



## U.S. DEPARTMENT of STATE

### Ukraine

#### Country Reports on Human Rights Practices - [2006](#)

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Ukraine, which has a population of slightly less than 47 million, is a republic with a mixed presidential and parliamentary system, governed by a directly elected president and a unicameral Verkhovna Rada (parliament) that selects a prime minister. Verkhovna Rada elections were held on March 26. According to international observers, fundamental civil and political rights were respected during the campaign, enabling voters to freely express their opinions. The opposition Party of Regions won a plurality of the vote, formed a ruling coalition, and established a government. Civilian authorities generally maintained effective control of the security forces.

Problems with the police and the penal system remained some of the most serious human rights concerns. Problems included torture in pretrial detention facilities; wrongful confinement in psychiatric hospitals; harsh conditions in prisons and pretrial detention facilities; and arbitrary and lengthy pretrial detention. There was also continued violent hazing of conscripts and government monitoring of private communications and movements of individuals without judicial oversight. Slow restitution of religious property continued. There was societal violence against Jews and anti-Semitic publications were a problem. There were serious incidents of refoulement - the forcible return of persons to a country where they feared persecution. Refugees were abused at detention facilities. Serious corruption in all branches of government and the military services also continued. Trends of violence and discrimination against children and women, including sexual harassment in the workplace and trafficking in persons remained concerns. Frequent police and societal harassment of minorities, particularly Roma and dark-skinned persons, remained a problem. Violence against dark-skinned persons was a growing problem in the last half of the year. Inadequate labor legislation permitted both government and companies to limit the ability of workers to form and join unions of their choice and to bargain collectively.

During the year the government made several improvements in its human rights performance. The elections for the Verkhovna Rada in March were the freest in the country's 15 years of independence and the media continued to consolidate post-Orange Revolution gains in freedom of speech and expression.

#### RESPECT FOR HUMAN RIGHTS

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

###### a. Arbitrary or Unlawful Deprivation of Life

Unlike in previous years, there were no reports that the government or its agents committed politically motivated killings.

During the year politicians, politically active businessmen, and journalists were the victims of sometimes fatal attacks that may have been politically motivated; however, business, government, and criminal activities were intertwined to such an extent that it was often difficult to determine the motives. For example, on August 20, the body of Roman Yerokhin, the former deputy head of the Ministry of Internal Affairs' organized crime directorate in Donetsk, was found in the Kyiv region almost a month after he disappeared. Minister of Internal Affairs Yuriy Lutsenko stated publicly that Yerokhin had been investigating economic crimes, in particular foreign currency exchange centers involved in money laundering, and that unnamed members of the Verkhovna Rada were involved in his disappearance. Head of the anti-corruption fund and businessman Borys Penchuk alleged that Yerokhin had been engaged in criminal activity himself.

There were no developments in the criminal case opened in July 2005 against police officers in Zhytomyr, who beat to death an unidentified 36-year-old man while he was detained on charges of petty hooliganism. The media reported that the Zhytomyr regional prosecutor called the incident "deliberately inflicting injury on a person" and "exceeding authority." There were no arrests or other developments in a September 2005 incident in which police in Kherson beat to death a suspected thief.

There were no developments in the investigation into the death of 21 year-old Armen Melkonyan, whom police beat to death in a Kharkiv pretrial detention center in December 2005.

In December 2005 court proceedings began against twelve alleged members (seven of whom are in custody) of the "werewolves," a gang of rogue officers of the Ministry of Internal Affairs, who had been involved in previous years in killings and kidnappings connected to organized crime. As reported in the Segodnia newspaper, the accused are: Vasyl Haidai, Volodymyr Lysenko, Serhiy Kiselevych, Oleh Sverdlov, Valeriy Melnykov, Pavlo Keppel, Vladyslav Dubovoi, Yuriy Nesterov, Anatoliy Mocharniy, Oleksandr Harkushin, and Ruslan Rozhniatynskiy. In June the Institute for Mass Information reported that one of the defendants in the case was involved in the 2001 killings of Oleksandr Skliar, a driver at the Verkhovna Rada, and Pavlo Poteriaiko, a senior officer at the State Security Agency. No verdict was reached by the end of the year.

On July 7, the Luhansk court of Appeals sentenced five people -- Oleksandr Rybak, Dmytro Rybak, Oleksandr Onyshko, Ruslan Tursunov, and Serhiy Korytskiy -- to between two and 15 years in prison for their involvement in the 2001 killing of Ihor Aleksandrov, the director of a television station in the Donetsk Region. Aleksandrov's family received financial compensation in the amount of \$80,000 (400,000 hryvnia). The killing of Aleksandrov, who had aired a number of critical reports about Donetsk based politicians and was a noted critic of corruption within local law enforcement organizations, was attributed to his professional activities.

On January 9, the Kyiv court of Appeals started hearings in the unresolved 2000 killing of prominent journalist Heorhiy Gongadze, whose decapitated body was identified in November 2000 after his disappearance two months earlier. The court was expected to rule in the case of the three defendants, two of whom were senior police officers, in 2007. The Parliamentary Assembly of the Council of Europe (PACE) observer who attended the proceedings stated that PACE was not satisfied with the investigation of the journalist's killing, particularly, in determining who ordered the killing. In 2005 the prosecutor general's office issued an international arrest warrant for a fourth senior police official, former General Oleksiy Pukach, who had fled the country. In January First Deputy Interior Minister Oleksander Bondarenko stated that Pukach was still at large and probably hiding in Russia or Israel.

On August 23, President Yushchenko ordered a new inquiry into the death of the famous nationalist and Ukrainian People's Movement leader Vyacheslav Chornovil, who died in a car crash in the Kyiv region in 1999. A number of politicians claimed at the time that the accident was suspicious. However, the official investigation indicated that the crash was an accident. On September 7, Minister of Internal Affairs Lutsenko stated to the media that documents from the investigation proved that Chornovil's death was not accidental.

Human rights groups asserted that soldiers continued to kill other soldiers during violent hazing events, and military officials acknowledged that there have been hazing deaths but provided conflicting information as to how many occurred in 2006. (see section 1.c.).

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

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

According to Amnesty International (AI), Human Rights Watch, and the Kharkiv Human Rights Protection Group, law enforcement officials competing to solve criminal cases used force and ill-treatment routinely and with impunity to extract confessions and information from detainees. Police officers were often not adequately trained or equipped to gather evidence and were expected to meet ambitious quotas for solved cases, and therefore depended on confessions to solve crimes. In addition, an ineffective system for investigating allegations of abuse and detainees' lack of access to defense lawyers and doctors did little to check this practice.

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

During the year authorities continued efforts to prosecute police officers who abused persons in detention. The Ministry of Interior confirmed 385 cases of police officers violating the rights of detainees, including 23 torture cases, 152 cases of bodily injury and other types of violence, and 57 cases of unlawful detention during the first ten months of 2006. According to the Ministry of Interior, 359 police officers were subject to disciplinary measures.

In July a Kyiv court sentenced police sergeant Viktor Sych to four years in prison for wounding a political activist putting up campaign leaflets at night in March. The police officer mistook him for a car thief, which the court termed "negligence while in service."

Also in July the Dnipropetrovsk prosecutor's office detained two police officers for reportedly torturing a 17-year-old detainee charged with theft and burglary.

On August 23, the Poltava Region court of Appeal sentenced Volodymyr Shablii, a former member of the region department on fighting organized crime, to eight years in prison for torturing people accused of crimes to obtain their confession. Four of his colleagues are wanted by the police and are still at large.

At year's end, the investigation was continuing into the September 2004 poisoning of then opposition presidential candidate Viktor Yushchenko. President Yushchenko told reporters on December 14 that there was enough information to arrest those involved, though some were not in the country; he also questioned whether the prosecutor general's office would move forward with the case.

In June the Desnianskiy District court in Chernihiv gave police colonel Ivan Kochubei, former first deputy chief of the Chernihiv Region Police, a five-year suspended sentence for sanctioning the use of force against demonstrators who protested against electoral fraud in Chernihiv in November 2004.

The government did not respond to repeated calls by AI for a thorough independent investigation into an alleged case of torture of Ihor Tymchuk in a pretrial detention center in Ivano-Frankivsk, despite a number of letters sent to then prosecutor general Piskun and President Yushchenko in 2005. High-ranking police officers allegedly tortured and beat the detainee over the course of two months in 2002 to force him to confess to a murder he said he did not commit. He was sentenced to life in prison in 2004.

The law prohibits the abuse of psychiatry for political and other non-medical reasons and provides safeguards against such abuse, but on a few occasions, according to human rights groups, persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and were confined to psychiatric institutions. Persons diagnosed with mental illness risked being confined and treated by force, declared not responsible for their actions, and stripped of their civil rights and property without being present at the hearings or notified of the ruling. During the year, three NGOs supporting people with disabilities monitored the rights of the mentally ill in psychiatric hospitals. The NGOs found widespread violations including failure to inform persons who were voluntarily hospitalized of the overall duration of their stay; failure to inform patients of their diagnosis or what medications they were given; lack of knowledge concerning patients' rights in psychiatric hospitals; humiliation by the hospital staff; and violation of patients' rights to free medical assistance.

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

Despite extensive laws to protect the rights of service members and the existence of regulations governing relationships among military personnel, reports continued during the year of violence against conscripts in the armed forces. Senior conscripts frequently beat recruits, forced them to give up money and gifts they received from home, and made junior conscripts work in their place, a practice known as "ddivshchyna." Senior military and government officials have given conflicting information regarding the number of military hazing cases in 2006. In November Colonel-General Serhiy Kyrychenko, Chief of Land Forces, stated that there were 148 criminal cases initiated in 2006 for hazing and violence and 18 soldiers were victims of hazing. According to Minister of Defense Anatoliy Hrytsenko, by September 83 "ddivshchyna" criminal cases had already been initiated, compared to a total of 98 in 2005. However, he also noted that not all incidents of soldier-on-soldier violence were recorded.

On November 27, Oleksandr Rybka died following a beating by two fellow soldiers the day after he reported to a training base in Chernihiv Oblast. According to his relatives, Rybka called home on November 26 saying that two sergeants had demanded money. Prosecutor General Oleksandr Medvedko stated that military prosecutors had initiated a criminal case. For the first time in recent history, military officials immediately acknowledged the death of a military member as the result of hazing. Defense Minister Hrytsenko, who took the investigation under his personal control, stated that this was a hazing death and added that it was the first to occur in two years.

The Association of Soldiers' Mothers (ASM) reported that violent hazing continued to be widespread. According to the military watchdog group Mothers of Killed Soldiers, most deaths are labeled suicide or accident without investigation. In 2005 there were nine suicides while in service, 10 suicides outside regular service, and two soldiers were killed by their fellow servicemen. According to the Kharkiv Human Rights Protection Group, seven criminal cases of soldier-on-soldier violence were initiated in the Kharkiv garrison in 2005.

According to the ASM, garrison prosecutors often did not investigate complaints of hazing, accepted bribes not to press charges against the perpetrators of such violence, or delayed the start of trial proceedings until potential witnesses were discharged from the military. Garrison prosecutors wrongfully confined soldiers who complained about hazing to psychiatric hospitals, and punishment administered for committing or condoning hazing was insufficient to deter further abuses.

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

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

#### Prison and Detention Center Conditions

Although prison conditions remained poor, they continued to improve slowly as a result of reforms in the penal system. Experts on prison medical conditions from the Council of Europe stated in October that overcrowding remained a major problem; however, prison officials reported that, due in part to the decriminalization of many offenses and the increasing use of alternative sentencing practices, there was a reduction in the number of inmates in prison, which eased overcrowding.

In a release on the Kharkiv Human Rights Group website, the editor of TV-Vhoru newspaper in Pivden reported on the experiences of a man in Kherson who was sentenced to 15 days for "minor hooliganism" and who was forced to pay \$30 (150 hryvnia) for his stay in "special prison facilities." According to the prisoner, there were four people in his cell, a bucket for the only toilet, the lights were dim, filthy mattresses were not replaced for new prisoners, all print materials were banned, and he did not receive food in the first 24 hours in his cell.

There were five group suicide attempts in prisons and detention centers. Human rights NGOs explained that these incidents resulted from harsh treatment of prisoners by facility administrators: prisoners were searched, beaten, and their food destroyed. In two instances, prisoners ended up in solitary confinement or received longer sentences for the suicide attempts.

Tuberculosis in prisons continued to be a concern, but officials stated that mandatory screening of all new inmates for the disease had reduced infection rates. The State Penal Department (SPD) reported that the number of deaths caused by tuberculosis decreased by 27 percent during the year. AI, however, reported in May that tuberculosis remained widespread in the prison population. SPD officials stated that inmates with tuberculosis were isolated from the general population and treated at one main prison hospital complex in Kharkiv Region. Human rights groups noted that only convicted criminals, and not persons in pretrial detention, had access to specialized tuberculosis care. The Dnipropetrovsk Human Rights Society reported that, in the 10 prison and detention facilities they had monitored, TB patients were put in overcrowded prison hospital wards with 54-104 beds per 60 square meters, limited daylight, damp air, poor bathroom facilities, improper and often expired food, and insufficient medicine.

Conditions in pretrial detention facilities were harsher than in low and medium security prisons. On August 10, the Ministry of Internal Affairs

announced that over 200 of 500 the country's pretrial detention centers had been brought into compliance with international standards. Nevertheless, jails were sometimes overcrowded or lacked adequate sanitation and medical facilities. There were reports that inmates in pretrial facilities were sometimes held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. According to AI, 13 percent of pretrial detention facilities were not equipped with water and sewage installations and only one in four had enough natural light and beds.

During the year the Lviv region prosecutor's office initiated criminal cases against the administrators of two pretrial detention centers for abuse of power. One case was started in May after 27 prisoners cut themselves in protest against harsh prison conditions that included administrators demanding bribes from prisoners, refusing to feed them, and using excessive force.

On June 3, detainees in the Lukianivska pretrial detention center in Kyiv threatened to cut themselves in protest of harsh conditions. According to former detainees in the Lukianivska facility, detainees are kept in inhuman conditions, forced to confess to crimes they had nothing to do with, and often leave with severe illnesses.

The SPD and the Ministry of Internal Affairs, in cooperation with the NGO community and foreign governments, implemented a number of professional development programs for prison and police officials, most notably in Chernihiv Region and at the Lukianivska pretrial detention facility in Kyiv. On August 3, the Cabinet of Ministers adopted a new policy for improving the conditions of detainees and prisoners in the next four years, including the creation of a probation service.

The government allowed prison visits by human rights observers but observers reported difficulties in getting full access to prisons and pretrial detention facilities in some cases. The Ukrainian Red Cross Society said that it had no problems in all of its prison and pretrial detention center access requests. However, domestic human rights organizations, such as the Ukrainian-American Human Rights Bureau, reported that the penal system had become more closed since the Orange Revolution, lacked effective oversight, and access to prisons by journalists and human rights activists was more limited. Prisoners and detainees were permitted to file complaints with the ombudsman for human rights about the conditions of detention, but human rights groups reported that prisoners were sometimes punished for doing so.

#### d. Arbitrary Arrest or Detention

The Constitution and the law prohibit arbitrary arrest and detention; however, these remained problems.

#### Role of the Police and Security Apparatus

The Ministry of Internal Affairs is responsible for law enforcement and maintenance of internal order, by both overseeing the police and maintaining its own armed troops. The Security Service of Ukraine (SBU), the internal intelligence organization, reports directly to the president. The State Tax Administration, which exercises law enforcement powers through the tax police, is accountable both to the president and the cabinet. The office of the prosecutor general prosecutes criminal cases and the prosecutor general is appointed by the president. The law provides for civilian control over the army and law enforcement agencies and authorizes members of the Verkhovna Rada to conduct investigations, including public hearings into national security and defense issues. The legislation also broadened the authority of the human rights ombudsman to initiate investigations into the activities of the armed forces.

Police corruption remained a problem, although it received more publicity during the year. Many citizens continued to encounter corruption in their dealings with the traffic police, although the media reported that there was greater public satisfaction with the traffic police than in past years. A 2005 presidential decree abolished the traffic police department and turned it into the State Service for Traffic Safety. However, the media reported that the traffic police continued to function as in the past.

Authorities, including the minister of internal affairs, made greater efforts to expose police abuses, for example taking disciplinary action against a far greater number of law enforcement authorities than in previous years. According to the Ministry of Internal Affairs, as of September, 297 police officers had been dismissed for cause, 4,211 were subject to administrative disciplinary actions, and 495 were under investigation. On August 13, a police lieutenant in one of the local Kyiv departments was detained for demanding a bribe of \$1000 (5,000 hryvnia) in exchange for not initiating a criminal investigation against a Kyiv resident accused of stealing. In May the Odesa regional prosecutor opened a criminal case against two investigators from the Odesa Regional Department of the Ministry of Internal Affairs who had been charged with bribery and extortion. However, impunity still remained a serious problem (see section 1.c.).

#### Arrest and Detention

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

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

The police arbitrarily detained persons, particularly dark skinned persons, for extensive document checks and vehicle inspections (see

sections 2.d. and 5).

Although the law provides for bail, it was rarely used; many defendants could not pay the bail amounts imposed by law. Courts sometimes imposed restrictions on travel outside a given area as an alternative to pretrial confinement. However, they generally opted to place individuals in pretrial detention facilities, a practice that human rights observers criticized as costly and contributing to overcrowding.

Lengthy pretrial detention remained a problem. While the law provides that pretrial detention may not last more than two months, in cases involving exceptionally grave offenses a judge of the Supreme Court may extend detention to eighteen months. While the law requires a trial to begin no later than three weeks after criminal charges have been formally filed with the court, the overburdened court system rarely met this requirement. Individuals remained in detention for months or years before being brought to trial, and the situation did not improve during the year (see section 1.e.) According to domestic human rights organizations, the investigation process took four to five months on average. In 2005, 1,250 of the 9,528 detainees released from pretrial detention facilities following court rulings had spent over a year in detention facilities waiting for trial. For example, authorities kept Oleh Kapshuk and Ihor Zubenko in the Starobelsk pretrial detention center for two years on robbery charges while the court returned their cases four times for additional investigation. After the detainees announced a hunger strike and their mothers sent letters to the president, the Ministry of Justice, and general prosecutor, their case went to trial in September.

#### Amnesty

As of October President Yushchenko had issued 12 amnesty decrees pardoning 1,018 people, including women, elderly men, persons with disabilities, and persons with several children.

#### e. Denial of Fair Public Trial

The Constitution and law provide for an independent judiciary, but in practice the judiciary remained subject to various forms of pressure from the executive and legislative branches. Pressure included political interference in the form of phone calls to judges by government officials. In May the president issued a decree for the improvement of the judiciary in order to ensure fair trials in line with European standards. The decree sets out goals over the next ten years to improve the impartiality, transparency, and independence of the judiciary and acknowledges shortcomings including incomplete procedural law, low salaries for judges, and ineffective implementation of court judgments.

The judiciary also suffered from corruption and inefficiency.

There were indications that suspects often bribed court officials to drop charges before cases went to trial or to lessen or commute sentences. In October 2005 President Yushchenko stated that every month, four to seven prosecutors and several judges were arraigned for engaging in such corrupt conduct. For example, the media reported that in April the head of a local court in Lviv region was detained while soliciting a bribe. Another judge from Kherson was sentenced on September 27 to three years in prison for falsifying documents and helping local residents commit tax evasion.

Except for the Supreme Court, the courts were funded through the Ministry of Justice, which controlled the organizational support of the courts. The ministry's responsibilities included staffing courts, training judges, logistics and procurement, and statistical and information support. The judiciary lacked adequate staff and funds, which contributed to inefficiency and corruption, and increased its dependence on the executive branch. The Ukrainian Helsinki Human Rights Union (UHHRU) estimated that the state budget provided only 48% of the real needs of the judiciary, forcing the courts to either essentially shut down in some cases or seek funds from other authorities, thereby greatly undermining their independence. In September the European Court of Human Rights (ECHR) ruled that the country was failing to provide an effective way to secure defendants' rights to a fair trial in a reasonable length of time. The NGO Freedom House reported that, while improvements to the functioning of the judicial branch had been introduced after the Orange Revolution, there was no significant progress in continuing these reforms during the year.

Failure to enforce court decisions in civil cases also undermined the authority and independence of the judicial system. The UHHRU noted that ECHR ruled in more than 80 cases in 2005 that the country had violated the right to a fair trial by failing to execute court decisions. The State Executive Service is responsible for enforcing most civil decisions, and the number of cases referred to it continued to grow. Existing provisions permitting criminal punishment for noncompliance with court decisions were rarely used. The chairs of the Supreme Court, the regional courts, and the Kyiv municipal court (or their deputies) have the authority to suspend court decisions, which provided additional opportunities for outside interference, manipulation, and corruption.

The country has a civil law system relying on codes and separate acts. The court system has constitutional courts and courts of general jurisdiction. The general courts include courts designated by administrative level (district, region, and supreme) and by specialization. The Supreme Court is the highest court within the general courts system. The Constitutional Court interprets the Constitution and laws. Commercial courts were intended to operate as specialized courts within the single unified system of courts. The Supreme Court may review their judgments, including those rendered by the High Commercial Court. Military courts are specialized courts that hear only cases involving military personnel.

The law provides for five levels of courts local courts, courts of appeal, courts of cassation (another layer of appeals court), higher specialized courts, and the Supreme Court as well as an independent judicial department, the State Judicial Administration. The State Judicial Administration manages the logistical, financial, informational and personnel maintenance of the court system -- with the exception of the constitutional court, the Supreme Court, the supreme administrative court, and the supreme commercial court. The law does guarantee the independence of the judiciary, but it also in some cases increases the powers of the president over the judiciary. The constitutional court ruled the court of cassation to be unconstitutional since it is not mentioned in the Constitution, and it continues to exist only on paper. The

administrative chamber of the court, which deals with cases against the state, was still being formalized, including the process of appointing judges.

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

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

The constitutional court consists of 18 members appointed for nine year terms, six each by the president, the Verkhovna Rada, and the Congress of Judges. The constitutional court is the ultimate interpreter of legislation and the Constitution, and it determines the constitutionality of legislation, presidential edicts, cabinet acts, and acts of the Crimean Autonomous Republic. The court did not meet for nearly eight months during the year due to the lack of a full complement of judges, because 14 nominations were held up by the Verkhovna Rada.

The Supreme Court is the country's highest appellate body. Human rights groups, the media, and legal watchdog organizations noted that the court continued to show independence during the year.

#### Trial Procedures

The Constitution includes procedural provisions intended to ensure a fair trial, including the right of suspects or witnesses to refuse to testify against themselves or their relatives; however, these rights were limited by the absence of implementing legislation, which left a largely Soviet era criminal justice system in place. The defendant is formally presumed innocent, but the high conviction rates of the Soviet era continued to prevail.

On August 27, President Yushchenko announced he was ready to assign the Presidential Secretariat's Pardon Commission to carry out a new investigation of the highly publicized case of journalist Ruslan Antonyk in 2000. Antonyk's conviction for murdering Petro Tychynskiy, son-in-law of Anatoliy Halchynskiy (adviser to then-President Kuchma), was strongly disputed by human rights organizations. He was serving the sixth year of his 13 year sentence. On September 1, the General Prosecutor's Office submitted a petition to the Supreme Court asking for reconsideration of Antonyk's case.

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

While the law specifies that a suspect or prisoner may speak with a lawyer in private, human rights groups reported that prison or investigative officials occasionally denied this client attorney privilege. To protect defendants, investigative files must contain signed documents attesting that they have been informed of the charges against them, of their right to an attorney at public expense, and of their right not to give evidence against themselves or their relatives. However, officials sometimes verbally and physically abused defendants to obtain their signatures. An appeals court may dismiss a conviction or order a new trial if this document is missing. As defendants increasingly became aware of their rights, they insisted on observance of these procedures; however, many remained unaware of these safeguards.

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

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

On May 25, the Cabinet of Ministers introduced a single state register of all court rulings. According to the new procedure, all court judgments, except those qualified as state secrets, are to be sent to the register no later than 15 calendar days after the ruling is made. The State Judicial Administration maintains the register. Access to the register is free.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

Pursuant to Article 55 of the Constitution, human and civil rights and freedoms are protected; citizens are guaranteed the right to challenge

decisions, actions, or omissions of the national and local government and its officials in court.

The Code for Administrative Court Proceedings entered into force in September 2005. The Code protects the rights, freedoms and interests of individuals against violations by the government and public officials and allows for court hearings in cases involving illegal government activities or failure to enforce legal protections. The code contains a "potential victim" concept allowing for collective lawsuits against legislation that may violate basic rights and freedoms. There is no requirement of being directly affected by a particular legal or normative act. Citizens may appeal to the Human Rights Commissioner of the Verkhovna Rada and, after exhausting all domestic legal remedies, may take their case to the appropriate international bodies of which the country is a member or participant.

Domestic court orders are not consistently enforced, according to the Kharkiv Group for Human Rights Protection and other human rights advocates.

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

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

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

In February 2005 President Yushchenko ordered the SBU and all government organizations to end illegal surveillance of any kind. Then SBU Chief Oleksandr Turchynov told the press in July 2005 that the SBU no longer engaged in illegal surveillance operations and had created an office for combating illegal wiretapping. He also instructed other government organizations to turn in their wiretapping equipment. However, politicians, including Human Rights Ombudsman Nina Karpachova; the head of the Verkhovna Rada Committee on Combating Organized Crime and Corruption, Volodymyr Stretovych; former Verkhovna Rada speaker Lytvyn; and former prosecutor general Svyatoslav Piskun complained to the media in 2005 that electronic eavesdropping continued. The Kharkiv Human Rights Protection Group claimed that special units at the Security Service of Ukraine, the Ministry of Internal Affairs, and State Tax Administration obtained over 11,000 permits for telephone tapping in 2005.

In March the newspaper Segodnya reported that the SBU kept one of its journalists, Oleksandr Korchinskiy, under surveillance after he published an article in June 2005 about the whereabouts of former Ministry of Internal Affairs General Pukach, who was wanted in connection with the Gongadze murder. The prosecutor general's office opened an investigation into the lawfulness of the SBU's surveillance of Korchinskiy. On October 11, the Pechersk Area Court of Kyiv ruled that the surveillance was unlawful.

In September the prosecutor general's office completed an investigation requested by Verkhovna Rada member Volodymyr Sivkovych, who claimed that the SBU regularly tapped the telephone of parliament members. The office stated that it did not find any proof of such activity.

According to a board member of the Internet Association of Ukraine, the SBU monitors up to 70 percent of Internet traffic. On August 17, the Ministry of Justice abolished the 2002 decree by the State Communications Committee on mandatory monitoring of Internet traffic in the networks of providers that service public institutions. This decree had allowed security services to legally monitor e-mail communications and Web site hits of individual Internet site users.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

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

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

In November the Verkhovna Rada passed a bill declaring the 1932-33 Holodomor (Great Famine) as genocide. The original draft law would have imposed fines for public statements or dissemination of materials denying the Holodomor. However, the law as passed states: "Public denial of 1932-33 Holodomor in Ukraine is recognized as desecration of memory of millions of victims of the Holodomor, humiliation of dignity of the Ukrainian people, and is unlawful" but does not specify penalties.

Media outlets are markedly freer and more diverse since the 2004 Orange Revolution. The NGO Freedom House rates the country's media as fully "free."

According to the Ukrainian Press Academy, at the end of 2005 there were 22,794 registered print publications. Of that number, 9,948 were

national and regional and 12,846 were local. These media outlets reflected a wide variety of viewpoints. Many newspapers were financed by wealthy investors and reflected the political and economic interests of their owners. These publications frequently criticized the government.

Foreign newspapers and periodicals circulated freely.

Broadcast media, the primary sources of news for most citizens, were either state owned or owned by powerful business interests. There were 13 national television stations and multiple regional radio stations. Only four stations (three state-run and one private) broadcast information; the rest were purely music stations. Of the television stations, state run television, UT 1, had the widest geographic coverage but relatively low viewership. Most local television stations were associated with political parties or powerful regional business interests.

The National Council for Television and Radio Broadcasting, comprised of four members appointed by the parliament and four appointed by the President, issued licenses and allocated broadcasting time. Persons associated with the previous government charged that the Yushchenko government used the council to punish its political opponents when it undertook to challenge court orders that had given frequencies to television stations affiliated with the previous government.

Donetsk-based TRK Ukraina television, controlled by Party of Regions Member of Parliament Rinat Akhmetov, alleged that the council's strict enforcement of a licensing provision that requires national stations to broadcast 75 percent of their programs in Ukrainian was discriminatory, forcing the network to choose between having its license revoked and losing a large part of its predominantly Russian-speaking audience to Russian television stations. Complaints from other national broadcasters from across the political spectrum demonstrated that the enforcement of this language requirement was not unique to TRK Ukraina. TRK Ukraina was able to circumvent this regulation by broadcasting Russian movies subtitled in Ukrainian, and claiming that it was broadcasting in Ukrainian. In January 2007 however, a new law will go into effect requiring that films be dubbed into Ukrainian.

According to the national media watchdog NGO Institute for Mass Information (IMI), at least 14 journalists were subjected to physical attacks or intimidation during the year. According to IMI, the highest concentration of such incidents occurred at the time of the parliamentary elections in March. These cases, however, did not appear to be centrally organized or interconnected and were often attributed to local politicians or organized criminal groups.

On March 1 in Simferopol, unknown arsonists set fire to the garage of Liliya Budzhurova, editor in chief of the First Crimean newspaper. The newspaper had recently published a complete listing of the candidates to the Crimean parliament who had previous "conflicts with the law" according to Interior Minister Lutsenko at a February 17 press conference. President Yushchenko took personal interest in the case, and the government encouraged an investigation.

The Budzhurova case came up again in the first week of October, when Crimean parliament member Oleksandr Melnyk was briefly held on charges of alleged leadership of the "Seilem" organized crime group. Ukrainska Pravda reported on October 12 that Melnyk's driver testified during questioning that Melnyk ordered an unknown person to "teach a lesson" to Budzhurova in the spring, following the publication of her article. Melnyk was released after the General Prosecutor's Office declined to prosecute the case.

On April 8, unknown attackers beat Vladimir Katsman, the editor-in-chief of the newspaper Stolichniye Novosti outside his apartment building. Katsman attributed the attack to his criticisms of the anti-Semitic publications of the Interregional Academy of Personnel Management (MAUP). At year's end, no one had been arrested or charged in the case.

On June 3, unknown attackers set fire to the home of investigative journalist Serhiy Yanovsky on June 3 after Yanosky exposed corruption among local politicians and businessmen. On June 26, Serhiy Romanenko, the chief editor of the Reporter Internet site, was found unconscious in the center of Uzhhorod after receiving a blow to the back of his head. A few days before the attack, Romanenko had published articles critical of Uzhgorod mayor Serhiy Ratushnyak, the city committee of the Socialist Party, and the Yuliya Tymoshenko Bloc party. No arrests were made in either of these cases.

On August 14, two unknown assailants beat Igor Mosiichuk, the editor-in-chief of the weekly Vercherny Vasilkov following a series of articles he published on officials who benefited from local land deals.

There was one report that a journalist disappeared. On February 20, Anatoly Kachurnets of the Striy Homin Voli (Sound of Freedom) newspaper left home and never returned. Police have no further information and found no evidence of foul play.

The election law prohibits media commentary on electoral campaigns, prohibits media outlets campaigning for or against political parties without their express approval, and it gives courts authority to close media outlets that violate legal limits on political advertising and news coverage of political parties. Critics warned that the law was imperfectly written and open to potential abuse. In the March parliamentary elections, regional branches of political parties sought court rulings against television stations in two cases. Anatoly Grytsenko, head of the Party of Regions Crimea branch, filed against Chornomorskaya TV. Chornomorskaya TV won an initial appeal and Grytsenko continued to pursue court action. Inna Bohoslovska, head of the Viche Party in Dnipropetrovsk, won her case against Channel 9 to suspend the local television station's license but did not insist that the court's decision be carried out. The station continued to broadcast.

Both the independent and government owned media continued to demonstrate a tendency toward self censorship on matters that the government deemed sensitive. Although private newspapers were free to function on a purely commercial basis, they often depended on political patrons who could facilitate financial support from the State Press Support Fund and received close scrutiny from government officials, particularly at the local level.

Libel is considered a civil offense and the use or threat of civil libel suits continued to inhibit freedom of the press during the year. Courts may

freeze the accounts of a publication pending appeal, a step that could ruin many publications. Government entities and public figures, in particular, continued to use civil suits based on alleged damage to a "person's honor and integrity" to influence or intimidate the press. For example, in Rivne Oblast, the oblast prosecutor, Leonid Orehovskiy, filed a libel case against the Rivne Vecheerne newspaper claiming damage to his honor and integrity. The newspaper lost the case and was ordered to print a formal apology.

While the law limits the amount of damages that may be claimed in libel lawsuits and allows the press to publish inoffensive, non factual judgments, including criticism, without penalty, media watchdog groups continued to express concern over extremely high monetary damages that were demanded, and sometimes awarded, by courts for alleged libel.

The media had broad access to court hearings and governmental meetings. Early in the year, the judiciary opened the criminal trial of the murder of journalist Heorhiy Gongadze. President Yushchenko had promised that the trial would be open to journalists and Kyiv City Appeals Court ruled that journalists should have access. However, when the court convened, the room could not physically accommodate journalists who wished to cover the event. The journalists insisted on access, and together with members of Verkhovna Rada, convinced law enforcement agencies to open a criminal case accusing the court of violating their rights to cover the case. The journalists did get seating, but conditions were crowded.

On July 12, Party of Regions member of parliament Oleh Kalashnykov and his assistants physically assaulted a television crew from private television station STB in front of the Verkhovna Rada, beating the cameraman and removing a tape from his camera, which was never returned. At STB's demand, and supported by an open letter from Ukrainian journalists, the Party of Regions took temporary disciplinary action against Kalashnykov, but did not expel him from the faction or the parliament. The party's leader, Victor Yanukovych, criticized Kalashnykov's behavior and Kalashnykov publicly apologized. STB pursued legal action against Kalashnykov, but stated that it was satisfied with the Party of Regions' response to the incident.

#### Internet Freedom

The government did not restrict access to the Internet, but there was monitoring by law enforcement bodies (see section 1.f.). Individuals could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access, although expanding rapidly, was still limited to wealthier members of society and those with access at schools, libraries, and workplaces.

Domestic and international human rights groups sharply criticized an April 2005 directive from the Ministry of Transportation and Communication (MOTC) requiring all Internet publications to register with the government. The MOTC formally rescinded this order in September 2005. During the time the directive was in effect, however, Internet publications did not comply with it.

#### Academic Freedom and Cultural Events

The government did not restrict academic freedom, but academic freedom was an underdeveloped and poorly understood concept. Most major universities were state owned, but there were a growing number of privately-run institutions. While university rectors had a reasonable amount of autonomy, curriculum and degree standards were tightly controlled by the Ministry of Education. Corruption remained a major problem in both university admissions and academic work, although the government began implementing a national examination system during the year to combat the phenomenon.

Administrators of universities and academic and research institute directors could silence colleagues by denying them the ability to publish, withholding pay and housing benefits, and directly terminating them. The SBU maintained offices for the protection of state secrets in state scientific and research institutes, including those not conducting any classified research.

There were no government restrictions on cultural events.

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

##### Freedom of Assembly

The Constitution provides for freedom of assembly, but in a few 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 governed assemblies. Moreover, local authorities often looked to a resolution on freedom of assembly questions from the Soviet era that was more restrictive than the current Constitution.

The Constitution requires that demonstrators inform authorities of a planned demonstration in advance. The Soviet-era resolution, which local governments sometimes used to define "advance notice", stipulates that organizations must apply for permission at least 10 days before a planned event or demonstration. Permits were routinely granted to those who requested them, although they sometimes stipulated that demonstrators had, for example, to stay on the sidewalks and not block traffic at key downtown Kyiv intersections. Demonstrators are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. In practice unlicensed demonstrations were common and generally occurred without police interference, fines, or detention, although there were several exceptions.

According to the Department of Civil Defense of the Ministry of Internal Affairs, in 2005 administrative charges were brought against 40 organizers and active participants for infringements in organizing and holding public gatherings.

In November 2005 the Kyiv city authorities decided to allow events only in downtown areas that had been approved either by a decree from the president or Cabinet of Ministers or by a decision of the Kyiv city council or city administration. The Kyiv city administration tried to impose restrictions on demonstrations on several occasions during the year, but the courts overruled the city government.

In May the mayor of Kherson banned a rally by market vendors because they did not inform the city council 25 days in advance and they were not allowed to protest in front of the city council.

On October 13, the Shevchenkivskiy neighborhood court in Kyiv prevented communists, nationalists, and Chernobyl organizations from holding protests in downtown Kyiv on the anniversary of the founding of the Ukrainian Insurgent Army. The court argued that this decision was based on an assumption by the Kyiv city administration, police, and president's secretariat that such rallies would result in violence and bloodshed as had occurred in 2005.

According to the Nasha Pravda NGO in Kryviy Rih, Dnipropetrovsk, local police and the SBU gathered information about participants in anticorruption events as well as about human rights organizations and their activities, allegedly for the sake of security and safety. During the year, police and the SBU also declined to investigate several claims of violence against activists from the Nasha Pravda, Opora, and Zemlia i Volia NGOs during environmental protests.

#### 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 during the year to disband existing legitimate organizations or prevent new ones from being formed.

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

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

Two major opposition political parties associated with the previous government, the Social Democratic Party of Ukraine (United) and Regions of Ukraine, complained that thousands of their supporters were dismissed from government jobs in 2005 because of their association with anti Yushchenko political parties. However, widely respected human rights organizations rejected the characterization of the dismissals as discrimination, noting that only approximately 5 percent of the country's 450,000 civil servants had been dismissed and replaced by supporters of the Yushchenko administration.

#### c. Freedom of Religion

The Constitution and the law provide for freedom of religion. The government generally sought at all levels to protect this right, but some minority and nontraditional religions experienced difficulties in registration and in buying and leasing property.

There is no formal state religion; however, the Ukrainian Orthodox Church-Moscow Patriarchate (UOC-MP) and the Ukrainian Greek Catholic Church (UGCC) tended to dominate in the east and west of the country, respectively. Local authorities frequently sided with the religious majority in a particular region. UOC-MP representatives complained that for 14 years the local government in Lviv ignored their numerous requests to allocate a land plot for construction of a diocesan cathedral. By contrast, in many areas of the east and south, local leaders tended to side with the UOC-MP. The UOC-Kyiv Patriarchate (KP) claimed that new Kharkiv Mayor Mykhaylo Dobkin warned his staff that he would not even receive a local bishop of the UOC-KP.

In contrast to previous years, the municipal authorities in Odesa improved their relations with Roman Catholics. On September 6, the Roman Catholic Bishop of Odesa met with Mayor Eduard Hurvits and discussed joint projects for homeless children and creation of a commission to address issues of the Roman Catholic community, including property restitution.

On March 22, President Yushchenko called for the creation of a unified Ukrainian Orthodox Church, a move opposed by the UOC-MP and some Protestant denominations. The UOC-MP publicly cautioned the president against "politicizing" and "artificially" speeding up the unification process.

The courts did not always interpret the law in a manner that protected religious freedom, and in some instances sided with the dominant local religious organization. In June in a case that received national and international media and NGO attention, a local court in Cherkasy Oblast exonerated a UOC-MP priest of assault and hate crime charges for beating six members of Jehovah's Witnesses with his walking stick after they allegedly pushed him while on his property. The priest admitted that he beat the persons and publicly boasted that he would "do it again" but asserted that he did it in self defense.

The law requires religious groups to register their "articles and statutes" either as a local or national organization and to have at least 10 adult members in order to obtain the status of a legal entity. Registration is necessary to conduct many day-to-day business activities including publishing, banking, and property transactions. By law the registration process should take no more than three months. Registration denials may be appealed in court.

According to the law, registered religious organizations maintain a privileged status as the only organizations permitted to seek restitution of

communal property confiscated by the Soviet regime. Communities must apply to regional authorities for property restitution. While Article 17 of the Law on Freedom of Conscience and Religious Organizations provides that consideration of a restitution claim should be completed within a month, it frequently took much longer.

Intra-communal competition for particular properties complicated restitution claims for Christian, Jewish, and Muslim communities. The slow pace of restitution was partly because the government allocated limited funds to relocate occupants of seized religious property. Some groups asserted that there was progress in the restitution of property during the year, while others reported little or no progress. Many properties for which restitution was sought were occupied by state institutions or were historic landmarks. All major religious organizations called on the government to establish a transparent legal process to address restitution claims.

In February leaders of Odesa's Presbyterian community stated that the local actors' guild was ignoring the community's requests to vacate the first floor of the city's recently renovated historical Presbyterian church and relocate to other premises provided by the local government in 2000. The Presbyterian community claimed that the local court and city government were pressured by the actors' guild and local Ukrainian Orthodox Church-Moscow Patriarchate to support the guild's court case to gain ownership of the church. There have been no new developments in the case.

The All-Ukraine Baptist Union continued its legal struggle to prevent the Prosecutor General's Office from seizing its headquarters building in Kyiv. The union's chairman complained that despite multiple appeals to the president and Cabinet of Ministers, office of the prosecutor-general, and the interior ministry's Main Investigative Directorate, the union's ownership of its building remains unresolved.

The registration process is administered by the Ministry of Justice's State Department for Religious Issues (SDRI), the successor organization to the Soviet-legacy State Committee for Religious Affairs, which was abolished in April. According to the government, the SDRI was intended to bring Ukrainian law into conformity with European norms. However, there has been some criticism that the SDRI, which during the year was establishing its position in relation to regional departments of religious issues, lacked sufficient power over regional and municipal departments of religious issues to protect the interests of religious groups in the regions.

The Autonomous Ukrainian Orthodox Church in America asserted that the SDRI refused to register the organization, a charge the SDRI denied.

The law restricts the activities of foreign-based religious organizations and narrowly defines the permissible activities of members of the clergy, preachers, teachers, and other non-citizen representatives of foreign-based religious organizations; however, there were no reports that the government used the law to limit the activity of such religious organizations. Religious worker visas require invitations from registered religious organizations in the country and the approval of the government. Foreign religious workers may preach, administer religious ordinances, or practice other canonical activities "only in those religious organizations that invited them to Ukraine and with official approval of the governmental body that registered the statutes and the articles of the pertinent religious organization."

Under the law, religion cannot be part of the public school curriculum. However, President Yushchenko, with the support of leaders of the UOC-MP, UOC-KP, Ukrainian Autocephalous Orthodox Church, Ukrainian Greek Catholic Church, Roman Catholic Church, All-Ukraine Evangelical Baptist Union, Brotherhood of Independent Churches and Missions of Evangelical Christians, instructed the Ministry of Education to introduce "ethics of faith" training courses into public school curricula beginning in September 2005. According to the SDRI, prominent religious leaders, and the media, implementation so far has been haphazard. On June 29, the Ministry of Science and Education approved the concept of teaching disciplines of spiritual and moral nature in secondary schools. While Jewish and Muslim leaders support the teaching of ethics and civics in school, they have insisted on a nonsectarian approach to the students' training. Schools run by religious communities may include religious education as an extracurricular activity.

The government promotes interfaith understanding by frequently consulting with the All-Ukraine Council of Churches and Religious Organizations, whose membership represents the faiths of over 90 percent of the religiously active population. The council, which has a rotating chairmanship, meets once every two or three months, providing members and government representatives the opportunity to discuss interfaith concerns. The council also provided a forum for religious organizations to consult with the government on draft legislation. Regional administrations and local religious leaders in most regions of the country have formed regional councils of churches and religious organizations.

#### Societal Abuses and Discrimination

The generally amicable relationship among religions in society contributed to religious freedom; however, conflicts between local representatives of contending religious organizations in some cases adversely affected broader ties among religions in society.

Senior leaders of the UOC-MP alleged that supporters of the UOC-KP attacked UOC MP clergy and seized a number of UOC MP churches. The UOC-KP rejected the allegations, noting that many UOC-MP communities exercised their legal right to change jurisdictions from the UOC-MP to the UOC-KP. The UOC MP cited numerous such incidents, including in Rivne and Chernivtsi regions, claiming that UOC-KP was encouraged by the success of the 2004 Orange Revolution, the Yushchenko presidency, and indications that the Ecumenical Patriarch might recognize their church as the country's canonical Orthodox Church. On August 31, the high administrative court invalidated the 2005 resolution by the Ternopil Region State Administration that allowed parishioners of the UOC-KP to use the UOC-MP's Holy Trinity church in Rokhmaniv village, Ternopil Region, on a rotational basis. The court reaffirmed that the UOC-MP, which has been using the church since 1946, was a legitimate user.

Representatives of the Russian Orthodox Church Abroad (ROCA) complained that the UOC MP demanded the surrender of ROCA church buildings in Malyn, Zhytomyr Region in 2005, and during the year pressured local authorities to prevent the opening of a ROCA monastery in

Bolgrad, Odesa Oblast. ROCA representatives also complained that during the year the UOC-KP continued their attempts to seize the Holy Trinity Church in Odesa.

On February 6, the Association of Christian Journalists, Publishers, and Broadcasters criticized the STB television network for airing a program that attacked evangelical churches. According to the association, the program misrepresented the beliefs of traditional Protestant churches (including Lutherans and Baptists), and referred to Evangelical Protestants as "Satanists."

At an April 17 press conference, the president of the country's major Protestant Christian media group, Serhiy Belbovets, criticized what he called "a series" of television and newspaper reports that characterized evangelical Christians as "fanatics" and "members of sects." He called on all churches in the country to stand together to defend Christian values.

On December 19, a foreign Jehovah's Witnesses missionary was severely beaten near his home in Kremenchuk in Poltavaska Oblast. He was hospitalized with serious brain injuries. There have been previous acts of harassment and vandalism directed against foreign missionaries and Jehovah's Witnesses in Kremenchuk. The Kremenchuk Police had not begun an investigation by year's end.

Muslim leaders in Crimea, as well as members of the Crimean Tatar Mejlis, the major but unofficial organization representing Crimean Tatars, accused the UOC MP of encouraging anti-Muslim and anti-Tatar violence in Crimea. UOC-MP priests in Crimea reportedly assured ethnic Russian vigilantes, who refer to themselves as Cossacks, that violence against Muslim Tatars was justified in order to protect Orthodoxy in Crimea. In September the Simferopol Diocese in Crimea publicly stated its desire to build good relations with all religious communities, in particular, with the Muslim community (see section 5).

According to the State Committee of Statistics, the Jewish population during the 2001 census was estimated at 103,600, although some Jewish community leaders have stated the number may be as high as 300,000. An estimated 20,000 Hasidic Jews from overseas participated in the annual Rosh Hashanah pilgrimage to the town of Uman in September.

There were a number of acts of anti-Semitism; several of them involved physical attacks.

On February 3, a man ran into the Brodsky Synagogue in downtown Kyiv and demanded to see the rabbi. Security guards found a knife on the man, and police arrested him. On March 6, a yeshiva student used an air-pellet gun to fend off four men on a Kyiv subway train who kicked him to the ground while shouting anti-Semitic insults. The student managed to shoot one of the assailants in the face with the pellet gun, which he had purchased after being attacked with a fellow yeshiva student in August 2005. The assailants were arrested at the scene, but were then released on their own recognizance.

On April 20, a group of skinheads beat and stabbed Israeli yeshiva student Haim Gorbov who came from Israel to Dnipropetrovsk to lead Passover seders. On May 5, the Ministry of Internal Affairs announced that a criminal case of hooliganism would be brought against the assailants. The ministry also noted that prosecutors were continuing to examine the motives behind the attack, which could lead to additional "inter-ethnic hostility" charges. There was no progress in the investigation.

The Odesa police investigated the September 18 attack by a group of young men shouting anti-Semitic insults against Haim Weitzman, a Ukrainian citizen, who was injured with a concussion as a result of the incident. According to a spokesman of the Odesa Jewish community, no arrests have been made.

No criminal charges were made against skinheads who assaulted 13 students from a Chabad Jewish day school in Simferopol in January 2005. According to journalist Volodymyr Matveyev of JTA- Global Jewish News, there were no arrests of the unidentified assailants who assaulted him in December 2005.

There were also several instances in which synagogues, cemeteries and Holocaust memorials were vandalized, particularly in Kirovohrad, where the Choral Synagogue was vandalized at least five times during the year. According to representatives of the local Jewish community, law enforcement authorities made no progress in the investigation. Police follow-up to cases of vandalism often appeared to be ineffectual. However, there was an effective official response in other cases. For example, on June 6 the SBU detained a suspect in the March 23 desecration of a Holocaust memorial in Sevastopol. The case against the suspect went to trial, but there was no decision. In June police in Zhytomyr detained two teenagers who pleaded guilty to vandalizing several tombstones at an old Jewish cemetery in the town in May. No criminal charges were made and the investigation was ongoing at year's end.

Despite continued mediation efforts by local Jewish and Greek Catholic leaders, a long-standing dispute between nationalists and the Jewish community over the erection of crosses in an old Jewish cemetery in Sambir, Lviv remained unresolved. On May 3, the supreme administrative court rejected an appeal by the Union of Councils of Soviet Jewry (UCSJ) to take ownership of the cemetery. The UCSJ appealed to President Yushchenko for help. The president ordered the Lviv administration to address the problem, but no progress was made. On December 31, a Holocaust memorial plaque in Kharkiv was severely damaged. Police started an investigation but no arrests were made.

Anti-Semitism was also evident in public life. In August 2005 the fringe Ukrainian Conservative Party, associated with the anti-Semitic MAUP, published an "open letter" to President Yushchenko calling for the criminal prosecution of Hasidic Rabbis in the country for the dissemination of "Judeo-Nazi teachings." The Ukrainian Conservative Party received less than 1 percent of votes nationwide in the March parliamentary elections.

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

MAUP, which receives significant funding from several Middle Eastern governments, remained the most persistent anti-Semitic presence in the country. It published a monthly journal *Personnel* and a weekly newspaper *Personnel Plus*, which was the subject of an ongoing criminal investigation by the Prosecutor General's Office. According to Jewish organizations, MAUP accounted for nearly 90 percent of all anti-Semitic material published in the country during the year. In December 2005 President Yushchenko issued an executive order barring civil servants from studying or teaching at MAUP branch affiliates. In March seven such affiliates, out of approximately 50 across the country, were closed due to unspecified licensing violations. Thirty more were closed before the September 27 commemoration of the Babyn Yar massacres, at which President Yushchenko criticized ethnic intolerance and religious hostility in the country. In November he announced a presidential order to the SBU and Ministry of Science and Education to investigate manifestations of xenophobia at MAUP. Following MAUP's appeal to the Kyiv commercial court, the licenses of 26 of the regional branches rescinded by the Ministry of Education were renewed in December.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

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

The Constitution and the law provide for these rights, and the government generally respected them in practice.

Although a system of registration exists, citizens have the right to live, work, and receive services anywhere in the country. There was no indication that individuals were denied access to services because they were not registered in the locality where they resided.

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

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

#### Protection of Refugees

The Constitution and the law provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government committed serious violations of the principle of non-refoulement, the return of persons to a country where they feared persecution; it granted refugee or asylum status infrequently, providing only limited protection from refoulement.

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

According to official statistics from the State Committee on Nationalities and Migration, at year's end there were 2,275 refugees in the country, including 740 women and 1,535 men. According to the Committee, as of December 1, 1,705 persons applied for asylum; 39 persons were granted refugee status, while 450 were refused. The largest number of asylum applicants were from Asian countries. At the end of December, there were 627 refugees from countries of the Commonwealth of Independent States, including 128 Chechen refugees from Russia, down from 144 in April.

In its October 17 report on asylum matters, Human Rights Watch noted that the country "falls substantially short of its international obligations towards migrants and refugees." The report cited inadequate procedures for dealing with asylum seekers, substandard conditions and physical abuse in asylum centers, lack of basic procedural rights, inadequate food and sanitary conditions, and prolonged periods of detention.

According to the Office of the UN High Commissioner for Refugees (UNHCR), the EU, and human rights groups, there have been instances in which border guards unlawfully returned unspecified numbers of Chechens to Russia who had applied for, or wanted to apply for, asylum. In 2005 Chechens detained in Zakarpattya Region were frequently put on a train to Kharkiv and turned over to Russian border guards at the nearby border crossing point. Chechens were reportedly forcibly returned to Russia in keeping with an alleged secret government instruction issued after the September 2004 Beslan school massacre in Russia; it reportedly requires border guards to return all Chechens to Russia and to refuse them entry into the country. Human rights groups expressed concern that officials frequently refused to recognize a UNHCR-issued document attesting that the bearer has applied, or is in the process of applying, for asylum. In June 2005, for example, four Chechen men were returned to Russia, despite being registered with UNHCR Kyiv. The men were unable to register with the Kyiv City migration service, which had been closed for reorganization, leaving them without valid government-issued asylum seeker certificates. The four were subsequently apprehended, fined for not having appropriate registration stamps, and deported to Russia.

The government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers, and operated refugee reception centers in Vinnytsya and Odesa. However, the State Committee for Nationalities and Migration at times showed little interest in refugee protection, poorly implemented agreements with the UNHCR, and often refused to share important information with the UNHCR. According to human rights organizations, corruption also impedes asylum-related issues. On July 13, the deputy head of the State Committee on Nationalities and Migration stated to the press that the prosecutor general's office was investigating allegations of abuse by the Committee's head, Serhiy Rudyk, and some of his colleagues. The deputy head also said that Rudyk fired Committee staff who protested against falsification and delays involved in reviewing refugee cases.

On February 16, UNHCR and the international community strongly condemned the forcible deportation of 10 Uzbek asylum seekers. The SBU detained eleven men in Crimea based on extradition warrants issued by the Uzbekistani authorities on the grounds that they allegedly

participated in the Andijan mass protests in Uzbekistan in May 2005. They were transferred to a Ministry of Interior detention facility in Simferopol. The UNHCR asked authorities for assurances that no asylum-seekers would be forcibly returned unless they had been determined not to be refugees and had completed asylum procedures, including any appeal. The Migration Service in Crimea rejected the asylum applications on the basis that they were "manifestly unfounded." On February 14, 10 of the men were forcibly returned to Uzbekistan. (The remaining man was reportedly allowed to stay because he had relatives in the country.) Twenty-one Ukrainian regional human rights organizations issued a statement protesting the incident. On May 3, the Ministry of Justice issued a legal opinion saying that deportation was illegal. The president's chief of staff stated that the deportation was a violation of procedure because the refugees were not granted ten days to appeal the deportation, but added that the extradition was acceptable as they "belonged to a radical Islamic group."

In August 2005 Ukrainian authorities ordered the deportation of 18 Uzbek asylum seekers, including 11 children, to Russia. The Uzbeks traveled to Ukraine after first trying to gain asylum in Russia, where they reported the authorities abused them. The Ukrainian border guard service took them off a train, kept them for 12 hours in cramped quarters, then forcibly put them on a train back to Moscow, despite requests for assistance by Tatar and Uzbek opposition leaders.

The Donetsk-based NGO Memorial reported that there were approximately 2,000 Uzbek refugees in the country, of whom only 10 percent applied for asylum in the UNHCR office in Kyiv. According to official statistics, during the first eight months of the year, 85 Uzbek nationals applied for asylum, compared to 23 in 2005, and four in 2004.

According to human rights NGOs, a 2005 amendment to the law that improved the registration process somewhat was still being applied unevenly. Under the law authorities may quickly reject asylum claims from individuals without formal registration as asylum seekers, allowing the cases of registered asylum seekers to be considered more quickly, and requires the government to conduct refugee status interviews within 15 days of the application. However, asylum seekers in detention centers were sometimes unable to apply for refugee status and had limited or no access to legal and other assistance. As a result, many asylum seekers remained undocumented and faced arrest, detention, and deportation. In addition, the law allows for the deprivation of refugee status for suspicion of involvement in activities that pose a threat to the national security, public order, or health of the population of the country.

Police harassment of individuals with dark skin, and to a lesser degree, Asians, continued during the year. There were also multiple credible reports from human rights NGOs and diplomats that refugees, particularly those from Africa and Asia, were regularly abused at detention centers in Zakarpattya Region, which borders EU member states Poland, Slovakia, and Hungary. Detainees, in particular Chechen and Afghan nationals interviewed by HRW in March 2005, reported physical and psychological abuse at centers in Kyiv, Lviv, Chernihiv, Chop and Rava Ruska.

The State Border Service announced in June that it had opened a modern refugee center in Chop, which can accommodate 46 people. It is the first mixed gender detention center built to European standards in the country.

According to human rights NGOs, conditions at the old Chop detention center were poor. Refugees were crammed into tiny cells, given polluted drinking water, and had to use outdoor toilets. The center was unheated in winter and many refugees lacked warm clothing; some had no shoes.

There were reports that the makeshift Pavshyno detention center received no state funds during 2005. Border guards generated income, including their own salaries, by "leasing" migrants to a neighboring factory (see section 6.c.). Border guards also illegally released detained migrants whose families paid bribes, usually in the amount of \$1,200 (6,000 hryvnia), transferred via wire. Border guards also stole food packages and phone cards provided to refugees by the EU. Border guards only accepted asylum applications prepared by lawyers whom the migrants had to pay for their services; the lawyers then split their fees with the guards. Applications prepared by NGO lawyers working pro bono were not accepted.

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

In October two modernized facilities were opened, one at the Chernihiv Frontier Detachment and the other in Lviv, which can accommodate 24 and 32 undocumented migrants, respectively.

HRW reported that limited access to interpreters for refugees infringed on rights of due process and limited asylum seekers' ability to challenge detention. In April 2005 officials rejected the submission of an asylum seeker from Cote d'Ivoire who tried to send his correspondence with the migration department in French. The migration official reportedly stated that it was the applicant's problem that he did not speak Ukrainian, and that he should find an interpreter himself.

In 2005 human rights organizations reported acts of violence against asylum seekers and refugees. For example, in December 2005 a group of young men dressed in military uniforms beat two Iranian asylum seekers near the Sviatoshin subway station in Kyiv.

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

The Constitution and the law provide citizens with the right to change their government peacefully through periodic elections, and citizens exercised this right in practice during the March parliamentary elections and in a small number of local elections. All elections were held on the basis of universal suffrage.

#### Elections and Political Participation

Verkhovna Rada elections held on March 26 were the freest elections in the country's fifteen years of independence. They were the first conducted since the introduction of a number of changes to the electoral process, most significantly that all candidates ran on party lists and the threshold for a party to win seats in the parliamentary was lowered to three percent. There were pre-election concerns about voter lists and staffing polling station commissions, but independent monitors attributed these problems to disorganization rather than a government effort to exclude parties or voters from participation. The elections went smoothly and observers reported that they were free, fair, and transparent. The Organization for Security and Cooperation in Europe (OSCE) assessed that the elections were in compliance with domestic law, met OSCE and Council of Europe commitments, and the overwhelming majority of voters were able to exercise their voting rights. Five of the 42 parties running received enough votes to win seats in the parliament. There were reports of isolated cases of pressure from local enterprise directors and employers to vote for a designated candidate.

In contrast to the parliamentary elections, there were some problems in local elections also held in March for representation to regional and local councils and mayors. There were accusations that authorities manipulated the vote count in some elections. The mayoral election in Cherkasy was particularly controversial, as authorities prohibited a series of popular candidates from running based on corruption charges that observers said were politically motivated, and the election results were cancelled. The regional election commission there was unable to convene a new election. Courts, the prosecutor general's office, and the Verkhovna Rada investigated this election and a new vote was held on November 5, which international and domestic observers determined to be free of major fraud. November 26 mayoral elections in Chernihiv and Poltava, where the elected mayors chose to take Verkhovna Rada seats to which they were elected rather than remain local officials, occurred without evidence of major fraud; a third mayoral contest held on the same day in Kirovohrad was nullified after local election officials removed one candidate from the ballot hours before the polls opened, leaving the candidate no recourse to the courts. The election will be re-run in February 2007.

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

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

There were 38 women in the 450 seat Verkhovna Rada. The 18 member constitutional court had three female members.

The exact number of minorities in the parliament was not available due to privacy laws. Among the members there were ethnic Russians, Bulgarians, Crimean Tatars, Armenians, Hungarians, Georgians, and Jews. Yuriy Yekhanurov, who served as prime minister until August, is half ethnic Buryat. The current cabinet includes members who are ethnic Greek and ethnic Russian.

Crimean Tatar leaders continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean Parliament; current law does not allow the creation of political parties on the regional level, so Crimean Tatars must join national political parties.

According to statistics from the Mejlis (the Tatar representative body), the Tatars, who make up 12 percent of the population of Crimea, occupied 8 percent of the seats in the Crimean Parliament. Four of the 25 officials in the Crimean government were Tatars, including one deputy prime minister. Two of the 12 heads of raion (county-level) administrations in Crimea appointed by the president were also Tatars. Tatar representation in other Crimean ministries, including in law enforcement agencies, was 1 percent or less. There are also two Crimean Tatars in the Verkhovna Rada.

#### Government Corruption and Transparency

Corruption remained a serious problem in the executive and legislative branches of the government, including the armed services. The SBU reported that it launched 167 criminal investigations of bribery and uncovered 1,795 incidents of corruption, including 35 by high-ranking state officials, during the year. The SBU fired 76 employees and disciplined another 300 persons for corruption-related offenses in the first ten months of the year.

The judiciary suffered from corruption. In April the media reported that the head of a local court in the Lviv region was detained while soliciting a bribe and another judge from Kherson was sentenced on September 27 to three years in prison for falsifying documents. According to a January public opinion survey by the Institute for Regional Development Studies, 80.7 percent of respondents said that national level authorities are the "most corrupt" institution in the country.

The government reported that investigations did not find sufficient evidence of wrongdoing to pursue charges stemming from September 2005 accusations from then head of the Presidential Secretariat, Oleksandr Zinchenko, that key officials close to President Yushchenko were guilty of corruption.

Although weeding out corruption from government was a theme of the Orange Revolution, the Yushchenko government made little progress in prosecuting former officials suspected of corruption. Parliamentary immunity continued to shield members of parliament suspected of committing crimes. Party of Regions member Boris Kolesnikov avoided prosecution following his 2005 arrest on extortion charges and became a member of the parliament after the March elections. On April 4, parliament abolished immunity for locally elected officials, (which had been enacted in September 2005) resulting in 12 criminal cases against officials in one region alone, although many cases that had begun before the immunity decision were not subsequently pursued.

In Sumy region prosecutors pursued cases against former high-level officials for embezzlement and bribery. Former Sumy mayor Volodymyr Omelchenko and former local council member Olha Krutushkina face prison sentences. Krutushkina was appealing a seven year sentence,

while hearings began in the Omelchenko case in August. During the year two precinct committee chairs in Kirovohrad from the 2004 election were also convicted for fraudulent actions and sentenced to two and five year terms, respectively.

In August the office of the prosecutor general initiated a criminal investigation of a senior Ministry of Defense official accused of accepting \$580,000 (roughly three million hrynia) in bribes.

In April the Cabinet of Ministers reviewed state-run oil and gas company NaftoHaz's financial plan and found that mismanagement of funds contributed to the company's difficulties. In August the Verkhovna Rada established two investigatory commissions to review NaftoHaz finances and corruption in the energy sector. A preliminary report from the commission found that certain irregular financial and business activities of NaftoHaz appeared to constitute criminal offenses. In one instance cited by the report, the company allegedly paid a gas supplier twice for the same gas, resulting in significant financial damage to the state.

The Constitution and the law provide the right of access to information, with exceptions for national security. Government bodies are required to respond to requests within 10 days and provide the information within 30 days. Denials can be appealed to a higher level at the agency concerned and then to a court.

Many human rights organizations and journalists said that access to official information remained difficult during the year. Government officials did not understand the rules concerning releasable information, and Soviet-style attitudes and traditions of secrecy were prevalent among officials. At a September 28 press conference, human rights organizations announced that the prosecutor general's office had the highest refusal rate for information requests among government agencies. Government information was usually available through web sites, but Internet access was still relatively limited both in terms of technology and overall number of users. Prominent government watchdogs, including former member of parliament Inna Bohoslovskya, noted that the government generally posted information on the Internet only after important decisions were made. Information on the process by which the government made important decisions usually was not available to the public. The 2005 International Helsinki Federation Report for Human Rights noted that the Soviet-era practice of issuing secret presidential decrees on matters that did not involve national security or personal privacy continued.

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

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

During the year President Yushchenko held a roundtable discussion with key civic and NGO leaders and the government set up several public advisory councils in order to reinforce public oversight and cooperation between government and civil society organizations. In May the Ministry of Justice set up a council, chaired by a civic leader, to monitor the human rights situation in prison facilities. In July the SBU formed another council consisting of reputable politicians, NGO activists, and independent experts to provide civilian oversight and to increase transparency of its activities. The chairman of the Kharkiv Human Rights Protection Group, Yevhen Zakharov, said that following the establishment of a similar council at the Ministry of Internal Affairs, law enforcement institutions demonstrated greater willingness to cooperate with NGOs.

Major independent, non partisan, national human rights NGOs included the Committee of Voters of Ukraine, the Kharkiv Human Rights Protection Group, the Ukrainian Helsinki Human Rights Union, the Institute for Mass Information, the Independent Media Union, the Roma Congress of Ukraine, the Ukrainian American Bureau for the Protection of Human Rights, La Strada, the Congress of National Communities of Ukraine, Donetsk-based Memorial, and the Dnipropetrovsk-based Association of Soldiers' Mothers.

The government generally cooperated with international governmental organizations, including the UN and the Parliamentary Assembly of the Council of Europe (PACE). Government officials met with the PACE president during his visit to Odesa in August to examine the progress of reform in the fields of human rights and the rule of law. PACE and ECHR observers made multiple visits to the country to discuss human rights issues. However, authorities often refused to share important information regarding refugees with the UNHCR (see section 2.d).

Persons have the right to appeal to the ECHR about alleged government human rights violations. The ECHR ruled on 120 cases involving Ukraine and found violations of ECHR rights in 119 cases during the year.

On May 31, the Cabinet of Ministers issued a resolution putting the Ministry of Justice in charge of implementing ECHR judgments and representing the country in the ECHR. In August Justice Minister Roman Zvarych introduced a requirement that all draft legislation and legal acts be compliant with the European Convention on Human Rights.

During the year three ECHR cases received national press attention:

On March 28, the ECHR awarded Oleksandr Melnik \$13,350 (10,500 euros) for his detention in an overcrowded prison cell, without adequate medical care and in unsatisfactory sanitation conditions, and with no recourse to complain about the conditions of his detention.

On April 4, the ECHR awarded Sergey Shevchenko \$25,400 (20,000 euros) for the failure of the authorities to conduct an effective and independent investigation into the death of his son at his army post.

On August 10, the ECHR ruled that authorities violated the right of freedom of expression of journalist Oleh Lyashko, former editor of the independent Kyiv weekly Polityka, by sentencing him to two years imprisonment for writing articles criticizing public figures, and awarded Lyashko \$3,800 (3,000 euros.)

The Constitution mandates the position of human rights ombudsman, officially designated as the Parliamentary Commissioner on Human Rights. Nina Karpachova, who had served one and a half terms, was elected to the Verkhovna Rada in March and announced her resignation on November 16 to take her seat in parliament. Her replacement had not yet been nominated at year's end and must be confirmed by the Verkhovna Rada. In December 2005 a group of 18 major human rights organizations called for Karpachova's resignation on the grounds that her decision to run in the elections undermined the "impartiality and independence" of the ombudsman's office. She submitted a resignation letter in May, but continued to act as the ombudsman. Since citizens cannot address the constitutional court directly, all citizens and residents may address their concerns to the ombudsman and the ombudsman serves as intermediary between citizens and the court. The law provides the ombudsman with unrestricted and unannounced access to any public official, including the president, and to any government installation. The law also gives her the authority to oversee the implementation of human rights treaties and agreements to which the country is a party; however, it does not provide penalties for obstruction of the ombudsman's investigations or effective enforcement authority for the ombudsman.

The ombudsman's office consisted of approximately 100 full and part time workers, but according to the ombudsman, limited funding of the office continued to hamper its effectiveness. The ombudsman continued to make the combating of trafficking in persons and improving pretrial detention facility conditions major priorities during the year. Ombudsman Karpachova last issued an annual human rights report to parliament in July 2005.

The Verkhovna Rada has a Committee on Human Rights, National Minorities, and Interethnic Relations which is chaired by Communist Party member Leonid Hrach, who took office on July 11. In January the Committee increased the number of subcommittees to nine. The subcommittees cover: human rights; interethnic relations; indigenous people; national minorities and ethnic groups; deported peoples and national minorities; victims of political repression; gender policy; refugees and migration; Ukrainians living abroad; international law; and ethical policy and prevention of domestic conflict. Credible human rights NGOs considered the committee's work to be of significant value.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

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

##### Women

Violence against women remained a serious problem. Spousal abuse is illegal but was common, and the authorities often pressured women not to press charges against their husbands. One major NGO estimated that at least 50 percent of all women have been subjected to physical violence or psychological abuse at home.

According to the Ministry of Internal Affairs, almost 15,000 women die annually after being beaten by their husbands, and almost 70 percent of women suffer from various forms of humiliation and abuse in their families. According to the ministry, only 18 percent of citizens are aware of the law on preventing domestic violence. The NGO Legiteam, which educates judges on human rights issues, said that most judges were unaware of the law adopted in 2006 stipulating gender equality.

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

The government increased the number of state run hot lines, shelters, and other forms of practical support for victims of abuse. During 2005-2006, authorities opened six shelters for victims of domestic violence, 18 crisis centers that provided a wide range of services to women going through crises such as divorce, loss of a son while on military duty, or domestic violence, and 24 centers for psychological and medical assistance. The law requires authorities to operate a shelter in every major city, but in practice they did not do so. According to AI, private shelters were not always accessible. For example, one shelter in Kyiv refused to accommodate three women because they had neither Kyiv registration nor a medical certificate with HIV/AIDS test results. Violence against women did not receive extensive media coverage despite the efforts of human rights groups to highlight the problem.

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

Prostitution is illegal but widespread and largely ignored by the government. Sex tourism rose as the country attracted greater numbers of foreign tourists. On January 12, the parliament passed tougher criminal penalties for human trafficking and coerced prostitution. However, previous laws criminalizing organized prostitution have had little effect.

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

Women's groups reported that there was continuing widespread sexual harassment in the workplace, including coerced sex. While the law prohibits forced sex with a materially dependent person, which includes employees, legal experts regarded the safeguards against

harassment as inadequate.

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

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

Few women held top managerial positions in the government or in state owned or private industry. However, the number of female members of the parliament increased from 25 to 38 after the March elections. Nadiya Deyeva in Dnipropetrovsk, Nina Harkava in Sumy, and Vira Ulyanchenko in the Kyiv region served as the first female governors in the country. The 18 member constitutional court had three female judges.

## Children

The government was publicly committed to the defense of children's rights, but budgetary considerations severely limited its ability to ensure these rights. The International Labor Organization's International Program on the Elimination of Child Labor (ILO/IPEC), together with a number of local NGOs, funded projects dealing with child labor, child trafficking, street children and the commercial exploitation of children that actively promoted children's rights at both national and local levels. Faith-based organizations also continued their work with orphans and street children. First Lady Kateryna Yushchenko, in her capacity as head of the steering committee of the charitable foundation Ukraine 3000, worked with the Ministry of Health and private businesses to raise funds to improve health care for needy and disabled children.

On May 11, the government approved the State Program to Combat Child Homelessness and Neglect for 2006-2010. The document identifies child labor as a contributing factor for child homelessness. The program aims to identify and provide support to at-risk families, although it is unclear if there is funding for the program. On June 26, the government approved the plan of action to implement the National Program on Youth Support for 2006-2008. The plan seeks to increase awareness among youth regarding education and vocational training opportunities, develop and support youth centers and recreational institutions, and improve rehabilitation centers for youth in crisis. The parliament ratified the EU Convention on the Exercise of Children's Rights (1996) on August 3.

Education is free, universal, and compulsory until age 15; however, the public education system continued to suffer from chronic inadequate funding. Teachers were usually paid their salaries during the year, but other monetary benefits due them were not paid in some localities. Children from poor families continued to drop out of school during the year, and illiteracy, previously very rare, remained a problem. The All Ukraine Committee for the Protection of Children reported that lack of schooling remained a significant problem among the rural population. The problem of growing violence and crime in and outside of schools persisted, particularly in the notoriously violent vocational schools, and discouraged some children from attending school. Roma rights organizations reported numerous incidents of discrimination against Romani children in schools (see section 5, national/racial/ethnic minorities).

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

Children continued to be victims of violence and abuse. In 2006 the Ministry of Internal Affairs cited over 80,000 families for violence against children, issued approximately 1.5 million official warnings with regard to domestic violence, and initiated over 1,000 criminal cases concerning child abuse. There were also many complaints of abuse of children related to child prostitution, pornographic video sales, child molestation, and illegal child labor.

According to NGOs, police often ignored legal requirements and did not investigate parents who allegedly abused their children. For example, a police inspector in Kirovohrad region refused to initiate a criminal case against a father who beat his child regularly and did not remove the child from the father. The local prosecutor initiated a criminal case against the police officer.

Human rights organizations reported police violence against minors, including sexual violence. For example, in April the Zaporizhzhya regional prosecutor initiated a criminal case against police officers for the illegal detention and rape of a child. At year's end, the investigation was ongoing.

There also were numerous cases of teachers abusing children. The prosecutor's office in Kherson started a criminal case against a teacher at a boarding school accused of slamming the head of a sixth-grader against a desk and beating two other pupils outside of class hours. Human rights organizations reported similar incidents in Vinnytsya, Khmelnytsky and Chernivtsi.

The legal marriage age is 18 for males and 17 for females, but the law stipulates that a person who has reached the age of 14 may apply to a court for permission to marry if "it is established that marriage is in the person's best interest." Experts stated that under-age marriage was not a significant problem; however, media in Zakarpatya Region have characterized under-age marriage among Roma as a problem.

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

The commercial sexual exploitation of children remained a serious problem. According to domestic and foreign law enforcement officials, a

significant portion of the child pornography available on the Internet continued to originate in the country. According to the Ministry of Internal Affairs, by the end of September, 150 criminal cases had been opened related to the manufacture and circulation of child pornography, and police had closed major child pornography studios in Dnipropetrovsk, Donetsk, Luhansk, and Lviv.

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

The number of homeless children, usually children who left poorly maintained orphanages or poor domestic conditions, remained high. Estimates of the number of homeless children varied widely. The vice premier for humanitarian and social affairs stated in April 2005 that there were approximately 150,000 homeless children in the country, but the State Service for Minors reported in July 2005 that there were only 30,000. In June the national newspaper *Ukraina Moloda* quoted experts as putting the number at 129,000.

#### Trafficking In Persons

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

The country remained a point of origin for internationally trafficked men, women, and children. The main destinations were Russia, Turkey, Western and Central Europe, particularly Poland and Czech Republic, and the Middle East.

The country also was a transit route for individuals from Central Asia, Russia, and Moldova. The International Organization for Migration (IOM) reported as of June 30 that at least 15 individuals from Moldova, Russia, Kyrgyzstan, and Uzbekistan had been trafficked through Ukraine to Turkey and United Arab Emirates.

The IOM did not identify any cases of Ukraine as a destination country for trafficked individuals, but did identify internal cases of trafficking. As of June 30, the IOM reported five cases of internal trafficking, but believed the actual number to be 100 times greater.

Seventy-six percent of victims identified by IOM during the year were women who were forced into prostitution and used as housekeepers, seamstresses, dishwashers, and at various small and large manufacturing plants. There is still a lack of statistical information regarding male victims of trafficking; however, the number of men identified as victims of trafficking for labor exploitation, mainly as construction workers and miners, increased. One challenge with male victims was their reluctance to acknowledge they had been trafficked and the authorities' tendency to prosecute the cases on the basis of non-trafficking related statutes. Children who were trafficked across the border or within the country were forced to provide sexual services, engage in unpaid work, or beg.

According to an IOM study, the targeted groups for trafficking were women up to 30 years of age for sexual exploitation and older women for labor exploitation, men of all ages, and children under the age of 16. According to local NGOs, children who had to leave orphanages at 18 were also at high risk since they had no family support structures in place, had difficulty finding work, and often had no place to live.

Victims were usually trafficked into conditions of severe exploitation: beatings, limited and low-quality food, no medical assistance, and long hours of work. In one instance, the IOM reported that women trafficked to Turkey were forced to take antibiotics and contraceptive pills without regular medical supervision.

Estimates regarding the number of trafficked citizens varied, but an IOM poll revealed that one out of every 10 persons knew someone in their community who had been trafficked.

Employment, travel, marriage, and modeling agencies as well as individual recruiters were involved in recruitment. Most traffickers were members of organized crime groups, had foreign partners, and bribed corrupt officials to facilitate the movement abroad of victims. The number of men and women among recruiters was almost equal. Sometimes women served as success stories for potential victims, flaunting how much money they ostensibly earned abroad. The majority of recruiters were identified as citizens.

Traffickers used the same methods to recruit victims as they did in previous years, including advertisements in newspapers and on television and radio stations that offered jobs abroad with high salaries or promises of modelling contracts, marriage proposals, and trips through travel agencies. Traffickers often presented themselves as friends of other friends and deceived the relatives of potential victims. The traffickers often paid for the processing of passports and travel documents for the victims, thus placing them into debt bondage. In some cases the traffickers kidnapped their victims.

The law provides for penalties of three to eight years' imprisonment for trafficking in persons for various purposes, including sexual and labor exploitation, both internal and international. Under some circumstances - trafficking of minors aged 14 to 18, or of groups of victims - traffickers may be sentenced to prison terms from five to 12 years, and traffickers of minors under the age of 14 or members of organized trafficking groups may be sentenced to terms from eight to 15 years.

In the first six months of the year, over half of the individuals convicted for trafficking received prison sentences rather than probation. Experts urged authorities to improve their prosecution record by establishing a specialized trafficking trial prosecutors unit and by extending the witness protection program to trafficking victims. In the spring the prosecutor general dismissed the proposal to create a specialized antitrafficking unit in his office. The Ministry of Internal Affairs maintained that the witness protection program, which focuses on providing physical security to witnesses during the period of the trial, had to be limited due to funding constraints, to witnesses who were believed to be in immediate danger. From 2001 to 2006 only two of the 1,741 victims of trafficking who participated in court cases were judged to qualify under those conditions. Authorities conducted a number of closed court hearings in order to protect the identity of victims, but no statistical data is maintained on how many of these hearings were held each year.

In the first half of the year, the number of investigations and prosecutions of suspected traffickers did not increase relative to the same period in 2005. This stagnation was attributed to the adoption of tougher antitrafficking legislation in February and the need for police officers and prosecutors to familiarize themselves with the new code as well as to restructure their cases. As of September, according to statistics supplied by the Ministry of Internal Affairs, 282 cases had been filed involving 296 victims, including 35 minors. The authorities broke up 21 organized criminal rings involved in human trafficking during the same period. In the first six months of the year, 50 court cases were completed, 37 of which resulted in the conviction of 40 defendants. Of the 40 persons convicted, 19 received suspended sentences, five were given to up to three years in prison, eight received three to five year sentences, six received five to eight year sentences, one received an eight to 10 year sentence, and one was given a 10 to 15 year sentence. As of October, 49 criminal trafficking cases were pending in the courts. The percentage of persons sentenced to prison terms relative to probation increased from 41 percent in 2005 to 51 percent in the first six months of the year. The trend may reflect the impact of a number of antitrafficking seminars and trainings conducted for judges in 2005-2006 by the IOM, OSCE, and foreign governments.

During the year the Ministry of Internal Affairs continued to strengthen the professional capabilities of its department for combating trafficking by introducing specializations. The department has branches in each of the ministry's 27 regional directorates, with approximately 600 officers dedicated exclusively to combating trafficking. During the year the department actively expanded its cooperation with foreign embassies' consular sections in Kyiv.

The government reported that it regularly reviewed the licenses of domestic employment agencies. In a limited number of cases, the Ministry of Labor and Social Policy withdrew agency licenses because of involvement in trafficking. However, Ministry of Internal Affairs officers claimed that some labor officers involved in this process were either corrupt or would "close their eyes" to violations of the law committed by the employment agencies in sending persons abroad to work.

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

Corruption in the judiciary and police continued to impede the government's ability to combat trafficking. NGOs asserted that local police and border guards received bribes in return for ignoring trafficking, as did judges for lighter sentences for traffickers. Authorities did not disclose official statistics on corruption related to trafficking. The low number of prosecutions of government officials for such activities raised questions about whether the government was willing to take serious disciplinary action, especially against high-level officials. Antitrafficking experts noted that prosecutors were often the weakest link in the fight against trafficking, as their negative stereotypes of victims, lack of aggressive prosecution, and the difficulties in obtaining evidence from abroad led to the low number of cases brought to court.

Some victims testified against traffickers, but most were reluctant to seek legal redress. This reluctance was due largely to a lack of trust of the law enforcement agencies and the courts, negative public opinion toward trafficking victims, a lack of access to witness protection programs, and a lack of understanding on the part of investigators and judges that there may be real threats against the victims from traffickers or their accomplices. Skepticism that civil courts would award significant compensation deterred most victims from filing civil cases.

The IOM operated a comprehensive medical center and shelter for victims of trafficking in Kyiv that provided medical and psychological services, including vocational counseling, and seven shelters located in major cities and funded by the European Commission with local administrations providing the premises at a nominal fee. In addition 27 local NGOs provided reintegration assistance to trafficking victims. The IOM disbursed funds to more than 50 civil society and faith-based organizations to raise trafficking awareness among vulnerable segments of society. The NGO La Strada-Ukraine operated a national toll free hot line on trafficking prevention.

Government cooperation with NGOs on antitrafficking programs was steady during the year. Local administrations continued to include NGOs as partner organizations in their regional action plans, but most funding of NGOs and shelter continued to be provided by the international donors and not the government.

During the year several television stations broadcast documentary films and informational programs highlighting the danger of human trafficking. NGOs conducted general awareness campaigns throughout the country, often in cooperation with government entities. International organizations conducted trafficking prevention information campaigns with entertainment celebrities as spokespersons. In September First Lady Kateryna Yushchenko appeared at a nationally televised event where she urged the public to be more supportive of trafficking victims.

The government worked to improve assistance provided by its diplomatic missions to victims in destination countries. In the first nine months of the year, the country's overseas consulates helped repatriate 271 citizens who were victims of trafficking. The Ministry of Foreign Affairs set up a center in Kyiv and five other major cities to provide free consultations to citizens regarding their rights in foreign countries.

#### Persons With Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or other state services. However, the government did little to increase opportunities for persons with disabilities, and advocacy groups maintained that there was societal discrimination against persons with disabilities. The law mandates access to buildings and other public facilities for persons with disabilities, but it was poorly enforced. In June 2005 President Yushchenko issued a decree ordering the government to ensure that persons with disabilities could physically access government and public buildings. There were some efforts made to comply with the decree, but most public buildings remained inaccessible.

Only 13 percent of the country's 2.5 million persons with disabilities were employed, according to statistics from the Ministry of Labor and Social Policy, although the total number of employed disabled persons increased from 272,000 in 2005 to 344,000 during the year. Labor Minister Ivan Sakhan said that an employment program for 400,000 persons with disabilities was 86 percent filled, although the program was not successful in Crimea, Dnipropetrovsk, Donetsk, Ivano-Frankivsk, Mykolayiv, Rivne, and Kherson regions and in Kyiv city due to too few positions in these regions and there was lax regional budgetary oversight. According to the ministry's data, up to 45,000 of the country's 122,600 disabled children undergo specialized medical treatment in rehabilitation institutions. Altogether, up to 9,100 people with disabilities studied in academic institutions and 1,850 disabled students received a free university education at 26 regional branches of the "Ukraine" Open International University for Human Development with tuition paid for by local governments.

On May 6, disability rights NGOs held demonstrations to protest discrimination against persons with disabilities. According to Ivan Marusevych, head of the Center for Rehabilitation of the Disabled in Wheelchairs, the government did not pay sufficient attention to the disabled and did not provide "adequate life conditions."

According to the Charitable Society to Support Persons with Disabilities and the Mentally Handicapped, the government did not comply with the law on psychiatric assistance, which provides for a quota of jobs for mentally handicapped people. According to Semyon Gluzman of the Ukrainian Psychiatric Association and the Ukrainian-American Human Rights Bureau, "psychiatric hospitals remain a risk zone for torture and cruel behavior; many psychiatric hospitals continue using archaic and very painful methods of treatment that were criticized by Western psychiatrists 20-30 years ago; the absence of public watchdog councils at psychiatric hospitals aids abuse by medical personnel; Ukrainian courts refuse to create precedents of prosecuting doctors and other medical personnel who abuse their posts and deprive patients of basic rights."

There were two members of the Verkhovna Rada with disabilities, one of whom served as deputy head of the Verkhovna Rada Committee on Pensioners, Veterans, and Persons with Disabilities.

#### National/Racial/Ethnic Minorities

Harassment of racial minorities was a continuing problem. The police routinely detained dark skinned persons for arbitrary document checks, whereas document checks of light skinned individuals were rare. Although authorities disciplined police who engaged in this harassment when incidents were brought to their attention, such behavior remained common. In December, the Kharkiv Group for Human Rights stated on its website that it received numerous complaints from foreign students about racially motivated harassment and violence. The group added that the biggest hindrance to investigation and prosecution of these cases is the victims' and witnesses' fear of reporting these incidents to the police. AI reported that incidents of racial hatred and xenophobia were increasing, influenced by skinheads and neo-Nazi groups in Russia, as well as locally-based neonationalist organizations National Patriotic Party, Brotherhood, and National Alliance youth NGO. According to the Ministry of Internal Affairs, police launched 175 criminal cases involving foreigners during the year, of which 26 were committed by citizens against foreign nationals. Only in one case, involving a Nigerian killed in Kyiv, did the police consider xenophobia as a possible factor. On October 25, a group of skinheads killed a Nigerian citizen, Godknows Kunou Mievi, who had resided in the country for 25 years. The Darnitsa Neighborhood Prosecutor initiated a criminal investigation and three suspects were detained. There were no criminal charges against the suspects at year's end. There were multiple reports of racially motivated violence against persons of African and Asian heritage by skinheads.

On October 31, a group of unidentified young men beat a female Iranian student from one of Poltava's academic institutions. Several human rights organizations, including the Kharkiv Group for Human Rights Protection and AI, stated that this case was an example of the increase of ethnically motivated violence.

On December 28, Gambian student Lamin Jarjou died of multiple stab wounds in Kyiv in what the media and local Gambian community believe was a racially motivated attack. The police investigation was ongoing and there were no arrests.

Representatives of minority groups claimed that police officials routinely ignored, and sometimes abetted, violence against them. In December 2005 a group of 15-20 young men dressed in military uniforms and white scarves beat two Iranians in Kyiv. The police investigation did not result in any arrests. As reported by the OSCE, the country lacked effective legal means to combat racism and xenophobia since existing laws require a very high level of proof of prior intent to stir up ethnic hostility. As a result, prosecutors preferred to deal with racist crimes as hooliganism or other simpler to prove offenses.

An estimated 400,000 Roma are living throughout the country, mainly concentrated in the Zakarpattya, Odesa, Mykolayiv, and Kyiv regions.

During the year police continued to abuse Roma and use violence against them. On May 19, police in Zakarpattya arrested a Rom without informing him of the charge, used ethnic slurs against him, beat him severely, and robbed him of almost \$3,000 (15,000 hryvnia.)

Roma also faced considerable societal hostility. Opinion polls indicated that social intolerance is greater toward Roma than toward any other ethnic group. On June 19, the European Roma Rights Center (ERRC) submitted a report to the UN Committee on the Elimination of Racial Discrimination about increased discrimination against the Romani community. In particular, the ERRC described instances of refusal to enroll Romani children in schools. For example, one local high school in the Odesa region segregated 19 Romani students from other students by placing all of them, irrespective of age, in a single classroom with one teacher in a building separate from the newer main school building. In many areas of the country, poverty often forced Romani families to withdraw their children from school so that they could work to supplement the family income. There were numerous reports of Roma being evicted from housing, removed from public transportation, denied public assistance, kicked out of stores, and denied proper medical treatment.

In October the ERRC complained to the UN Human Rights Committee about violence against Roma in the country, racial targeting and

profiling by police against Roma, discrimination in social programs and employment against Roma, and the widespread lack of necessary documentation for Roma to enjoy access to social services and protections. In addition, the Ukrainian Helsinki Human Rights Union reported that letters of complaint about violence against Roma were often discarded by local authorities.

The Constitution provides for the "free development, use, and protection of the Russian language and other minority languages," but in the run-up to the March parliamentary elections and immediately afterwards, the status of Russian was an issue. A number of local and regional governments in areas where the population mainly speaks Russian decided to grant official status to the Russian language. Pro Russian organizations and political parties in the eastern and southern parts of the country and in Crimea complained about the increased use of Ukrainian in schools, the media, and the courts. These groups claimed that Russian-speaking children were disadvantaged when taking academic entrance examinations, since all applicants were required to take a Ukrainian language test. According to Ministry of Education statistics, 1,500 schools taught students in the Russian language while 550 schools taught students in two languages, either Russian and Ukrainian or Russian and Crimean Tatar. In addition, 27,000 schoolchildren studied in Romanian, around 20,000 were taught in Hungarian, 6,000 in Crimean Tatar, and 1,400 in Polish.

On December 21, a Party of Regions representative on the Luhansk city council, Arsen Klitschayev, beat Serhiy Melnychuk after an argument during a live television talk show on a local network. According to Melnychuk, Klitschayev told him to leave Luhansk if he did not like to speak Russian. Melnychuk, a student at the Institute of Law and History at the East Ukrainian National University in Luhansk, won a court case in November against the university requiring it to provide instruction in Ukrainian.

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

Crimean Tatar leaders complained that their community, whose members have returned over recent decades after having been forcibly exiled from the Crimea during World War II, were not receiving adequate assistance in resettling. Returning Tatars were given land plots on the peninsula, but only inland, and not along Crimea's desirable southern coast from which Tatars claimed they were exiled. The onerous process of acquiring citizenship, eased somewhat with the removal of the five year residency requirement in 2001, prevented many of them from participating in elections and deprived them of a fair opportunity to participate in the privatization of land and state assets in the 1990s. The newly privatized land was subsequently priced beyond their means. There were almost 8,200 protests about the land issue this year, in contrast to 2,500 protests in 2005. Tatars asserted that discrimination by mainly ethnic Russian officials in Crimea deprived them of employment in local administrations and that propaganda campaigns, particularly by Russian Cossacks, promoted hostility against them among other inhabitants of Crimea.

In an October 14 rally in downtown Kyiv, Progressive Socialist leader Natalya Vitrenko incited racial hatred of Crimean Tatars in public comments aimed at pitting ethnic Russians in Crimea against Tatars.

Crimean Tatars reside in 300 settlements, some of which are not fully developed: only 90 percent of them have electricity, 70 percent water, and 25 percent paved roads. In May the Cabinet of Ministers approved a program to spend \$130 million (675 million hrynia) over the next five years to help settle returning Crimean Tatars and members of other ethnic groups and provide assistance for integrating them into society, including building or purchasing housing. The resolution also allows measures for facilitating the return of cultural property of Crimean Tatars taken out of the country after the deportation and for developing media broadcasting in the ethnic languages.

On May 22, President Yushchenko established a 28-member advisory council of government officials and NGO leaders on ethnic national policy.

Rusyns (Ruthenians) continued to call for status as an official ethnic group in the country, noting that neighboring countries accept them as minorities. As of September, 26 Sunday schools for Rusyns were open in Zakarpattya with the support of the World Council of Rusyns to teach the language, literature, and history of Rusyns.

#### Other Societal Abuses and Discrimination

International human rights organizations have criticized widespread discrimination against persons with HIV/AIDS and lack of access to treatment. Routine police abuse of drug users and sex workers also contributed to the problem. Although the country's national AIDS law is often held up as a model in the region for incorporating human rights protections for people living with HIV/AIDS, implementation has been weak. Persons with HIV/AIDS continued to face discrimination in the workplace, job loss without legal recourse, harassment by law enforcement, prosecutorial, and judicial authorities, and social isolation and stigmatization within their communities.

On May 17, members of Nash Mir, the country's leading NGO that advocates for gays and lesbians, held an "international day against homophobia" demonstration in front of the Economics and Law College of the Inter-Regional Academy of Personnel Management (MAUP) to protest the expulsion of a gay student from the college in March 2005.

In September approximately 100 people in Kyiv participated in a march against homosexuality. They held signs declaring: "HOMO dictatorship will not be allowed; politicians, protect our families!"

#### Incitement to Acts of Discrimination

Several government publications portrayed Roma as criminals. On March 24, Selskiy Chas, a Kyiv-based newspaper co-founded and managed by the Ministry of Agriculture, carried an article entitled, "Beware of Drug Trafficking" that explicitly linked Roma to drug dealing.

The Romani Congress of Ukraine also noted *Osnovy Zdorovya*, a fourth grade health textbook recommended by the Ministry of Science and published in 2004, which teaches children what to do when strangers appear outside the door of their home. Pictures accompanying the text showed a white Ukrainian boy peering through the peephole in the door at a darker-skinned young girl and a large, menacing woman dressed in stereotypical 'Gypsy' clothing (headscarf, hoop earrings and flower-print dress) lurking in the shadows.

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

## Section 6 Worker Rights

### a. The Right of Association

The law provides for the right of workers to join unions to defend professional, social, and economic interests, and this right was generally respected in practice. Large companies and some local government officials continued to resist the formation of unions.

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

In order to function as an organization for all practical purposes, a union must have proof of registration as a legal entity. Unions reported this registration process was extremely burdensome, entailing visiting up to 10 different offices, submitting extensive documentation, and paying a number of fees.

In order to acquire national status, which allows a union to negotiate and sign agreements directly with government ministries and to communicate officially with the Cabinet of Ministers and president, a union must either have branches in more than half of the country's administrative regions or have branches in more than half of the administrative regions where the enterprises of this sector are located. The law stipulates noninterference by public authorities in the activities of unions, which have the right to establish and join federations on a voluntary basis. There were both "official" and "independent" trade unions.

All unions affiliated with the FPU, as well as several new, independent labor unions, were registered. Although often coordinating its activities with the government, the FPU continued to work independently on some labor matters and advocated the right of workers to strike. While the FPU supported the protests of some professions over unpaid wages, most FPU affiliates worked closely with management. Enterprise managers were free to join the FPU. The FPU leadership had a political party, the All Ukrainian Party of Workers.

Independent unions provided an alternative to the official unions in many sectors of the economy. As of September 1, there were 111 trade unions registered with the Ministry of Justice, including 44 national level, industrial sector FPU unions and 67 non-FPU trade unions. The Confederation of Free Trade Unions of Ukraine (CFTU) reported as of September that it had only seven national level unions registered. The CFTU estimated its total membership at 242,000. While exact membership figures were unknown, there were estimated to be 2.3 million non FPU members (down from 3 million in 2002) and 11.2 million members of FPU affiliated unions (down from 14.5 million in 2002). These estimates are likely exaggerated, however, and the FPU believed that only 75 percent of formally registered affiliates actually operate in practice.

Independent unions continued to be denied a share of the former Soviet trade unions' huge property and financial holdings. These included the social insurance benefit funds, a Soviet era legacy on whose boards FPU affiliated unions held the majority of seats, giving them a benefit the independent unions could not offer. The FPU made no substantive progress during the year in negotiating an equitable sharing of these property and financial holdings. Leaders of non-FPU trade unions claimed that the FPU improperly sold off some Soviet-era assets in order to thwart their future distribution.

Independent trade union leaders complained that government representatives sought to influence union votes and pressure members to report on union activities. They reported a noticeable increase in pressure applied to members of independent trade unions, who were often identified as political allies of the political opposition, following the formation of Yanukovich's government in the summer. As of September the CFTU reported 14 separate cases in which employers refused to recognize newly formed, independent trade unions or allow them to participate in collective bargaining. The CFTU complained that employers, in conjunction with leaders of local FPU affiliates, pressured independent unions in most of these cases to disband.

Workers sometimes claimed that management forced them to carry out additional assignments without compensation because they were members of independent unions or threatened them with dismissal if they refused to leave their union. In two cases leaders of independent unions complained they were physically assaulted by representatives of management as part of a campaign of intimidation. In another case involving an independent union at Mariupol and Kherson ports, the Mariupol city district court declined to rule on the union's complaints, citing improper jurisdiction.

Leaders of an independent union at the Linnik oil refinery in Luhansk complained of harassment by the SBU following a May 14 training

seminar with a local representative of the American Center for International Labor Solidarity (affiliated with the AFL-CIO). The union leaders said that SBU officers interrogated them regarding their cooperation with the solidarity center and the CFTU, urged them to cease such activities, and subsequently broke into their offices. Leaders of independent unions at three coalmines in the city of Chervonohrad complained that on August 28, Ministry of Interior officials searched their offices and seized documents, including membership applications. They claimed that the Office of the Prosecutor General had issued search warrants in violation of the Constitution.

#### 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. There are no export processing zones since they were abolished by the government in March 2005.

According to the law joint worker management commissions should resolve problems concerning wages, working conditions, and the rights and duties of management at the enterprise level. Although the law provides the right to collective bargaining, overlapping spheres of responsibility frequently impeded the collective bargaining process; the manner in which the collective bargaining law was applied prejudiced the bargaining process against independent unions and favored official unions (affiliates of the FPU). Collective bargaining agreements covered 90 percent of unionized employees in the formal sector according to a November 2005 World Bank study. Most workers were not informed that they were not obligated to join an official union. Renouncing membership in an official union and joining an independent union was bureaucratically onerous and typically discouraged by management. The law allows an independent union to be removed easily from the collective bargaining process at the enterprise level. Under the law if several unions at an enterprise fail to agree on joint representation, the largest union that is the FPU represents labor in the bargaining process.

The law provides for the National Mediation and Reconciliation Service to mediate labor disputes. According to official statistics, the service addressed 214 labor disputes during first eight months of the year, resolving 71 of them.

The law provides for the right to strike to defend one's economic and social interests, provided strikes do not jeopardize national security, public health, or the rights and liberties of others; the government generally respected this right. It does not extend the right to strike to personnel of the Office of the Prosecutor General, the judiciary, armed forces, security services, law enforcement agencies, the transportation sector, or public servants. Workers who strike in prohibited sectors may receive prison terms of up to three years.

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

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

There were continued media reports of alternative service military conscripts being used as compulsory labor in the construction and refurbishing of private houses for military and government officials.

At an August 24 protest at Polytsk correction facility number 76, the prisoners included among their complaints being forced to work at private companies without fair compensation.

#### 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 legal minimum age for employment in most areas of the economy is 16, but in certain non-hazardous industries, enterprises may negotiate with the government to hire employees as young as 15 with the consent of one parent. Children aged 14 can legally work on a short term basis for social services such as orphanages, hospitals, and elderly care and in the agricultural sector with the consent of one parent.

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

Children worked in the agricultural sector, and trafficking of children for the purpose of forced labor and sexual exploitation was a problem (see section 5). Begging by children existed, although it was limited. According to the International Labor Organization and Federation of Employers of Ukraine, over 456,000 Ukrainian children aged 9-14 are employed in the illegal economy. This includes street begging, the sex industry, and use of child labor in illegal coalmines. In the formal sector the State Department of Surveillance Over Labor Legislation Observance and the State Labor Inspectorate are responsible for enforcing child labor laws and policies. The Department of Juvenile Affairs and the police are responsible for identifying children in the informal sector that are involved in worst forms of child labor.

Enforcement measures were often inadequate to deter violations. The ILO/IPEC had a regional anti-trafficking project aimed at eradicating the worst forms of child labor and child trafficking, including street children and other children at risk.

#### e. Acceptable Conditions of Work

The government increased the monthly minimum wage at year's end to \$80 (400 hryvnia). 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 thoroughly monitor all employers. Many workers, especially in the informal sector, received far below the minimum wage.

Since the beginning of the year, wage arrears increased approximately 14 percent and, as of August 1, stood at \$218 million (1.1 billion hryvnia), equal to about 8.4 percent of total wages. Most arrearages accumulated in state-run industry and agriculture. The biggest wage arrearages accumulated in Donetsk oblast \$55 million (277 million hryvnia), Luhansk oblast \$23 million (113.2 million hryvnia), Dnipropetrovsk oblast \$12 million (61.5 million hryvnia) and Crimea \$10 million (50.0 million hryvnia). The FPU estimated that 430,000 employees, about half of whom worked in state-owned enterprises, did not receive wages on time. The FPU filed a formal complaint with the ILO in an effort to oblige the government to pay outstanding wages.

The law provides for a maximum 40 hour workweek, a 24 hour period of rest per week, and at least 24 days of paid vacation per year. Stagnation in some industries significantly reduced the workweek for some categories of workers. The law provides for double pay for overtime work and regulates the amount of overtime hours allowed. However, regulations covering rest periods, maximum hours, and overtime were not always effectively enforced.

Although the law contains occupational safety and health standards, these frequently were ignored in practice. In particular, illegal coalmines connected to organized crime and corrupt leaders operated in unsafe conditions. Lax safety standards and aging equipment caused many injuries on the job. During the first six months of the year, there were 9050 injuries, including 437 job related fatalities. The number of miners injured in the coal sector during the first half of the year was 3,383, including 78 fatalities.

In the coal mining sector experts estimated that there were approximately two deaths for every million tons of raw coal extracted in 2005, down from 2.57 in 2004. Increased enforcement of safety regulations was a major factor in this reduction, although the numbers remained quite high. In May 2005 the government established a coal industry development program, as well as working groups to analyze the situation in the mining and metallurgical sector, but these efforts did not result in any substantial improvements in health and safety in the mines.

On August 15, the Yanukovich government restored the State Committee of Industrial Safety, Occupational Health, and Mining Supervision, which had been abolished in April 2005, and its functions incorporated into the Ministry of Emergencies. The committee will resume duties as the primary watchdog for coalmine safety.

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