy Oblasts ordered collection of personal data on members of regional civic advisory councils in an attempt to force them to disband.

Prisoners and detainees were permitted to file complaints with the ombudsman about conditions in custody, but human rights organizations noted that prison officials continued to censor or discourage complaints. By law the prosecutor and ombudsman were obliged to disclose the names of inmates who filed complaints to the bodies against which they were filed, such as the SPD, which subjected the petitioners to possible reprisals from prison administrators.

d. Arbitrary Arrest or Detention

The constitution and the law prohibit arbitrary arrest and detention; however, in practice problems remained.

Role of the Police and Security Apparatus

The Ministry of Internal Affairs is responsible for maintaining internal security and order; it oversees the police (militia) and its own armed troops. The Security Service of Ukraine (SBU), which is responsible for internal intelligence and protecting state security, reports directly to the president. The State Tax Administration, which exercises law enforcement powers through the tax police, is accountable to both the president and the cabinet.

The law provides for civilian control of the army and law-enforcement agencies and authorizes members of parliament to conduct investigations and public hearings into national security and defense issues. The human rights ombudsman is also authorized to initiate investigations into the relevant activities of security forces.

Police corruption remained a problem. According to the Ministry of Internal Affairs, 39,204 law-enforcement officers (approximately 16 percent of the 250,000-member force) were subjected to administrative disciplinary actions in the first nine months of the year. Of these, criminal investigations were begun against 115 officers on bribery charges. The PGO confirmed that in the first nine months of the year, 310 police personnel and 13 prosecutors were found criminally liable for corruption.

On February 9, the newspaper *Fakty* reported that SBU's antiorganized crime officers detained the deputy chief of investigations for the Kyiv metro police for taking a bribe of 25,000 hryvnias (approximately \$3,100) to drop criminal charges against suspects. The Kyiv prosecutor's office launched a criminal case on the grounds of fraud and abuse of office and the official was suspended from his post.

On February 11, the Web site proUA.com reported that the SBU's Main Directorate for Combating Corruption detained the deputy head of one of Kyiv's Ministry of Internal Affairs divisions when he accepted a 25,000 hryvnia bribe (approximately \$3,100) from a woman in exchange for closing criminal proceedings against her relative.

On October 1, UNIAN reported that the Ministry of Internal Affairs internal security service detained three Donetsk oblast police officers, a special investigator and two officers of the economic crime office, for demanding a bribe of 3.1 million hryvnia (\$400,000), of which they received 80,000 hryvnia (\$10,000), for dropping criminal charges against a local resident.

There was no further information about the following 2008 corruption investigations: the head of Kyiv's main criminal investigation unit and a chief investigator of a Kyiv district police office for accepting bribes in return for not pressing charges; a criminal case against a police investigator in Donetsk Oblast for taking a 70,000 hryvnia (8,700 dollar) bribe for dropping charges against a suspected rapist; and a criminal investigation involving two Kirovohrad police officers who was accused of demanding a bribe from a parent to release a child detained on suspicion of theft.

Arrest Procedures and Treatment While in Detention

By law authorities may detain a suspect for three days without a warrant, after which an arrest order must be issued. The courts may extend detention without an arrest warrant for an additional 10 days and thereafter grant extensions for a maximum of 18 months. The law permits citizens to contest an arrest in court or appeal it to the prosecutor. The law requires that detained persons be informed of their rights and that officials notify family members immediately concerning an arrest; however, in practice police did not follow the procedures required by law.

Lengthy pretrial detention was a serious a problem. Individuals often remained in pretrial detention for months or, in some cases, years. There were unsanctioned arrests, and investigative police at times failed to keep records or register detained suspects. According to domestic human rights organizations, the investigation process took four to five months on average.

Human rights organizations reported that police continued to use detention arbitrarily (in this case split infinitive can be avoided without awkward language) to extract evidence that could be used against detainees. Courts often extended detention to 10 days or more to allow police more time to obtain confessions. On October 2, in a speech at a conference on police violence sponsored by the KHRG, Denys Kobzin, director of the Kharkiv Institute of Sociological research, reported that approximately 40 percent of detainees were held longer than the legally allowed three days.

The February report by the UN Working Group on Arbitrary Detention noted the following problems: the continued practice of detaining until trial persons suspected of minor crimes; a perceived lack of independent and effective control over the detention process by the judiciary; and unlawful restrictions on pretrial detainees, such as denying them contact with their families before court trials.

The law stipulates that a defense attorney must be provided without charge to indigent detainees from either the time of detention or the filing of charges. However, in practice this often did not occur. There were insufficient defense attorneys to protect suspects from unlawful and lengthy detention. Attorneys often refused to defend indigents for the low payment the government provided.

Reports continued that police arbitrarily detained persons, particularly persons of non-Slavic appearance, for extensive document checks and vehicle inspections (see section 6).

The law provides for bail, but it was rarely used. Many defendants could not pay imposed bail amounts. Courts sometimes imposed travel restrictions as an alternative to pretrial confinement. However, they generally opted to place individuals in detention.

Amnesty

During the year President Yushchenko pardoned 573 persons.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary; however, in practice the judiciary remained subject to political pressure, suffered from corruption and inefficiency, and lacked public confidence.

The right to a fair trial was limited by lengthy court proceedings, particularly in administrative courts, and by political pressure on judges, inadequate court funding, a shortage of qualified legal assistance for defendants, and the inability of courts to enforce their rulings. Judges also continued to complain about pressure from high-ranking politicians seeking improper resolution of cases.

During the year the ECHR issued 69 judgments that found the country in violation of Article 6 (right to a fair trial) of the European Convention on Human Rights. This compared with 61 judgments issued during 2008 and 66 judgments in 2007. In addition, the ECHR issued judgments that found 35 violations regarding length of proceedings and 27 violations regarding the right to liberty and personal security. This compared with 32 and 14 judgments, respectively, in 2008, and 34 and three in 2007.

On October 15, in its ruling in the case of Yuriy Nikolayevich Ivanov v. Ukraine, the ECHR for the first time openly criticized the country's local court system "for nonenforcement or delayed enforcement of domestic judgments."

All courts, except for the Supreme Court, were funded through the SJA, which was also responsible for staffing. The Ministries of Justice and Education were responsible for training judges. The judiciary's lack of adequate staff and funds contributed to inefficiency and corruption and increased its dependence on the executive branch.

On December 22, the Constitutional Court ruled that the president's right to appoint and dismiss the head of the SJA is unconstitutional. The court stated that because the SJA oversees a state body and is not a cabinet-level agency the responsibility of appointing and dismissing the head of the SJA falls to the prime minister with the concurrence of the cabinet.

In March Supreme Court Chairman Vasyl Onopenko said in a speech at a conference of economic court judges that the state budget permits the expenditure of less than five hryvnia (\$1) for the review of each case. In July the judicial association, Foundation for Justice released an appeal to the government expressing concern about the lack of adequate funding for courts. According to the association, the year's budget allocated approximately 21 percent of the funds actually needed for court expenses.

While the law provides for judicial independence, in some cases it also gives the president considerable power over the judiciary. The president 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 determines the number of judges in the court system, appoints and removes chairpersons and deputy chairpersons of courts, and establishes appellate commercial and appellate administrative courts.

The country has a multitiered court system consisting of the Constitutional Court, courts of general jurisdiction, and local (raion) courts. Courts of general jurisdiction deal with civil, economic, administrative, and criminal forms of justice. The Supreme Court is the highest judicial body. It has civil, criminal, commercial, and administrative chambers and a military panel of judges.

The Constitutional Court consists of 18 members, six each appointed by the president, parliament, and the Congress of Judges for nine-year terms. The Constitutional Court determines the constitutionality of legislation and other parliamentary legal acts, presidential edicts, cabinet acts, and legal acts of the Crimean Autonomous Republic. It also issues opinions concerning the constitutionality of international treaties and agreements.

Trial Procedures

The constitution includes provisions for a fair trial, including the right of suspects or witnesses to refuse to testify against themselves or their relatives; however, these rights were limited by the absence of implementing legislation, which left a largely Soviet-era criminal justice system in place. Defendants are presumed innocent; however high conviction rates called that assumption into question.

The constitution provides for juries, but a jury system has not been implemented. Most cases are decided by judges who sit singly, although trials on charges carrying a maximum sentence of life imprisonment, the highest penalty in the criminal justice system, were heard by two judges and three public assessors who have some legal training.

By law a trial must begin no later than three weeks after criminal charges are filed with the court; however, this requirement was rarely met by the overburdened court system. Months could pass before a defendant was brought to trial. Complicated cases could take years to go to trial.

The law specifies that a defendant may consult a lawyer in private; however, human rights groups reported that officials occasionally denied this attorney-client privilege. The law also requires free legal counsel for all defendants, but free counsel was often unavailable.

On October 6, the Constitutional Court ruled that any individual summoned as a witness in a criminal case anywhere in the country is entitled to legal aid.

To protect defendants, investigative files must contain signed documents attesting that defendants were informed of the charges against them, of their right to an attorney at public expense, and of their right not to give evidence against themselves or their relatives. Appeals courts may dismiss convictions or order new trials if these signed documents are missing; however, officials sometimes verbally and physically abused defendants to obtain their signatures.

By law trials are held in public, and defendants have the right to confront witnesses. However, courtroom space was often limited, and media personnel were at times not able to attend and report on court proceedings.

The law permits the names and addresses of victims and witnesses to be kept confidential if they were at risk of being intimidated into withdrawing or changing their testimony. The law requires that a special police unit protect judges, witnesses, defendants, and their relatives, but human rights organizations claimed that this system continued to be ineffective.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The constitution and laws give citizens the right to challenge any decisions, actions, or omissions of national and local government officials that violate their human rights. However, the right of redress was limited by an inefficient and corrupt judicial system.

Potential victims may also file a collective legal challenge to legislation that they believe may violate basic rights and freedoms. Citizens may appeal to the human rights ombudsman and may take cases to international bodies, such as the ECHR.

Property Restitution

Restitution of property taken from religious groups during the Soviet era continued at a slow pace, partly as a consequence of the country's economic situation. In addition, intracommunal competition for particular properties complicated restitution claims for the Christian, Jewish, and Muslim communities.

During the year the State Committee on Nationalities and Religion (SCNR) did not report on developments regarding property restitution. Previously, the SCNR stated that the majority of (most?) buildings and objects had already been returned to religious organizations. The remaining properties for which restitution was sought were occupied by state institutions, were historic landmarks, or had been transferred to private ownership. The SCNR stated that there was a lack of government funding to assist in relocating organizations occupying these buildings. The SCNR also noted that restitution claims frequently fell under the jurisdiction of local governments.

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

The constitution prohibits such actions; however, in practice authorities generally did not respect these prohibitions.

By law the SBU may not conduct surveillance and searches without a court-issued warrant. The Prosecutor General's Office has the constitutional responsibility to ensure that all law enforcement agencies observe the law. Citizens have the legal right to examine any dossier concerning them in the possession of the SBU and the legal right to recover losses resulting from an investigation. However, authorities generally did not respect these rights in practice because implementing legislation had not been enacted.

According to the NGO UHHRU and former SBU chief Ihor Smeshko, there was no effective independent oversight of monitoring activity by security agencies. Most citizens were not aware of violations of their privacy rights by law enforcement agencies.

There were several media reports of allegations of privacy interference and illegal surveillance by government authorities. For example, on April 28, the weekly newspaper *Dzerkalo Tyznia* reported that appeal courts reviewed 25,086 requests by law enforcement agencies (mostly by the SBU, the Ministry of Internal Affairs, and tax police) for permission to intercept information, seize correspondence, or use other technical means to obtain information, all of which the newspaper described as related to restrictions of the constitutional rights of citizens.

SBU chief Valentyn Nalyvaichenko disclosed that his agency began monitoring Deputy Prosecutor General Kuzmin's telephone conversations in January 2008, even though there was no reason to suspect him of violating secrecy regulations. On May 15, the SBU forwarded documents to the Prosecutor General's Office related to the illegal surveillance of Kuzmin and a criminal case was opened against the responsible SBU officers.

There were no reports available concerning the 2008 investigation into the illegal surveillance of Mykolayiv mayor Volodymyr Chaika or the 2007 criminal investigation into the posting on the Internet of a transcript of a 2006 telephone conversation between then speaker of parliament Oleksandr Moroz and the British ambassador.

During the year the ECHR issued four judgments that found violations by the country of the right to respect for family and private life under Article 8 of the European Convention on Human Rights, compared with one in 2008.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and laws provide for freedom of speech and of the press, and the government generally respected these rights in practice.

There were no reports that central authorities attempted to direct media content; however, there were reports of intimidation of journalists by national and local officials. Individuals could criticize the government publicly and privately, and independent and international media were active and expressed a wide variety of opinions.

According to the Ukrainian Association of Press Publications, approximately 4,200 print publications were regularly published in the country. Among them were 2,400 newspapers (including 52 dailies) and 1,700 magazines, with 1,550 having primarily nationwide distribution.

In June parliament adopted a resolution prohibiting government agencies from carrying out inspections of mass media ahead of the 2010 presidential election campaign, which began in October. The measure aimed to safeguard freedom of expression by eliminating legal, administrative, and economic obstacles for media reporting on the campaign.

The law on presidential elections, however, imposed restrictions on media coverage of election campaigns. The independent media journal *Telekrytyka*, KHRG chairman Yevhen Zakharov, and media law expert Kostyantyn Yakubenko all criticized the legislation for stifling independent analysis of candidates' campaign platforms and views. For example, the media are technically allowed only to broadcast information provided by candidates. Other limitations include: a ban on "campaigning" by foreign media and by noncitizens (although campaigning is not defined), and the prohibition of publishing results of public opinion polling on political parties and presidential candidates beginning 15 days prior to election day.

On September 15, a national commission on freedom of speech and information urged politicians to abstain from attempting to manipulate the media and journalists during the presidential campaign. However, media experts expressed concern that politicians and media owners would nevertheless increase pressure on all media throughout the three-month campaign. In October Oleksandr Chernenko, the chairman of an NGO, the Committee of Voters of Ukraine, expressed concern about signs of a possible return of direct censorship. He asserted that editors and top managers of certain media outlets were forced to attend meetings at campaign headquarters and that some national and regional media were warned not to criticize particular politicians.

On September 22, a district court in Kyiv initially ruled in favor of Prime Minister Yuliya Tymoshenko's political party in a case involving a video clip critical of her that was sent to all major television channels. In its decision, the court said it was prohibiting dissemination of what it called "dishonest advertisements" about the performance of the country's premier. The UHHRU appealed the court's decision and stressed that the prime minister, as a public figure, could be the subject of criticism in the press. On October 7, the court reversed its earlier ruling.

There were additional reports of intimidation and other types of harassment of journalists, including by national and local officials.

According to national NGO media watchdog Institute for Mass Information (IMI), at least 31 journalists and publications were subjected to physical attacks or intimidation during the first 11 months of the year, compared with 27 incidents reported in 2008. In October IMI reported a spike in violent incidents, including police violence and five shootings. The shootings targeted the offices of Volyn newspaper *Viche*, the Lviv-based *Expres* newspaper, and the Nova Zorya publishing house in Ivano-Frankivsk. Targeted individuals included Kyrylo Danilov, Director of Pryvat TV Dnipro in Dnipropetrovsk, and photo correspondent Ruslan Lyubchenko of the magazine *Conflicts and Law* in Kyiv. As in the previous year, most cases occurred at the local level and were often attributed to individual politicians, businessmen, or organized criminal groups.

For example, on February 16, a car owned by Valeriy Vorotynyk, local journalist and owner of Antenna media group, exploded in Cherkasy immediately after Vorotynyk announced a protest against the closure of five local schools. There were no injuries. On May 25, reporter Oleksandr Ilnytskiy of Vinnychchyna TV and Radio Company sustained head injuries resulting from an assault by a municipal official after he recorded an argument between the official and a circus administrator who accused local authorities of corruption.

On September 1, Communist member of parliament Oleksandr Tkachenko seized a microphone from STB TV's parliamentary correspondent Olha Chervakova and threw it to the ground after she asked him to clarify his remarks about banning journalists from the parliament cafeteria. The parliamentary committee on freedom of speech called upon Tkachenko to apologize.

There was no progress in the investigation into the June 2008 harassment of *Ostriv* newspaper journalist Ihor Nezhurko.

There were no reported developments in cases of violence against journalists in previous years, including the February 2007 attack on the news director of Dnipropetrovsk's Channel 9, Anatoliy Shynkarenko; the March 2007 attack on an independent investigative journalist in Kherson Oblast, Serhiy Tsyhipa; the September 2007 burning of the automobile of Serhiy Harmash, chief editor of the Donetsk-based Internet publication *Ostriv*; or the 2006 death of Norik Shirin, founder and publisher of the *Holos Molodi* newspaper.

Private media outlets operated free of direct state control or interference; however, both independent and state-owned media at times demonstrated a tendency toward self-censorship on matters that the government deemed sensitive. Although private newspapers operated on a commercial basis, they often depended on their owners (political patrons or oligarchs who were connected to politicians) for revenue and did not enjoy editorial independence.

According to media monitoring by IMI and their regional partners the practice of prepaid publications, veiled advertisements, and positive coverage presented as news (known as "dzhynsa"), continued in the electronic and print media. The price for such coverage ranged from 24,000 hryvnia (\$3,000) to as much as 40,000 hryvnia (\$5,000) for participation in a television talk show. Print stories cost from 800 hryvnia (\$100) to 40,000 hryvnia (\$5,000.) IMI also emphasized that political parties frequently ordered the placement of stories in regional print media while law enforcement agencies did not investigate this breach of law. Some journalists maintained that low salaries encouraged some reporters to supplement their incomes with undocumented payments from "benefactors" seeking to influence news reporting.

On April 30, the European Federation of Journalists released a statement condemning the firing of Serhiy Huz, vice president and leading activist of the Independent Media Trade Union. He was dismissed from the *Ukrainskiy Tyzhden* magazine "for attempting to improve the working conditions of his colleagues" through negotiations for a collective agreement to regulate salary and editorial rights. According to the federation, a number of journalists left the magazine in January to protest the dismissal of the editor in chief over disputes about increased interference in the editorial line of the magazine.

The continued dependence of some media outlets on government resources may have inhibited investigative and critical reporting.

Inadequate media access to government-held information was a problem, particularly in the regions. IMI, the UHHRU, and the Committee for Monitoring Freedom of Press in Crimea asserted that most government agencies regularly denied requests by journalists and NGOs for basic public interest information. For example, on April 8, Crimean Health Minister Serhiy Donych refused to answer questions from Kateryna Zuyeva, a news reporter from the Chornomorska TV and Radio Company, about the outcome of a meeting by the special commission on the children's TB hospital in Simferopol. Journalists were not allowed to attend the event.

In some instances, media representatives had problems gaining access to court hearings and other governmental meetings. On January 27, IMI reported that Serhiy Nestorenko, a judge of Kremenchuk's Avtozavodskiy district court in Poltava Oblast, pushed the chairman of the local office of the independent media trade union and human rights activist Mykola Feldman out of the courtroom during a hearing. Feldman alleged that the same judge threatened to open a criminal case against an attorney for inviting him to the hearing.

On March 16, according to the UHHRU, Chernihiv Vice Mayor Stanislav Vikhrov prohibited Valeriy Lytovchenko and Andriy Cherednyak, correspondents from the *Ukraina Moloda* and *Za Chernihiv* newspapers, from attending a meeting of the city council's executive committee. Vikhrov argued that Lytovchenko was not an employee of *Ukrayina Moloda*, that

the newspaper should have applied for permission in writing in advance, and that the meeting was closed to the general public. However, representatives of municipally owned media were allowed to attend without prior approval, and the council's Web site had announced transportation and budgetary issues as the meeting's discussion topics.

Government licensing provisions require that national media outlets broadcast at least 75 percent of their programs in Ukrainian, a policy that many citizens whose first language was not Ukrainian regarded as discriminatory.

Libel is considered a civil offense, and the law limits the amount of damages that may be claimed in libel lawsuits; the press can publish inoffensive, nonfactual judgments, including criticism, without penalty. On February 27, the Supreme Court adopted a resolution on judicial practice in defamation cases, reiterating that public officials enjoy less protection from criticism than average individuals, emphasizing the importance of distinguishing between factual information and value judgments, and encouraging courts to refer to European Court of Human Rights' practices.

On December 1, the president vetoed amendments to the civil code that would have allowed officials to demand high sums for damages in defamation lawsuits. Media rights groups had recommended the veto on grounds that the amendments would have placed undue pressure on journalists and media.

However, media watchdog groups continued to express concern over the extremely high monetary damages that were demanded, and sometimes awarded, for alleged libel. Government entities and public figures, in particular, continued to use the threat of civil suits based on alleged damage to a "person's honor and integrity" to influence or intimidate the press.

For example, the National Union of Journalists' list of press enemies cited eight libel lawsuits filed since early April against *Kanal 33* newspaper by ex-Vinnytsia governor Hryhoriy Kaletnik and his son. The newspaper published a series of articles alleging the former official's involvement in illegal smuggling when he served in the State Customs Service. The Kaletniks demanded 710,000 hryvnias (\$89,000) in damages. On April 16, IMI reported that the court of appeal in Kyiv reduced the amount of moral damages awarded by a lower court from 300,000 hryvnias (\$37,400) to 157,000 hryvnias (\$19,600).

Internet Freedom

There were no government restrictions on access to the Internet; however, law enforcement bodies engaged in Internet monitoring. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 11 percent of the country's inhabitants used the Internet.

On February 18, the Cabinet of Ministers adopted a decree to designate the SBU as the lead government agency responsible for drafting a bill on the registration of online media.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom. However, human rights organizations and artists criticized the National Expert Commission on Public Morals and its chairman, Vasyl Kostytskiy, for prohibiting a number of foreign movies and cartoons, as well as Ukrainian books, songs, and programs.

For example, on the commission's recommendation, the National Television and Broadcasting Council prohibited further airing of the foreign cartoon series "The Simpsons." It also prohibited screening of Sacha Baron Cohen's film *Bruno* and the publication of a novel, *The Woman of His Dreams*, by the Ukrainian winner of the Shevchenko prize, Oles Ulianenکو. The commission stated that all were obscene, pornographic, and antisocial.

The commission also banned two books that it said incited xenophobia or interethnic hatred or contained anti-Semitic statements: *The Secret History of Ukraine* by Aleksandr Shyrokorad and *Life, History and Reality*, by Vladimir Putyatin. On June 26, the president signed into law amendments to the criminal code that made it a criminal offense to electronically or physically store literature, images, or other objects of "a pornographic nature" intended for sale or distribution. The law, however, does not clearly define what constitutes "a pornographic nature." According to the executive director of the UHHRU, Volodymyr Yavorskiy, the new law limits freedom of expression and could facilitate blackmail and corrupt practices by police who may target selected individuals.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of assembly, but in some instances regional governments infringed on these rights. Since there is no national law governing freedom of assembly, the code of administrative justice and case law prevailed. Local authorities sometimes invoked a Soviet-era decree on freedom of assembly that was more restrictive than the constitution.

The constitution requires that organizers inform authorities of a planned demonstration in advance. The Soviet-era decree that local governments sometimes used to define "advance notice," stipulates that organizations must apply for permission at least 10 days before an event or demonstration. In most cases permits were granted, and in practice unlicensed demonstrations were common and generally occurred without police interference, fines, or detention, although there were several exceptions.

In the first nine months of the year, according to the Ministry of Internal Affairs, police identified 99 persons who violated the law on organizing and holding public gatherings. However, the prosecutor general's office confirmed that it did not launch any criminal investigations into organizers of unsanctioned rallies or other protest events.

On July 16, according to Majdan Web site, the court of appeal in Odesa Oblast upheld a lower court ruling that found an Odesa City Council member guilty of breaching the decree on advance notice. Mykhailo Shmushkovych acknowledged that he had organized a May demonstration by local residents against the city council to protest suspension of city funding for a municipal housing project. Shmushkovych requested permission for the event three days prior to the demonstration but was warned by the council's department of internal policy that his request was a breach of the decree. An attorney with the UHHRU who assisted Shmushkovych with his case described the ruling as unprecedented.

The Republic Institute, a local monitoring group, said it had noticed an increase in the number of violations of freedom of peaceful assembly in the previous two years and expressed concern that law enforcement bodies were often biased against some groups. For example, the institute noted a new trend toward involving paramilitary organizations, such as the unregistered NGO of security service veterans, *Shchyt* (Shield), in matters involving maintenance or order. In March *Shchyt* broke up a peaceful protest on Independence Square in Kyiv and volunteered to "counter anarchy, corruption, and privately funded political activities to bring order to the country."

As in 2008, local authorities prohibited progay events by LiGa, a Mykolayiv-based association of gays, lesbians, and bisexuals. In May LiGA ignored a city prohibition to organize a photo exhibition to observe the International Day Against Homophobia. In June local authorities warned LiGA in writing that it could be disbanded because of the breach of law.

There were no further developments in a case involving a March 2008 administrative appeal by the Luhansk branch of the Committee of Voters of Ukraine (CVU) against the Severodonetsk city council's decision to require organizers of sporting, musical, religious, and civic-political events in the Ice Palace of Sports to receive permission from the city council and to

prohibit all other types of events from the venue.

Freedom of Association

The constitution and the law provide for freedom of association; while the government generally respected this right in practice, some restrictions remained. Registration requirements for organizations were extensive, but there were no reports that the government used them year to disband existing legitimate organizations or to prevent new ones from being formed.

The law places restrictions on organizations that advocate violence or racial and religious hatred or that threaten public order or health. On January 19, SBU spokesperson Maryna Ostapenko confirmed that the security service completed its pretrial investigation in the criminal case against a separatist organization, the Popular Front Sevastopol–Crimea–Russia, and forwarded it to the court. There were no reported developments in the SBU's 2008 criminal investigation of another separatist group, the Association Sejm of Pidkarpattia Rusyns.

c. Freedom of Religion

The constitution and the law provide for freedom of religion, and the government generally protected this right; however, some minority and nontraditional religions experienced difficulties in registration and in buying and leasing property. There is no formal state religion, but local authorities at times favored the religious majority in their particular regions.

The law requires that a religious group register its articles and statutes, either as a local or as a national organization, and have at least 10 adult members in order to obtain the status of a "juridical entity." Registration is necessary to conduct many business activities, including publishing, banking, and property transactions. The SCNR administers the registration process. Representatives from several denominations expressed satisfaction with the committee's work.

During the year the Jewish community reiterated complaints that the Krakivsky market in Lviv was located on the grounds of an ancient Jewish cemetery and that periodic digging to erect kiosks disturbed the sanctity of the site. The city had offered to construct a memorial park on the remaining undeveloped part of the cemetery but maintained that it could not relocate the market because some of the buildings were private property.

The representative in Crimea of the Ukrainian Greek Catholic Church complained that the Yalta Municipal Council refused to finalize the allocation of a land plot for the construction of what would be the only Greek Catholic church in the city. They also mentioned reluctance of municipal governments in Kyiv, Kyiv Oblast, Zhytomyr, Simferopol, and Yevpatoriya to allocate land for church construction.

Restitution of communal property confiscated during the Soviet era remained a problem (see section 1.e.).

The law restricts the activities of foreign-based religious organizations and narrowly defines the permissible activities of the clergy, preachers, teachers, and other noncitizen representatives of foreign-based religious organizations; however, there were no reports that the government used the law during the year to limit the activity of such religious organizations.

The government promoted interfaith understanding by frequently consulting the All-Ukraine Council of Churches and Religious Organizations, whose membership represented the faiths of more than 90 percent of the religiously active population. The council met every two or three months to discuss interfaith concerns. Regional administrations and local religious leaders in most regions have formed regional councils of churches and religious organizations.

On January 15, the parliament adopted legislative amendments that give registered religious organizations the right to permanently use state-owned and communally owned land plots. On March 25, the Cabinet of Ministers reduced rental rates for religious organizations using state-owned property to 45 percent of rental fees charged to commercial entities.

On August 5, the Cabinet of Ministers issued a resolution facilitating registration procedures for foreign religious workers visiting the country. On September 3, the cabinet adopted a resolution reducing natural gas tariffs for religious organizations to the same level as housing sector tariffs.

Societal Abuses and Discrimination

There were reports of societal problems and discrimination based on religious belief and practice. Conflicts between local representatives of contending religious organizations continued to affect broader communal ties among religions in society.

On October 2, senior representatives of the Ukrainian Orthodox Church of the Moscow Patriarchate (UOC-MP) and the Ukrainian Orthodox Church of the Kyiv Patriarchate (UOC-KP) initiated a dialogue to seek resolution of long-standing disputes. Both sides described the meeting as encouraging and voiced cautious optimism about the prospects for further talks.

Tensions continued among the UOC-MP, UOC-KP, and the Ukrainian Autocephalous Orthodox Church (UAOC) when congregations attempted to change jurisdictions between the factions. For example, the UOC-MP, UOC-KP, and the local government did not resolve differences over the use of Holy Trinity Church in a village in Ternopil Oblast after the congregation split. In another example in Odesa, the UOC-KP and UAOC were unable to settle a dispute over the ownership of St. George Church that resulted when an archpriest in charge of the parish changed affiliation from the UOC-KP to the UAOC.

Vandalism of religious sites and monuments continued to be a problem. On June 17, Interior Minister Yuriy Lutsenko directed police to conduct more thorough investigations into cases of cemetery vandalism. During the first six months of the year, he said police had recorded 619 incidents of cemetery vandalism.

In August a construction company demolished a chapel used by the German Evangelical Lutheran Church and the Ukrainian Greek Catholic Church in Kherson. The company refused to implement a court ruling declaring the church a legitimate user of the land.

In Crimea the construction of a mosque in central Simferopol remained on hold. In February 2008 the city council annulled an earlier decision to allocate a plot of land to build the mosque and designated a less desirable location.

The country made some progress in relations with its Jewish communities; however, members of marginal populist and nationalist parties and organizations continued to make occasional extremist, intolerant, and anti-Semitic statements. An estimated 103,600 Jews lived in the country, comprising approximately 0.2 percent of the population, according to government census data and international Jewish groups. However, local Jewish leaders estimated the number of persons with an ethnic Jewish heritage to be as high as 370,000.

There were a number of acts of anti-Semitism, some involving vandalism of Jewish property. According to Viacheslav Likhachev, a human rights monitor and authority on anti-Semitism in the country, there were 17 incidents of vandalism during the first 11 months of the year. This compared with 13 such incidents in 2008 and 20 in 2007.

The trend toward a decrease in attacks against Jews continued. According to a report published by the Euro-Asian Jewish Congress and edited by Likhachev, "Anti-Semitism in Australia and Eurasia 2008/2009," there was one anti-Semitic attack in the first 11 months of the year, as compared with five in 2008 and eight in 2007.

In February an improvised explosive device was found in a synagogue in Lutsk. Investigators determined that it contained explosives but was not wired to detonate. The Jewish community called for a full investigation. The local government responded by constructing a fence around the building and giving ownership of the building to the Jewish community.

On August 10, the prosecutor's office in Zakarpattia charged the mayor of Uzhhorod, Serhiy Ratushniak, with inciting ethnic hatred, hooliganism, and abuse of office after he allegedly used anti-Semitic rhetoric and attacked a campaign worker for a rival presidential candidate. Ratushniak, who was running as a marginal candidate in 2010 presidential elections, was known for making racist and intolerant comments. He had no strong following as a presidential candidate and had no party affiliation. Jewish leaders protested his registration as a candidate and welcomed politicians who criticized Ratushniak's statements.

In late August unidentified attackers painted swastikas on the walls of Jewish Charity Center in Melitopol. Local police did not find offenders and described the incident as hooliganism.

On September 13, Nazi symbols were painted on the front door of the Kyiv office of the Hebrew Immigrant Aid Society. On October 26, unidentified vandals splashed paint on the monument marking the birthplace of prominent Rabbi Menachem Schneerson in Mykolayiv.

In November the prosecutor's office in Odesa opened a criminal case into alleged publication of anti-Semitic articles by ZUBR (For Ukraine, Belorussia and Russia), a marginal radical organization. Members of the Odesa Jewish community had called on the prosecutor's office to investigate the group, which had published the materials in its newspaper, *ZaZUBRina*, and on its Web site.

Hate speech against Jews was combined with hate speech against other groups in several incidents. Anti-Semitic articles continued to appear in small publications, though their number and circulation continued to decline.

According to the Association of Jewish Organization and Communities of Ukraine (VAAD), 13 anti-Semitic materials were published in the national print media between January and March. This compared with 17 published in the same period of 2008, 172 in 2007, and 189 in the first quarter of 2006.

VAAD attributed the decrease in anti-Semitic publications to the curtailment of activity by the Academy of Personnel Management, known by its Ukrainian acronym MAUP. Founded in 1989, MAUP is an accredited, private institution of higher learning with regional branches around the country. However, anti-Semites used it as a vehicle to promote virulent anti-Jewish propaganda and right-wing extremism. In previous years MAUP accounted for nearly 90 percent of all published anti-Semitic material. At year's end MAUP's lawsuit against a 2007 order by the mayor of Kyiv to remove a bookstand near the memorial to victims of Babyn Yar remained pending. MAUP said the order abridged its right to freedom of speech.

On January 15, the Prymorskiy court in Odesa handed down an 18-month suspended sentence to Ihor Volin-Danilov, editor of the *Nashe Dyelo* (Our Business) newspaper, who admitted to inciting racial hatred by publishing an anti-Semitic article.

In March 2008 the Supreme Court dismissed MAUP's lawsuit against the Jewish Confederation of Ukraine and its publication, *The Jewish Observer*, over articles criticizing MAUP's anti-Jewish and anti-Zionist activities.

On July 26, a district court in Crimea convicted a man of hooliganism in the 2007 beating of Benjamin Wolf, the chief rabbi of Sevastopol. The assailant was also ordered to pay the rabbi 5,000 hryvnia (approximately \$620). Local Jewish leaders protested the ruling on the grounds that the man should have been charged with inciting ethnic and religious discord because he was motivated by the rabbi's appearance.

Jewish community leaders in Kherson again complained that Serhiy Kyrychenko, a member of the city council, continued to spread anti-Semitic propaganda. In 2008 Kyrychenko made frequent appearances on a local radio show *VIK*, accusing Jews of robbing the Ukrainian people, plotting to enslave them, and planning to exterminate Slavs. On August 17, the Kherson prosecutor's office began a criminal investigation into the broadcasts and numerous anti-Semitic publications in

the local VIK newspaper.

Senior government officials and politicians from various political parties continued efforts to combat anti-Semitism by speaking out against extremism and social intolerance. In September, while attending the UN General Assembly, President Yushchenko met with representatives of foreign Jewish groups for discussions on the country's efforts to develop a multinational society, free of anti-Semitism and xenophobia.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at <http://www.state.gov/g/drl/rls/irfr/>.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and the law for freedom of movement in the country, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations to provide protection to asylum seekers, stateless persons, and other persons of concern.

Citizens who wished to travel abroad were able to do so freely. Exit visas were not required. The government could deny passports to individuals in possession of state secrets, but denials were rare and could be appealed.

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

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The constitution provides for asylum, but there were no implementing laws. The law allows refugees residing in the country during three years to apply for citizenship.

At year's end the State Migration Service, which was established by a cabinet decree in June, was still not functioning due to ongoing policy disagreements between the president and prime minister and conflicting decrees and court rulings. As a result, the State Committee on Nationalities and Religions (SCNR) continued to retain authority with regard to citizenship, immigration, asylum, and refugee procedures, while the Ministry of Internal Affairs and the State Border Guard Service (SBGS) were active in combating illegal migration.

Administrative courts responsible for reviewing appeals of denied asylum applications were overwhelmed by a backlog of cases. Refugee rights organizations expressed concern that the Kyiv Administrative Court of Appeal postponed its review of deportation appeals until 2012; during the year it reviewed cases from 2007. A shortage of bilingual interpreters added to the problem of timely processing.

The government provided some protection against refoulement, the expulsion or return of refugees to a country where there is reason to believe their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group and political opinion. However, there were notable exceptions during the year.

On August 25, new regulations initiated by the SBGS took effect that require foreign nationals transiting the country to Western Europe and stateless persons to have in their possession no less than "70 subsistence levels" (12,620 hryvnia or \$1,570) to sustain their stay in the country. On September 2, the UNHCR stated that this change "should not affect access to the asylum procedure and undermine the nonrefoulement principle." In particular, the UNHCR raised concern about the fate of six Congolese nationals detained at the Kyiv international airport awaiting return to their country. The refugee agency urged authorities to refrain from deporting them until their protection needs were assessed. Nevertheless, the NGO Social Action and Amnesty International reported that all six were sent back.

Human rights groups noted that the current law on refugees does not provide protection for war refugees, victims of indiscriminate violence, or failed asylum seekers who could face the threat of torture or loss of life or freedom if deported. According to informed observers, several allegedly failed Chechen asylum seekers were kept in pretrial detention facilities in Chernihiv and Ternopil oblasts, and in Uzhgorod, awaiting extradition to Russia.

According to the UNHCR and local human rights groups, the complicated and burdensome registration system often left asylum seekers without documents during the protracted review of their cases and the appeal process. This left the individuals vulnerable to frequent police stops, detention, and fines. Refugees and asylum seekers, who frequently came from Africa and Asia, were victims of a growing number of xenophobic attacks. Asylum seekers in detention centers were sometimes unable to apply for refugee status within prescribed time limits and had limited access to legal and other assistance. The problem was further complicated by the lack of access to qualified interpreters to complete registration documents.

As of October the SCNR confirmed that there were 2,315 official refugees, including 1,235 Afghans, 263 Africans, 43 Chechens, 15 Uzbeks, 20 stateless persons, and 13 Belarusians.

On February 19, a coalition of refugee rights organizations and the Ukrainian Council on Refugees noted at a press conference that, in the previous five years, only 3 percent of asylum seekers were granted refugee status in the country. They also asserted that government authorities only recognized as refugees persons who fled personal persecution and often refused to grant refugee status to nationals of countries that suffered from humanitarian disasters or armed conflicts.

During first nine months of the year, the Ministry of Internal Affairs confirmed that of 773 applications it received, 102 individuals were granted refugee status. According to SCNR, as of October 1, 108 persons out of 903 applicants received refugee status.

On March 10, UNIAN reported allegations by the Vinnytsia Human Rights Group that local police had been mistreating Somali refugees since November 2008. This included racially motivated assaults and humiliation, lengthy detentions without proper registration, and demanding money. The group requested that the Prosecutor General's Office investigate three specific complaints of abuse.

Refugees received minimal material assistance. There were no Ukrainian language classes for refugees and asylum seekers and no procedures to facilitate their employment.

The country remained a destination and transit country for migrants. According to the SBGS, the number of irregular migrants identified in the first nine months of the year was 19,063, a 19 percent drop compared with the same period in 2008. Of that number, 16,402 were not allowed into the country, and 1,841 were apprehended when illegally crossing the border. The SBGS noted that CIS nationals constituted the majority of irregular migrants apprehended during the year. According to the SBGS, 50 Chechens, nine Uzbeks, and nine Belarusians were also apprehended in the first nine months of the year.

According to the Ministry of Internal Affairs, 751 detained irregular migrants were held in two new facilities in Chernihiv and Volyn oblasts, compared with 400 in 2008. According to the SCNR, two temporary holding facilities for refugees, in Odesa and Zakarpattia oblast, were not sufficient for providing temporary housing to refugees.

On July 22, the Cabinet of Ministers adopted an action plan for the integration of refugees through 2012, including education and employment assistance.

There are no legal provisions for voluntary return. However, the local office of the International Organization for Migration (IOM), in cooperation with the SBGS and the Ministry of Internal Affairs, continued to operate a Program on Assisted Voluntary Return to help stranded migrants and failed asylum seekers to return to their countries of origin. Five local

NGOs in the Mukachevo, Chernihiv, Odesa, Kharkiv, and Volyn oblasts participated in the voluntary return program. Since 2007, 210 migrants have safely returned home.

Stateless Persons

According to the law, citizenship is derived by birth, territorial origin, naturalization, restored citizenship, and adoption. Dual citizenship is not allowed.

According to UNHCR statistics, there were 56,350 stateless persons in the country at the end of 2008. According to the SCNR, there were 20 stateless persons as of October 1. In 2007 the European Council on Refugees and Exiles and local NGOs reported that there were approximately 3,000 stateless persons in the country who fled conflicts in Georgia in the early 1990s. In addition there were an estimated 6,000 formerly deported Crimean Tatars who returned to Crimea but have not registered as citizens, as well as lesser numbers from Abkhazia and Georgia.

Stateless persons also included an unknown number of persons who either lived in the country for decades but failed to clarify their citizenship status after the collapse of the Soviet Union in 1991 or who arrived in the country as students or visitors both before and after 1991. Many did not obtain residency documents or take other steps to register according to the regulations of their country of origin.

On March 19, parliament adopted amendments to the immigration law to allow foreign nationals and stateless persons who fled the war in Abkhazia to apply for citizenship. This included individuals with a temporary residence permit who subsequently had resided in the country for no less than five years, as well as children who arrived in the country with their parents before the age of 18 and applied for a permanent residence permit.

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

The constitution and the law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

The May 2008 mayoral elections in the capital and the September 2007 preterm parliamentary elections were both assessed by international and local observers to be free and fair. In the mayor's race, seven political parties and blocs won seats to the Kyiv city council. In the parliamentary election, five of the 20 parties and campaign blocs running passed the 3 percent threshold to win seats.

Presidential elections were scheduled for January 17, 2010, with a runoff three weeks later between the two candidates who receive the largest percentage of the vote. At year's end, 18 candidates were registered to run in the election.

On August 18, parliament overturned a presidential veto of amendments to the law on presidential elections. Among other provisions, the new law shortened the official campaign period from 120 to 90 days, and required candidates to pay a 500,000 hryvnia (approximately \$62,300) deposit to participate in the campaign.

On September 18, the NGO CVU issued a report asserting that the amendments posed a threat to transparent and democratic elections. Among the problems, the CVU noted that election authorities allowed voters to register on election day, limited civil society oversight and NGO election monitoring, and adopted procedures that limit the ability of candidates to challenge possible election fraud. The CVU also expressed concern about the practice of "dzhynsa," or prepaid media coverage for individual candidates, a lack of transparency of campaign funding, and problems with voters' registries, which were believed to have an error rate of between 10 and 30 percent.

On October 19, the Constitutional Court ruled that several amended provisions in the election law were unconstitutional, including the requirement that all members of district and local election commissions live within their respective district or precinct, and a provision that citizens residing abroad must be listed in the consular registry in order to vote.

In November the Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) deployed 60 long-term election observers in the country. In December the European Network of Election Monitoring Organizations deployed 50 long-term observers. On election day itself, approximately 3,100 international observers were scheduled to monitor voting around the country.

According to the OSCE/ODIHR third interim observation report, the Ministry of Internal Affairs registered 107 election-related violations between October 19 and December 31. Of that number, 48 were for hooliganism, 17 for campaign material published in violation of the law, five for arson, seven for bribing voters, three for loss or theft of an official election stamp, and 12 for vandalism.

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

To register at the national level, political parties had to maintain offices in one-half of the regions and could not receive financial support from the government or any foreign patron. The Supreme Court reserved the right to prohibit any political party upon the recommendation of the Ministry of Justice or the prosecutor general. No legitimate parties were prohibited during the year.

There were 36 female members of the 450-seat parliament, and women held the posts of prime minister, minister of labor and social policy, secretary of the National Security and Defense Council, head of the state treasury, the human rights ombudsman, among other senior government posts. The 18-member constitutional court included two female justices. The exact number of minorities in parliament and the cabinet was not available due to privacy laws.

Crimean Tatar leaders continued to call for changes in the electoral law that would give them greater representation in the Crimean and national parliaments. The law does not allow the creation of regional political parties, so Crimean Tatars had to join national political parties or blocs. Only one Crimean Tatar was a member of the national parliament.

According to the deputy leader of the Crimean Tatar Mejlis (governing body), Refat Chubarov, Crimean Tatars, who make up 13 percent of the population of Crimea, occupied eight seats in the 100-member Crimean Mejlis, and had approximately 1,000 members in city, district, and rural councils in Crimea. The Mejlis was not legally recognized by national authorities.

Eight of the 25 senior officials in the Crimean government were Crimean Tatars, including one deputy prime minister and the minister for labor and social policy, the chairman of the Crimean government Committee on Interethnic Relations and Deported Peoples, and the chairman of the Crimean government Information Committee. Two of the 14 heads of raion (county level) administrations were also Crimean Tatars.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, corruption is ineffectively prosecuted and such penalties were rarely imposed. Corruption continued to be a widespread problem in the government and society. Studies, including the World Bank's worldwide governance indicators, found that corruption increased during the year.

Officials and high-ranking officials often engaged in corrupt practices with impunity. Corruption remained a pervasive problem in the executive, legislative, and judicial branches of the government.

On April 24, the Cabinet of Ministers appointed a new government commissioner for anticorruption policy. This office is responsible for developing policy recommendations, coordinating anticorruption efforts by central and local government

agencies, enterprises, and NGOs, and cooperating with the Council of Europe's Group of States against Corruption and other international organizations. The commissioner may refer cases to anticorruption units in the SBU, the Ministry of Internal Affairs, and to the Prosecutor General's Office. In August the commissioner submitted a two-year action plan to the cabinet to implement a national anticorruption strategy.

On December 9, the Cabinet of Ministers adopted 14 anticorruption measures, including an anticorruption strategy, a methodology for anticorruption examination of draft normative-legal acts, and a procedure for collecting and publicizing information about legal entities prosecuted on corruption charges.

The Prosecutor General's Office is responsible for investigating corruption by high-level officials and for prosecuting all corruption offenses. However, the office remains nontransparent and relatively ineffective in investigating and prosecuting corruption cases.

As of October 1, the Ministry of Internal Affairs confirmed that 533 criminal cases were launched against 488 law enforcement personnel. Of that number, 72 involved abuse of office and power, 115 involved excessive use of power or office, and 115 involved bribes.

The Ministry and the State Judicial Administration jointly operated a special hotline to take reports on judicial corruption. The SBU also operated a hotline in 13 oblasts.

The SBU reported that it launched 296 criminal cases on charges of bribery during the first nine months of the year and that 1,138 civil servants and other persons "responsible to perform state functions" were charged with corruption.

According to the PGO, in the first nine months of the year, 1,188 appointed and elected officials and civil servants at all levels of government were charged with offenses related to corruption and bribery.

As in previous years, the number of officials successfully prosecuted for corruption offenses remained lower than the number charged. The Prosecutor General's Office confirmed that, in the first nine months of the year, prosecutors launched 30 corruption cases against 28 judges and forwarded 18 corruption cases against lower-rank judges to court. Seven judges were convicted of bribery, embezzlement of state funds, and negligence in office. According to the High Council of Justice, no disciplinary charges were brought against judges, and one low court judge was dismissed for violation of oath as of November.

During the first nine months of the year, military prosecutors opened 104 criminal cases for corruption, of which 13 involved law enforcement personnel and 91 involved other officials.

In June a survey by the PACE project (Promoting Active Citizen Engagement in Combating Corruption in Ukraine) found that almost 63 percent of respondents said they were involved in corrupt transactions with government officials in the previous 12 months. The survey also found increased public support for more active anticorruption programs and increasing criminal charges for corrupt government employees.

On February 6, the SBU filed corruption charges against Industrial Policy minister Viktor Novytskiy in the appellate court in Kyiv. According to the SBU, Novytskiy attempted to interfere with the work of courts by pressuring a court to issue an illegal ruling.

According to the Ministry of Internal Affairs, the largest bribery cases during the first nine months of the year involved land transactions totaling more than 17 million hryvnia (\$2.1 million). For example, the chairman of a village council in Mykolayiv Oblast, Berezanskiy district, demanded 8.5 million hryvnia (approximately \$1.1 million) in bribes, while the chairman of a village council in Crimea asked for 8 million hryvnia (\$1.0 million), and the chairman of the Baryshivka

district administration in Kyiv Oblast asked for nearly 4.6 million hryvnia (approximately \$570,000) for their cooperation. The first and the third cases were forwarded to court; the second was under investigation at year's end.

On December 4, Interior Minister Lutsenko said he regretted the release from custody of the chairman of the Partenit rural council in Crimea who was caught taking a record bribe of 41.3 million hryvnia (\$5,200,000) in July 2008 in connection with a land deal. Lutsenko said that of approximately 1,700 officials arrested for bribery each year since he took office in December 2007, no more than 30 to 50, of which half were police, received prison sentences because of lengthy investigations and court proceedings or corruption.

There were no developments in a number of 2008 investigations, including corruption allegations against former transportation minister Mykola Rud'kovskiy and Oleksiy Ivchenko, the former chairman of Naftohaz, the country's national oil and gas company, for alleged corruption in 2005-06.

There was widespread corruption in the judiciary. In August a PACE project survey on corruption within the judicial system reported that 41 percent of lawyers and prosecutors believed that corruption was common at all stages of court proceedings and that it was particularly noticeable in pretrial investigations.

Judges are immune from prosecution and may not be detained or arrested without the consent of parliament. On March 9, the head of the Lviv Administrative Court of Appeals, Ihor Zvarych, was arrested on charges of abuse of office, bribe taking, and fraud. He was stripped of his immunity in December 2008 after an investigation by the Prosecutor General's Office of a case involving a bribe of approximately 803,000 hryvnia (\$100,000) and the discovery of approximately eight million hryvnia (\$ one million) at his home. In December the Supreme Court extended his detention until March 2010.

On April 2, according to the SBU, the Prosecutor General's Office opened a criminal case against a judge from Lviv Administrative Court of Appeals, Vyacheslav Lyubashevskiy, who demanded a bribe of approximately 160,000 hryvnia (\$20,000) in October 2008 from two local businessmen to dismiss a tax fine.

There were no reported developments in a number of other 2008 and 2007 cases, including the May 2008 investigation against the head of a district court in Chernihiv Oblast for allegedly accepting a bribe to reduce a sentence; the intended appeal by the prosecutors against a Kyiv Pechersk district court decision not to launch a criminal case against a senior Ministry of Internal Affairs official who took a bribe in the amount of 960,000 hryvnias (approximately \$120,000); the arrest warrant ordered by parliament in 2007 for Judge Oleh Pampura on charges of demanding a bribe to reduce a court sentence; and the 2007 arrest of a former judge of the Kalynivskiy District Court in Donetsk Oblast, Vadym Sydorenko, for accepting a bribe in 1999.

The constitution and the law authorize public access to government information unless it pertains to national security. Government bodies are required to respond to requests within 10 days and to provide the information within 30 days. Denials can be appealed to a higher level at the agency concerned and then to a court. However, access to official information remained difficult. Government officials often did not understand the law and at times created bureaucratic procedures to withhold information.

On April 18, the NGO Majdan Alliance reported that, similar to the previous government, the prime minister's office created a number of classified documents stamped "for official use" without revealing their titles.

On September 7, Oleksandr Severyn from Majdan Alliance filed a lawsuit with the Kyiv district administrative court against parliament for refusing to provide a copy of its budget.

On November 24, the president signed a decree to declassify a number of official documents. On December 29, according to media reports, the justice minister ordered that 628 decrees and 190 injunctions by the president previously stamped "for official use" be published in the Official Newsletter of Ukraine.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials were not uniformly cooperative and at times resisted taking the recommendations of NGOs into account.

Domestic NGOs freely criticized the government's human rights performance. For example, on June 25, during a press conference Yevhen Zakharov of Kharkiv Human Rights Group (KGHR) and Arkadiy Bushchenko and Volodymyr Yavorskiy of the UHHRU criticized the government for not addressing human rights problems in a systemic way and alleged that leading political forces treated human rights as secondary. They excluded the Ministry of Internal Affairs, the Ministry of Justice, and the National Commission on Strengthening Democracy and Asserting the Rule of Law, which they said had made some improvements. The UHHRU has made similar criticisms in its annual reports on human rights in the country.

The SBU continued to work with its advisory council, consisting of political leaders, NGO activists, and independent experts, to provide civilian oversight and increase the transparency of SBU activities. In April the SBU held a second annual conference on promoting democratic values and human rights within the SBU. Participants included government officials, diplomats, and representatives of human rights NGOs.

Major independent, nonpartisan, human rights NGOs and civil society groups included CVU, KGHR, UHHRU, Amnesty International Ukraine, Donetsk Memorial, the Institute for Mass Information, the Chirikli Roma Women's Fund, the Ukrainian Union of Psychiatrists, La Strada-Ukraine, the VAAD, the Diversity Initiative network, and VGHR.

The government generally cooperated with international governmental organizations, including the UN, the OSCE, and the Parliamentary Assembly of the Council of Europe.

Citizens may apply to the ECHR for the redress of grievances involving an alleged infringement of rights under the European Convention on Human Rights.

During the first 10 months of year, the ECHR issued 70 rulings in cases involving the country, according to the government's ECHR commissioner, Yuriy Zaitsev. The government enforced 59 of the rulings involving prohibition of torture, the right to liberty and security of person, the right to a fair trial, the right to respect for private and family life, and the right to an effective remedy.

However, in two cases the UHHRU accused the Supreme Court of contempt of ECHR rulings concerning the right to a fair trial and the right to freedom from torture. In the first case, (Yaremenko v. Ukraine) the Court refused to revoke a conviction, despite the ECHR's doubts regarding fairness of the judicial examination, and in the second (Lutsenko v. Ukraine) it refused to reconsider the verdict.

On August 31, in a published viewpoint, Council of Europe Commissioner for Human Rights Thomas Hammarberg listed the country among member states failing to enforce ECHR decisions. "This must be seen as a refusal to accept the rule of law and is a serious human rights problem," he said. In response, Justice Minister Mykola Onishchuk urged the Supreme Court to report on cases involving failure to implement court rulings.

The ECHR announced that it handed down 126 judgments against Ukraine and that 10,000 applications were pending before the court this year. Most court judgments involved violations of the right to a fair trial, violation of property rights, and unduly lengthy proceedings.

In June the Ministry of Internal Affairs adopted new regulations for its civic advisory council, declaring that its meetings should be open to the public and that outcomes should be publicized. The ministry continued to cooperate with mobile monitoring groups, which conducted 312 site visits to prisons and detention centers in the first nine months of the year. On October 2, the ministry held its first public hearing to discuss human rights in police work.

In the first nine months of the year, the Ministry of Internal Affairs human rights monitoring department reviewed 2,060 appeals and complaints, carried out 1,304 official inspections, and met with more than 2,800 citizens. This compared with 374 inspections and 1,790 citizens meetings during the first six months of 2008. A majority of the complaints related to police offices that refused to release information, not providing copies of regulations on refusal to launch a criminal investigation, and not sharing documents on the outcome of official investigations. Following official inspections, disciplinary sanctions were brought against 430 police personnel, and 284 case materials were forwarded to prosecutors.

The constitution provides for a human rights ombudsman, officially designated as the parliamentary commissioner on human rights. On June 24, Commissioner Nina Karpachova presented a constitutionally mandated report to parliament on the human rights situation in the country from 2006 to 2007. The report is required annually, but has only been produced five times since the office was established in 1998.

Human rights groups criticized the report for being outdated and the ombudsman for poor cooperation with human rights organizations and for not opening regional offices. They also expressed concern that government bodies failed to provide proper responses to the ombudsman's requests. Nevertheless, they also noted that the ombudsman office had become more transparent by increasing media coverage of its activities and by updating information on its Web site on a more regular basis.

In the first 11 months of the year, 73,133 persons filed complaints with the ombudsman's office. According to the office, more than 50 percent of the complaints related to civil rights, in particular the right to a fair trial, abuse by law enforcement personnel, and timely implementation of court rulings. The remainder involved social rights and economic rights, individual rights (including right to life, respect for personal integrity, and prohibition of torture in detention), and political rights.

A parliamentary committee on human rights, national minorities, and interethnic relations continued to operate during the year, but its activities were not publicized. The committee has subcommittees to work on issues such as interethnic relations, gender policy, indigenous peoples, national minorities and ethnic groups, deported persons, victims of political repression, ethnic policy, prevention of domestic conflict, refugees and migration.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, language, social status, or other circumstances; however, both governmental and societal discrimination persisted, and the government did not effectively enforce the prohibitions.

Women

The law prohibits rape but does not explicitly address spousal rape. A law against "forced sex with a materially dependent person" may allow prosecution for spousal rape. According to the Ministry of Internal Affairs, during the first nine months of the year, police recorded 598 incidents of rape or attempted rape, a decrease of 8.6 percent compared with the same period in 2008.

Domestic violence against women remained a serious problem. Spousal abuse is illegal but was common. Advocacy groups asserted that the percentage of women subjected to physical violence or psychological abuse at home remained high. According to Donetsk Regional League of Business and Professional Women, each year domestic violence resulted in 100,000 days of care at in-patient hospital facilities, 30,000 trauma unit cases, and 40,000 doctor visits; up to 40 percent of calls to police offices involved complaints about domestic violence.

On January 1, a new law took effect that permitted administrative arrest of up to five days for domestic violence-related offenses.

According to the UHHRU and La Strada-Ukraine, national authorities, particularly the Ministry for Family, Youth and Sports, devoted more attention to domestic violence than in previous years.

For example, in late July social advertisements against domestic violence, with hotline numbers for victims, were established in eight major cities. The ads were part of a national campaign to combat domestic violence against women entitled "stop violence!" On July 30, Yuriy Pavlenko, the minister for family, youth and sports, announced other measures to prevent and combat domestic violence. This included a program for dealing with offenders and raising public awareness of the issue by including information on domestic violence in syllabi of all educational institutions for judicial, law enforcement personnel, medical staff, social workers, and teachers.

During the first nine months of the year, the ministry and its regional offices recorded 50,912 domestic violence complaints, including 40,447 allegations of violence against women, and 10,465 reported incidents of violence against men. Of these, 17,203 complaints involved physical assaults, 12,840 involved psychological pressure, 2,551 dealt with economic violence, and 37 involved sexual harassment.

According to the Ministry of Internal Affairs and the Ministry for Family, Youth and Sports, as of November 1, there were 91,683 persons under police supervision domestic violence, compared with 85,085 in 2008. Police cited 54,900 individuals for domestic violence in the first nine months of the year, issued 66,500 warnings and 4,800 injunctions for protection related to domestic violence, and sent 57,200 notices to the state agencies for prevention of domestic violence. Administrative charges were brought against 85,700 individuals, of which 84,500 were for domestic violence and 1,200 for disobeying injunctions of protection.

According to the Ministry for Family, Youth and Sports there were 22 centers for social-psychological assistance in 19 oblasts, Crimea, and the cities of Kyiv and Sevastopol, which had capacity for 390 persons. The centers received funding from oblast (region) and raion (district) budgets. NGOs operated additional centers for domestic violence victims in Vinnytsia, Donetsk, Zhytomyr, Odesa, Chernihiv, Poltava, Sumy and Khmelnytskyi oblasts.

The law requires the government to operate a shelter in every major city, but in practice it did not, in part due to the lack of municipal funding.

According to women's advocacy groups, private and municipally funded shelters were not always accessible. Some did not function throughout the year, and shelters in Kyiv did not admit women who were not registered as Kyiv residents. Government centers offered only limited legal and psychological assistance to victims of domestic violence.

At year's end the fate of the Kyiv Women's Center remained uncertain. In 2008 authorities ordered the center to vacate its offices, which the city had provided since 1998. Women's advocacy groups organized numerous protests against the city's plans to sell or rent the property to another organization.

Prostitution is not a criminal offense, although it can be punished as an administrative offense with a fine up to 255 hryvnia (approximately \$32). However, pimping and the organization and operation of a prostitution business is a crime that carries a term of three to 15 years' imprisonment. Sex tourism remained a problem.

The law on equal rights and opportunities qualifies sexual harassment as discrimination; however, women's rights groups asserted that it does not contain an effective mechanism to protect against sexual harassment. Women's groups reported that there was continuing, widespread sexual harassment in the workplace, including coerced sex.

A study carried out by La Strada and Kyiv International Institute of Sociology during 2008-09 suggested that the level of public awareness of the issue remained low: 43 percent of respondents said that sexual harassment was a relevant issue in the country, while 6 percent said this type of discrimination was relevant for them at work. Approximately one-third of respondents said that only prostitutes were victims of sexual harassment.

While the law prohibits forced sex with a "materially dependent person," which includes employees, legal experts regarded the safeguards against harassment as inadequate. La Strada-Ukraine operated a national hotline for victims of violence and sexual harassment.

The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Health. There are no restrictions on the right to access contraceptives.

Quality prenatal and postnatal care remained inaccessible to many women because state-funded clinics were underfunded and lacked quality equipment, and services in private clinics were expensive. According to statistics compiled by the World Health Organization in 2000, there were approximately 38 maternal deaths per 100,000 live births in the country. Some of the reproductive health concerns affecting the system included rapidly growing rates of sexually transmitted infections, including HIV/AIDS; poor quality sexual and reproductive health services in state-funded hospitals; low awareness of modern contraceptives; and the expense of high-priced medical services in private clinics that made them inaccessible to large groups of local residents. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV, but local health NGOs and clinics reported that women were more likely than men to seek treatment and refer their partners.

Under the law women enjoyed the same rights as men, including equal pay for equal work, a principle that generally was observed. However, industries dominated by female workers had the lowest relative wages. The labor code sets the retirement age for women at 55 and for men at 60. Women received lower salaries and had limited opportunities for advancement.

Children

Citizenship is acquired by birthplace (*jus soli*) or by parentage (*jus sanguinis*). A child born on the territory of the country in a family of stateless persons residing permanently in the country is a citizen. The law requires that parents register a child within a month of birth. According to the Ministry of Justice, in 2008 almost 12,000 parents (mainly from the Kyiv, Odesa, and Dnipropetrovsk regions) did not register their children's birth. This number amounted to approximately 2.5 percent of the total number of children whose births were registered.

While education was free, universal, and compulsory until age 15, the public education system continued to suffer from chronic underfunding, and children from poor families continued to drop out of school before turning 15.

According to the Ministry of Family, Youth and Sports, the number of children in orphanage facilities decreased from 23,700 in 2005 to 17,700 in 2008. Over the past three years almost every third child orphan was placed in foster care. Forty-three children were adopted from orphanages in the first six months of the year.

More than 20,000 children did not attend school, according to a recent report written by a coalition of 14 children's rights NGOs. The Alternative Report on Implementation of the UN Convention on the Rights of the Child, which covered 2002-08, was presented to the UN Committee on the Rights of the Child during the year. Many children were employed in agriculture and illegal coalmines or, in some cases, forced by their parents to beg in the streets. NGOs reported that a lack of schooling remained a significant problem among the rural population and within the Romani community. In some cases rural schools were closed due to the small number of school-age children, forcing children to travel long distances, often at personal expense, to attend schools in other villages.

Children continued to be victims of violence and abuse. According to the Ministry of Internal Affairs, in the first nine months of the year 8,362 minors were victims of crime, including 47 of intentionally inflicted bodily injury. The PGO confirmed that in the first nine months of the year, 598 crimes involving child rape and attempted rape were recorded, which was a reduction from 2008; 110 minors were raped, compared with 140 during the same period in 2008.

On January 15, parliament adopted amendments to the criminal and criminal procedural codes that established criminal liability of up to three years in custody for forcing children into begging.

In April the chief of the Lviv Oblast Administration Office on Child Affairs, Volodymyr Lys, told a German broadcaster that criminalizing the exploitation of child labor helped reduce the number of child beggars. He stated that, during the first three months of the year, law enforcement personnel opened 10 criminal cases in Lviv on charges of forcing children into begging.

Commercial sexual exploitation of children remained a serious problem. Domestic and foreign law enforcement officials reported that a significant portion of Internet child pornography continued to originate from the country.

According to Olha Shved, a local representative of the international organization End Child Prostitution, Pornography and Trafficking of Children for Sexual Purposes, conviction rates of child pornographers were poor. For example, despite some progress in combating cybercrime and uncovering 14 Internet rings in 2008, all of the cases were unsuccessful in courts because judges did not treat them seriously and because of weak laws that resulted from pressure by domestic Internet providers.

Under the law the penalty for statutory rape is to 8 to 12 years in custody. Molestation of children under 16 is punishable with arrest for up to six months or three years in an open detention facility.

There were no reports on developments in cases from 2008 and 2007, including the criminal case against the administrators of a pornographic Web site arrested in 2008 after the Ministry of Internal Affairs broke up an Internet child pornography ring; the 2008 investigation against a man in Lviv Oblast suspected of counterfeiting children's travel documents to traffick them out of the country; and the 2007 Europol operation that uncovered a worldwide child sex offender network, including pornographic material produced in a studio in Ukraine.

According to independent children's rights experts, there were an estimated 130,000 homeless children in the country. However, according to the Ministry for Family, Youth and Sports, the number of street children dropped from 42,000 in 2005 to 21,700 during the year as a result of government efforts to remove children from public areas. The ministry reported that as of September there were 90 shelters for children, of which two were private, and four centers for social-psychological rehabilitation of children.

Trafficking In Persons

The law prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked from, to, and within the country.

Ukraine remained a country of origin for internationally trafficked men, women, and children. The main destinations were Russia, Poland, Turkey, Italy, the Czech Republic, Portugal, and Spain. The country was also a transit point for traffickers and victims from Central Asia, Russia, and Moldova, usually to destinations further west or to the Middle East.

The scope of trafficking was difficult to quantify with reliable estimates, but observers believed it remained widespread. According to the IOM and the Ministry for Family, Youth and Sports, there were 536 victims of human trafficking in the first nine months of the year; 40 of them were minors. However, the Ministry of Internal Affairs reported that there were 359 victims during the year (226 women, 51 children, and 82 men). Among the victims identified and who received assistance, 85 percent were women and 15 percent were men.

According to the IOM, one individual from Uzbekistan was trafficked into the country, and 11 individuals were trafficked through the country—six destined to the United Arab Emirates, four to Turkey, and one to Cyprus. The IOM also noted a 2 percent increase in the number of cases of internal trafficking in the first nine months of the year, compared with the same period in 2008.

The main trafficking victims were women up to 30 years of age for sexual exploitation, older women for labor exploitation, men of all ages for labor exploitation, and children under the age of 16 for sexual and labor exploitation. According to local NGOs, orphaned children were also at high risk as trafficking victims.

According to the IOM, 58 percent of individuals were victims of sexual exploitation, 37 percent were victims of labor exploitation, 3 percent were victims of mixed type exploitation (labor and sexual), and 2 percent were forced into begging. The IOM noted that compared with 2008 the number of cases of labor exploitation decreased and of mixed type increased.

Victims were usually trafficked into severe conditions that included beatings, limited and poor quality food, no medical assistance, and long hours of work.

Estimates of the number of Ukrainian trafficking victims varied. A survey conducted by the IOM and released in 2006 stated that, since 1991, approximately 117,000 persons had been forced into exploitative situations in Europe, the Middle East, and Russia.

Employment, travel, marriage, and modeling agencies, as well as individuals, were involved in recruitment of victims. Most traffickers were members of organized crime groups and had foreign partners. In some cases they bribed corrupt officials to facilitate the movement of victims abroad. Sometimes previously trafficked women served as "success stories" to recruit potential victims, flaunting money they had ostensibly earned abroad.

Traffickers continued to recruit by means of newspaper, television, and radio advertisements promising high-salaried jobs abroad, modelling contracts, marriage proposals, or overseas trips through travel agencies. Traffickers often presented themselves as friends of other friends and deceived the relatives of potential victims. They often paid for the processing of victims' passports and travel, thus placing the victims into debt bondage. In some cases traffickers kidnapped their victims.

The law provides penalties of three to eight years' imprisonment for trafficking in persons for sexual and labor exploitation and other purposes. Traffickers of minors between the age of 14 and 18 and of groups of victims may be sentenced to five to 12 years in prison. Traffickers of minors under the age of 14 and members of organized trafficking groups may receive eight to 15 years in prison. However, these minimum sentences were often circumvented by provisions that allow a court to impose a lesser sentence.

During the first 11 months of the year, the Ministry of Interior identified 279 trafficking in persons crimes, stopped the activities of 10 organized crime rings, and brought criminal charges against 180 persons. In addition 353 trafficking victims were repatriated to the country, including 45 minors.

During the first half of the year, courts ruled on 34 trafficking cases, reaching guilty verdicts in 28 cases and convicting 49 defendants. Of that number, 18 convicted defendants appealed the ruling, and all received suspended sentences. In addition the courts heard but did not rule in 90 additional cases during the same period. The percentage of persons sentenced to prison rather than probation during the first six months of the year increased to 42 percent in comparison with the same period in 2008.

Corruption in the judiciary and police continued to impede the government's ability to combat trafficking. NGOs asserted that police and border guards took bribes to ignore trafficking and that judges took bribes in return for lighter sentences. The low number of prosecutions of officials for trafficking-related corruption raised questions about the government's willingness to address the problem of official complicity in human trafficking.

Antitrafficking experts noted that prosecutors were often the weakest link in the fight against trafficking due to their negative stereotypes of victims and their failure to prosecute aggressively. However, in the first half of the year, some prosecutors began to actively appeal sentences that did not include imprisonment; they appealed 17 of 18 cases.

While some victims testified against traffickers, most were reluctant due to lack of trust in law enforcement agencies and the courts as well as concern that they would be subject to negative public opinion, that weak witness protection programs would not protect them, and that investigators and judges did not understand the real threats to victims from traffickers. Skepticism that civil courts would award significant compensation deterred victims from filing civil suits. Some courts had a separate witness room that enabled witnesses and victims of trafficking and other serious crimes to testify safely and confidentially through a video or telephone connection. The arrangement allowed judges to protect the rights of the victims, witnesses, and defendants.

Local NGOs operated shelters in major cities with local administrations providing the premises at a nominal fee. Government funding for these facilities continued to be limited. A toll-free hotline offering advice and warnings regarding employment abroad continued to operate and provided assistance to persons who were exploited while abroad.

Government cooperation with NGOs on antitrafficking programs remained steady during the year. Local administrations continued to include NGOs as partners in their regional action plans, but international donors continued to provide most of the funding for informational materials, free or inexpensive offices, and shelters.

According to the IOM, during the year NGOs reported updated agreements with local government institutions and in-kind government assistance. The government's financial contribution to NGOs varied throughout regions of the country ranging from 2,400 hryvnia (\$300) in Ivano-Frankivsk to 37,000 hryvnia (\$4,610) in Rivne. Assistance focused on prevention activities, including production of information materials. Additionally, local governments supported NGOs by providing free or low-cost space in municipal newspapers and local television channels, offices, transportation, and multimedia equipment for use at trainings.

During the year several television stations broadcast documentary films and information programs highlighting the danger of human trafficking. NGOs conducted general awareness campaigns throughout the country, often in cooperation with government entities. In addition new social advertisements about the risks of employment abroad with telephone numbers for NGO- and police-operated hotlines appeared in the downtown areas of major cities.

The government worked to improve assistance provided by its diplomatic missions to trafficking victims in destination countries. The Ministry of Foreign Affairs operated a center in Kyiv and five other major cities to provide free consultations to citizens regarding their rights in foreign countries.

The State Department's annual *Trafficking in Persons Report* can be found at <http://www.state.gov/g/tip>.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and other state services; however, the government generally did not enforce these laws.

The government estimated the number of persons with disabilities at between 2.4 to 2.7 million. The number of children with disabilities was estimated at 186,000.

During the first nine months of the year, 5,300 persons with disabilities received jobs through government employment placement services, according to the Ministry of Labor and Social Policy. The Ministry of Education confirmed that there were 385 specialized secondary schools and boarding schools with a total of 48,500 children, including 47 specialized secondary schools in which 4,800 children with disabilities studied while staying with their families.

Advocacy groups maintained that, despite existing legal guarantees, most public buildings remained inaccessible to persons with disabilities. As a result, access to essential services and activities such as employment, education, health care, transportation, and financial services remained difficult. NGOs expressed concern over the lack of programs to promote the integration of students with disabilities into the general student population and noted that the lack of needs assessment programs by state-funded employment centers led to the placement of graduates with disabilities in inappropriate jobs.

According to Semen Gluzman of the Ukrainian Psychiatric Association (UAHRB), patients in mental health facilities remained at risk for abuse, and many psychiatric hospitals continued to use outdated methods and medicines. According to the UAHRB, insufficient funding, the absence of public watchdog councils at psychiatric hospitals, patients' lack of access to legal counsel, and poor enforcement of legal protections deprived patients with disabilities of their right to adequate medical care. The UAHRB also expressed concern that nothing was done to address patient abuse and neglect in a psychiatric hospital in Crimea and in a Svyatoshynskiy district psychoneurological boarding school for women in Kyiv. In July 2008 the German-Polish Society for Psychiatric Healthcare visited both facilities and voiced concern about maltreatment of patients by medical personnel, as well as problems with sanitation, overcrowding, and insufficient funds to purchase quality medications.

National/Racial/Ethnic Minorities

The constitution and law prohibit discrimination based on race, skin color, and ethnic and social origin. Mistreatment of minority groups and harassment of foreigners of non-Slavic appearance remained a serious problem, although NGO monitors reported that there was no increase in hate-crime incidents.

Incitement to ethnic or religious hatred is a criminal offense; however, human rights organizations said the requirement to prove actual intent, including proof of premeditation and intent to incite hatred, made its legal application difficult. Police and prosecutors generally prosecuted racially motivated crimes under legal provisions dealing with hooliganism or related offenses. Article 161 of the criminal code criminalizes deliberate actions to incite hatred or discrimination based on nationality, race or religion. This includes insulting the national honor or dignity of citizens in connection with their religious and political beliefs, race, and skin color.

The government acknowledged that racism and ethnically motivated attacks were a problem; however, some officials continued to minimize its seriousness, maintaining that xenophobia was not a problem and that violent attacks were isolated incidents.

No official statistics were available on the number of racially motivated attacks. However, the Diversity Initiative monitoring group, which is a coalition of international and local NGOs headed by the IOM mission in Kyiv, reported 26 attacks involving 35 victims during the year. This compared with 63 during the same period in 2008 and 68 in 2007. The attacks

mainly involved Middle Eastern, Asian, and African nationals who were often asylum seekers and foreign students. Most of the attacks occurred in Kyiv, Kharkiv, Lviv, and Dnipropetrovsk; three were fatal.

On January 18, a 25-year-old Nigerian national was stabbed to death in Lviv near a bus stop. On December 9, the Korrespondent Internet news service reported that police in Lviv Oblast had made an arrest in case and charged the suspect with murder.

On June 26, the Kyiv-based NGO African Center reported that Nigerian national Julius Igbofonu Azike was shot three times in the head in front of his house in Kyiv. Police stated they were considering several motives for the killing, including racism.

On March 19, the Ministry of Internal Affairs announced that the death in February of an Afghan national in Zakarpattia due to a severe beating remained unsolved.

According to the Diversity Initiative, police initiated 11 criminal cases of hooliganism out of 17 cases that the monitoring group reported to officials. Unlike previous years, there were no reports on trials involving ethnic or racially motivated violence.

According to the PGO, prosecutors initiated five criminal cases based on Article 161 of the criminal code, of which two were forwarded to court. Pretrial investigations continued in the other three cases. According to the State Judicial Administration, in the first six months of the year one person was found guilty of violating Article 161, compared with three in 2008 and one in 2007.

On December 1, the president signed into law amendments to the criminal code that increased penalties for hate crimes. Accordingly, premeditated killing on grounds of racial, ethnic or religious hatred carries a 10- to 15-year prison sentence. Parliament also established a fine from 3,400 to 8,500 hryvnia (\$425 to \$1,060) or up to five years in custody for hate crimes.

On November 16, on the occasion of International Tolerance Day, the IOM mission in Kyiv noted an improvement of the situation in the country and a decrease of the number of racially motivated crimes. In particular the IOM credited the Ministry of Internal Affairs with having a positive impact. However, human rights groups working on tolerance issues said much more needed to be done to eliminate racism and xenophobia.

On February 6, the Ministry of Internal Affairs and the Prosecutor General's Office issued joint instructions urging law enforcement personnel to use a new form designed to register hate-motivated crimes and to create a register of hate crimes. However, observers maintained that the form was not used in practice and that statistics on the frequency of hate crimes remained difficult to find. Human rights groups noted that police remained reluctant to recognize ethnic- and race-based crimes and often described incidents as hooliganism.

On April 23, the SBU, foreign students from Africa and Asia, and representatives of other communities of foreigners agreed to establish an independent commission with oversight responsibility to control investigations of hate crimes by law enforcement bodies. On May 25, the Kyiv police chief announced at press conference that city police had assembled a database of 750 individuals who were identified in connection with acts related to xenophobia and racial intolerance.

During the year an interagency working group to combat racism, xenophobia, and discrimination met three times and agreed to draft a new two-year action plan for the period of 2010-12. However, there were no reports on the implementation of the group's previous two-year action plan. In November 2007 the Ministry of Foreign Affairs established the post of ambassador at large to combat racism, xenophobia, and discrimination, but it remained unclear what activities the office was involved in to promote tolerance.

There were no reports on developments in investigations of three killings in Kyiv in 2008, including that of a Congolese refugee in January; a 39-year-old refugee from Sierra Leone in March; and a 40-year-old Nigerian in May.

There was no further information about a number of incidents in 2007 that appeared to be racially or ethnically motivated, including the fatal stabbing in February of 34-year-old Georgian Moris Dzugashvili, the arrest of the organizer of a March rally of ultranationalists to protest the presence of African traders in Kyiv's Shuliavka market, the fatal stabbing in March of an Iranian-Ukrainian near Kyiv's Lukianivka market, or the fatal stabbing in Kyiv in June of a 43-year-old Iraqi refugee.

Advocacy groups asserted that police occasionally detained dark-skinned persons and subjected them to far more frequent and arbitrary document checks; at times victims of xenophobic attacks were prosecuted for acting in self-defense. The media and domestic monitoring NGOs reported an increased number of protests against dark-skinned individuals, irregular migrants, and foreign students by locally based skinhead groups and neonationalist organizations. On November 28, the nationalist Svoboda party launched a national anti-immigrant campaign and conducted marches in all regions.

Some of the most active groups were the unregistered Ukrainian National-Labor Party, the Patriot of Ukraine organization, the Ukrainian Movement against Illegal Immigration, White Power-Skinhead Spektrum, the Ukrainian branch of Blood and Honor, and the World Church of the Creator Ruthenia. Such groups appeared to be marginal and poorly organized.

Roma continued to face governmental and societal discrimination. Romani rights groups estimated the country's Romani population to be between 200,000 and 400,000; however, official census data placed the number at 47,600. The discrepancy was due in part by lack of legal documentation and poor record keeping in the Romani community. According to SCNR, there were 88 Romani NGOs, of which three were national.

A study by Chirikli Roma Women Foundation indicated that almost 70 percent of Roma had experienced a violation of their rights and that the majority did not know how to defend their rights or with whom to lodge complaints. According to Romani rights groups, two-thirds of Roma were illiterate, 15 percent were infected with TB, and 60 percent of Romani children in Zakarpattia were TB infected. One-third of Roma had no funds to pay for medicine and doctors' services.

Romani rights groups reported that early marriages involving girls under 18 were common within the Romani community and that Romani women experienced racially discriminatory standards of medical care and lacked access to information on health matters.

Representatives of Romani and other minority groups claimed that police officials routinely ignored and sometimes abetted violence against them and referred to Romani ethnicity in crime reports. However, the Roma Congress of Ukraine noted diminished ethnic profiling by police as a result of involvement of Romani rights groups.

There were some reports of government cooperation with the Romani community. Roma had a representative in Cherkasy Oblast administration. The chairman of the Roma Congress of Ukraine, Petro Hryhorychenko, was a member of the presidential council on ethnic-national policy and a member of the NGO advisory council with the State Committee on Nationalities and Religions (SCNR).

The constitution provides for the free development, use, and protection of the Russian language and other minority languages, but organizations and political parties in the Russian-speaking community complained that the increased use of Ukrainian in schools, college entrance exams, the media, and the courts put them at a disadvantage. According to the Ministry of Education, there were 2,217 educational facilities with Russian as the main language of instruction, serving nearly 1 million schoolchildren. According to ministry figures, 1.3 million school children studied Russian as a separate subject in secondary schools, and more than 165,000 secondary school children studied Russian as an extracurricular course

Ukrainian and Crimean Tatar minorities in Crimea continued to complain of discrimination by the ethnic Russian majority on the peninsula and in Sevastopol. They urged that Ukrainian and the Crimean Tatar languages be given a status equal to Russian. Early in the year, the head of the Crimean Republican Committee for Nationalities and Deported Citizens reported that there were approximately 264,500 registered Crimean Tatars in the country. The SCNR reported 260,873 Tatars living in Crimea, Kherson Oblast, and Sevastopol.

As of November 1, the SCNR reported that the government had allocated 28.276 million hryvnia (approximately \$3.5 million) for the resettlement and integration of Crimean Tatars, including housing construction. According to Crimean Tatar Mejlis, Crimean Tatars resided in 300 settlements on the Crimean peninsula, and authorities allocated 53 million hryvnia (\$6.6 million) for their integration. According to the Ministry of Education, 439 children studied the Crimean Tatar language in separate groups in preschool facilities. There were 15 secondary schools with Crimean Tatar as the main language of instruction; 17,725 children studied Crimean Tatar as a separate subject in secondary schools; and 5,153 secondary schoolchildren studied Crimean Tatar as an extracurricular course.

Crimean Tatars asserted that discrimination by local officials deprived them of equal opportunities for employment in local administrations and that propaganda campaigns, particularly by pro-Russian groups, promoted hostility toward them among other inhabitants. For example, on July 11, member of parliament and presidential candidate for the 2010 election Inna Bohoslovka suggested at a press conference suspending the repatriation of Crimean Tatars for three years and called for a special status for Crimea's Russian population.

On January 27, the Crimean Tatar Mejlis issued an alert about plans to demolish a Crimean Tatar settlement in Simferopol that was illegally seized by the Crimean Tatar community in 2006. Approximately 80 families lived there. The land formally belonged to the Ministry of Defense, which began the process of transferring it to the city of Simferopol. The city council, however, assumed ownership before the transfer was completed and rented the land to several commercial companies. The companies obtained a court order to evict the families.

On February 22, the Mejlis reported a mistaken attack by the Ministry of Internal Affairs's Berkut special forces against a Crimean Tatar family in the village of Myrne. Approximately 10 police officers entered the home of Mustafa Khairov, assaulted his son, and wounded Khairov by detonating an explosive device. Khairov's hand was amputated as a result of injuries sustained during the incident. Khairov's wife reported that a man in civilian clothing subsequently came to the house, informed her that the attack was a mistake, tried to convince the family not to report the incident, and promised to pay all damages. The chief of Crimean police, Mykola Illichov, ordered an official investigation of the incident and dismissed 23 police officers.

There was no further information about the July 2008 incident in which vandals reportedly tore down a national emblem of Crimean Tatars from the memorial complex to the victims of genocide of the Crimean Tatars in the Crimean village of Krasnogvardejskoye.

There were no reports on developments in the arrest of 10 persons involved in a clash between Crimean Tatars and local police during a dispute over land in 2007 or the shooting of a Crimean Tatar man involved in clashes between Crimean Tatars and police on the Ay-Petri plateau in November 2007.

During the year Crimean Tatars held several demonstrations, including in Kyiv, to protest unequal access to land ownership. The NGO Human Rights Watch reported that, during one protest on July 30 in front of the Cabinet of Ministers building in Kyiv, protesters were attacked while police stood by without intervening.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The lesbian, gay, bisexual, and transgender (LGBT) community continued to suffer societal stigma and discrimination.

According to the coordinator of the Gay-Forum of Ukraine, Svyatoslav Sheremet, the number of persons with a homosexual orientation ranged from 800,000 to 1.2 million. Those who openly declared their sexual orientation experienced discrimination in education, in the workplace, and in access to medical treatment and to information on the prevention of HIV/AIDS. There were an estimated 19 LGBT rights groups in the country.

In May activists of the nationalist Svoboda party threw eggs at participants of a sanctioned gay street action in Lviv; police did not intervene in the incident. On September 30, the Pavlo Hudimov Art Center in Kyiv was the target of an arson attack following a public discussion on homosexuality. Also in September police in Lviv detained and charged three activists of the right-wing Bandera Trident organization who tried to obstruct a press conference during a national book forum on a presentation of *120 Pages of Sodom*. The activists threw tomatoes, mayonnaise and water; smashed a microphone and glasses; and destroyed press releases and copies of the book.

On September 17, in a related development, LGBT organizations criticized Lviv city council members of the Christian-Democratic Union party and Our Ukraine for urging a ban on the sale of *120 Pages of Sodom* at the book forum. The political parties described the book, which is an 18th century anthology of sexual gratification, as "overt perversion."

According to Nash Mir (Our World), a registered LGBT rights group, the Ministry of Internal Affairs, the SBU, and military academic institutions used a textbook approved by the Ministry of Education that qualified homosexual orientation as sexual perversion. The group also maintained that police mistreated and collected personal data on homosexual persons, while the Ministry of Internal Affairs ignored homophobic attitudes among its personnel.

In February following the killing of a gay man in Lviv, regional police reportedly questioned more than 300 gay men over a three-month period as part of the investigation into the death. According to Andriy Lyshchyn, director of the LGBT organization Total, the men were subjected to psychological pressure, insults, and physical violence. Police officers also threatened to reveal their orientation to employers. Detailed information about the men, including fingerprints, was collected. The men were also forced to sign statements that they had no complaints about police conduct.

On April 10, Nash Mir reported that the Berkut police unit raided the Androgin gay club in Kyiv as part of an investigation into the killing of a homosexual man. Nash Mir said police indiscriminately detained approximately 80 individuals and brought them to the Holosiyivskiy district office where they were fingerprinted, photographed, and told to declare in writing that they had no complaints about police conduct. LGBT rights organizations complained to police and the prosecutor about the raid but were told that police had acted appropriately.

In July 2008 the Kyiv prosecutor closed a criminal case opened in February 2008 against Oleksandr Zinchenkov, an editorial staff member of *Gay.ua*, the newspaper for Nash Mir. The organization's chairman, Andriy Maimulakhin, was also charged with distributing pornography. Maimulakhin was granted amnesty, and the court closed the case without a ruling. According to Nash Mir, the criminal investigation resulted in closure of *Gay.ua*, which was the only publication for the country's LGBT community.

Other Societal Violence or Discrimination

Persons with HIV/AIDS faced discrimination and at times lacked access to treatment. There were an estimated 440,000 persons with HIV/AIDS in the country, according to statistics compiled by international organizations. However, the Ministry of Health estimated the number at approximately 156,000, of which 30,000 were diagnosed with AIDS.

According to the Human Rights Watch's annual country report, the Ukrainian National AIDS Center reported 13,039 newly registered cases of HIV infection in the first eight months of year, nearly half among injection drug users.

The All-Ukrainian Network of Persons Living with HIV noted that persons with HIV/AIDS faced discrimination in the workplace, job loss without legal recourse, harassment by law enforcement officials, prosecutors, social isolation and stigmatization.

On September 14, Svitlo Nadii (the Light of Hope) charitable organization expressed concern about the refusal by Poltava and Reshetylivka maternity hospitals to admit a local resident, Olena Kulish, who was diagnosed with a still pregnancy. Hospital staff allegedly insulted the woman and repeatedly stated that they did not want to deal with HIV-positive persons. She was admitted to a hospital only after the staff of Svitlo Nadii complained to the deputy chief of the Poltava Oblast health agency.

Section 7 Worker Rights

a. The Right of Association

Under the law workers have the right to form and join unions "without previous authorization or excessive requirements," and this right was generally been respected in practice.

However, in some instances local government and union officials restricted the right of workers to choose their union affiliation. There were no reliable estimates of the percentage of the workforce that belonged to a trade union.

The law provides for the right of workers to strike on condition that a strike does not jeopardize national security, public health, or the rights and liberties of others. The right was generally respected in practice.

The right to strike does not apply to personnel of the Prosecutor General's Office, the judiciary, armed forces, security services, law enforcement agencies, the transportation sector, or public servants. Federations and confederations are not entitled to strike. A strike may be organized only if two-thirds of the workers of an enterprise vote for it, which is considered disproportionate by international standards.

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

To function, a union must be registered by the government. Unions reported that the registration process was extremely burdensome, entailing visits to as many as 10 different offices and paying fees. The International Trade Union Confederation characterized the registration requirement as "a restriction unacceptable by international labor standards."

Unions not affiliated with the FPU, including the Confederation of Free Trade Unions of Ukraine (CFTU), continued to be denied a share of the former Soviet trade unions' real-estate and financial holdings. These included social insurance benefit funds, which gave the FPU a benefit that independent unions could not offer. Leaders of non-FPU trade unions and some government officials claimed that the FPU improperly sold some Soviet-era assets to thwart their future distribution. A 2007 parliamentary moratorium on the FPU's sale of property remained in place.

According to the general counsel of the CFTU, there was only one reported incident during the year where an employer refused to recognize a newly formed trade union. The incident involved a newly established trade union at an agricultural company.

Several CFTU-affiliated unions of coal miners in the eastern part of the country reported significant harassment and, in one case, firings because of their union activities. They alleged that FPU representatives colluded with management to put pressure on the CFTU union members to quit. Rather than rejoining the FPU, many workers pressured to withdraw from CFTU unions opted not to take part in organized labor activities.

Members of CFTU-affiliated unions sometimes claimed that management forced them to carry out additional assignments without compensation or threatened them with dismissal if they refused to leave their unions. There were continuing complaints that FPU-affiliated unions deducted union dues from the salaries of workers who had chosen to join a different union.

In March the administration of the Sumy customs office seized the offices of the independent trade union Spravedlyvist, representing customs personnel, and illegally took possession of their stamp, seal, and official documents. The administration claimed that the local trade union office was illegally located in the Sumy customs offices.

In May Lviv Airlines ignored a court decision to rehire workers dismissed for independent trade union activities. A new trade union at a clinic in Chernihiv was pressured by the FPU and the regional department of the Ministry of Health. Bonuses were withheld and members were pressured to join the FPU.

b. The Right to Organize and Bargain Collectively

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

Under the law joint worker-management commissions should resolve differences over wages, working conditions, and the rights and duties of management at the enterprise level. However, the commissions were not always effective in practice and sometimes were dominated by management and union representatives co-opted by management. Although the law provides the right to collective bargaining, the manner in which the law was applied prejudiced the bargaining process against newer unions and favored FPU-affiliated unions.

Renouncing membership in an FPU-affiliated union and joining a new union was bureaucratically onerous and typically discouraged by management.

The law provides for the National Mediation and Reconciliation Service to mediate labor disputes.

The law allows for export processing (free economic) zones; however, in practice they were undeveloped. The government cancelled most of their tax and customs privileges in 2005.

c. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, including by children; however, there were reports that women, men, and children were trafficked for labor (see section 6).

Trafficked women were used as housekeepers, seamstresses, dishwashers, or workers at small and large manufacturing plants. Some women with small children and persons with disabilities were trafficked abroad for begging. Men exploited for their labor made up 24 percent of the trafficking victims identified by the IOM during the year. They worked mainly on construction sites and in mines. There were instances in which men were forced to take part in criminal activities by dismantling stolen cars to be sold on the black market.

d. Prohibition of Child Labor and Minimum Age for Employment

The law protects children from exploitation in the workplace, but the government did not always effectively enforce the law.

The labor code sets 16 as the minimum age for most employment. Children ages 14 and 15 may perform "light work" with a parent's consent, but the law does not clearly define the term. Children can legally do some forms of agricultural and

"social" work beginning at age 14, for example at elder-care facilities and orphanages, on a short-term basis with the consent of one parent.

The Child Labor Division of the State Labor Inspectorate under the Ministry of Labor and Social Policy is responsible for enforcing child labor laws. The Department of Juvenile Affairs in the Ministry of Family, Youth, and Sport, and the Police Department for Juvenile Affairs in the Ministry of Internal Affairs have the responsibility of identifying children in the informal sector involved in the worst forms of child labor. The ministry's Antitrafficking Department is responsible for the enforcement of child antitrafficking laws.

The worst forms of child labor were found primarily in the informal sectors, such as commercial sexual exploitation, including production of pornography. Children also worked in agriculture and trade at open-air markets.

The criminal code criminalizes exploiting children for labor. According to the Ministry of Health, there were no recent or official statistics about exploitation of child labor. In 1999 a research study conducted by the State Statistics Committee and the International Labor Organization found that 350,000 children were employed. The average age of beginning employment was 12; 46 percent worked in agriculture, 26 percent in commerce, and 19 percent in services industry.

Enforcement improved but remained inadequate to deter violations fully. The government reportedly conducted more inspections, and there were more prosecutions of violators. In August 2008 the Ministry of Labor and Social Policy stated that the government inspected 660 enterprises and found child labor law violations at 421 of them.

On February 26, the newspaper *Fakty* reported that a man from Kherson Oblast hired nine teenagers from Zakarpattia to work on his farm. He forced them to work 10 to 16 hours per day, housed them in a poultry barn, did not feed them properly, and did not pay wages. Police opened a criminal case.

On March 13, the western Ukrainian information agency ZIK reported that labor inspectors in Chernivtsi Oblast found violations in 18 enterprises employing children under 18 and requested the court to bring administrative charges against 17 individuals.

There were no reported developments on a number of cases from 2008 including the June 2008 investigation into 10 cases of the illegal use of child labor in Donetsk, the investigation of an entrepreneur in Volnovask who allegedly hired a teenager without a contract to work as a loader, and the May 2008 investigation into the possible use in Donetsk of vocational college students as construction workers instead of the internship to which they were entitled.

e. Acceptable Conditions of Work

On December 1, the government increased the monthly minimum wage to 669 hryvnias (\$83). The minimum wage did not provide a decent standard of living for a worker and family. The State Labor Inspectorate is responsible for enforcing the minimum wage but was unable to monitor all employers. Many workers, particularly in the informal sector, received wages far below the established minimum.

During the year wage arrears significantly worsened. According to the State Statistics Committee, arrears stood at 1.5 billion hryvnia (\$187 million). Most arrears accumulated in state-run industries and agricultural enterprises.

The law provides for a maximum 40-hour workweek, a 24-hour period of rest per week, and at least 24 days of paid vacation per year. The law provides for double pay for overtime work and regulates the number of overtime hours allowed. However, regulations covering rest periods, maximum hours, and overtime were not always effectively enforced.

Although the law contains occupational safety and health standards, the standards were frequently ignored in practice. Lax safety standards and aging equipment caused many injuries on the job. During the first half of the year, 5,823

workplace injuries were reported (27 percent fewer than for the same period in 2008), including 306 job-related fatalities, compared with 514 in 2008).

The number of mining fatalities during the year was 151, a decrease of approximately 13 percent from 2008. The number of miners reported injured in the coal sector during the first six months of year was 2,500, compared with 2,929 injuries during the same period in 2008.

The law provides workers the right to remove themselves from dangerous work without jeopardizing their continued employment; however, trade unions reported that, in practice, asserting this right would result in retaliation or perhaps dismissal.