

UKRAINE 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Ukraine is a republic with a presidential-parliamentary system of government. The constitution provides for a directly elected president, a unicameral parliament (Verkhovna Rada), and a prime minister appointed by the president and confirmed by parliament. The October 2012 elections for the 450-seat parliament and parliamentary by-elections in December did not meet international standards for fairness or transparency. Authorities maintained effective control over the security forces. Security forces committed human rights abuses.

“Berkut” riot police used batons and other forms of physical force on November 30 to clear 300 hundred protesters from Kyiv’s Independence Square (Maidan Nezhalezhnosti) who had peacefully assembled to express dissatisfaction with the government. On December 1, an estimated 500,000 people joined demonstrations in Kyiv’s city center in solidarity with the protesters. At year’s end the “EuroMaidan” civic movement continued to occupy Independence Square and several adjacent streets.

The most serious human rights problem during the year was increased government interference with, and pressure on, media outlets, including government tolerance of increased levels of violence toward journalists. The second major human rights problem was intensified pressure on civil society, nongovernmental organizations (NGOs), and civic activists. The third major problem was the practice of politically motivated prosecutions and detentions, including the continued imprisonment of former prime minister Yuliya Tymoshenko.

Other human rights problems included: abuse of persons in custody, including beating and alleged torture of detainees and prisoners; harsh and unhealthy conditions in prisons and detention facilities; an inefficient and corrupt judicial system; inadequate provisions for asylum seekers; pervasive corruption in all branches of government; societal violence against women and abuse of children; societal discrimination against and harassment of ethnic minorities; trafficking in persons; discrimination and violence against lesbian, gay, bisexual, and transgender (LGBT) persons; discrimination toward persons with HIV/AIDS that endangered their prospects for treatment; limitations on workers’ right to strike; and forced labor.

The government generally did not prosecute security officials who committed abuses, especially against prisoners, members of minority groups, and civic activists. Human rights observers often criticized prosecutions for corruption as selective and politically motivated. Impunity was a problem throughout the government.

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

There were reports of deaths attributed to illegal actions or negligence by authorities.

On April 9, Oleksandr Levinsky died in police custody in Odesa. According to his mother, police had severely beaten him. A video of Levinsky's injuries posted on the internet depicted numerous bruises across his body. The regional prosecutor denied that police mistreated Levinsky and claimed his death resulted from meningitis. The local prosecutor's office opened an investigation into the death, and the case continued at year's end.

On December 20, Pavlo Mazurenko died in a hospital two days after special riot police (Berkut) beat him in Kyiv. His family attributed his beating to his involvement in the "EuroMaidan" protests. Local media reports said hospital officials attributed his death to pneumonia. There was no official investigation as of year's end.

On January 29, following a yearlong closed trial, Oleksiy Pukach received a sentence of life in prison for the killing in 2000 of investigative journalist Heorhiy Gongadze. Gongadze's murder – his beheaded body was found in a forest on the outskirts of Kyiv – provoked protests and an international outcry. Pukach, a former senior Ministry of Internal Affairs official, reportedly stated that he had not intended to kill Gongadze during an interrogation. He also implicated former president Leonid Kuchma and other government officials in the murder plot. A district court dismissed charges against Kuchma in 2011, stating that prosecutors illegally obtained evidence against him.

b. Disappearance

There were no reports of politically motivated disappearances.

In October 2012 unidentified assailants abducted Russian activist Leonid Razvozhayev in Kyiv, where he was preparing to apply for asylum at a partner office of the UN High Commissioner for Refugees (UNHCR). His abductors transported him to Moscow, where a court ordered his detention. In December 2012 Kyiv police stated they planned to investigate the alleged abduction, but as of year's end, there was no report of an investigation, and Razvozhayev remained in detention in Russia.

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

The constitution and law prohibit such practices. According to the 2012 criminal procedure code (CPC), confessions and statements made to police under duress by persons in custody cannot be used as evidence in court proceedings. Nevertheless, there were reports that police and other law enforcement officials continued to abuse and torture persons in custody to obtain confessions.

The Ukrainian Helsinki Human Rights Union reported that it received 199 complaints of alleged torture and abuse through November, compared with 153 complaints in 2012. In November, Amnesty International, citing Ministry of Internal Affairs statistics, reported that through August there were 987 complaints of torture and illegal use of force by police officers, and authorities were reportedly investigating 231 of those.

According to the Ministry of Internal Affairs, courts convicted five police officers of torture and inhuman treatment through November, and authorities took disciplinary measures against another 45. In 2012, according to Amnesty International, prosecutors received 114,474 complaints of police mistreatment. They investigated 1,750 of those complaints, resulting in 320 prosecutions of 438 police officers.

On December 1, police detained nine protesters following clashes with Berkut riot police near the Presidential Administration building on Bankova Street in central Kyiv. Witnesses reported that more than 10 Berkut officers beat the protesters and ordered them to lie on the frozen ground for approximately two hours. After an emergency physician at the scene intervened, the protesters were transported to a

hospital for emergency treatment. All nine had numerous injuries, including bruises and traumatic head injuries.

In July, according to news reports, Crimean resident Volodymyr Tkachenko lost his spleen because of a beating by a senior police officer during an interrogation. Tkachenko's family members told the media that police authorities offered them approximately 50,000 hryvnia (\$6,200) to withdraw their complaint. The case remained under investigation at year's end.

On March 26, a court in Donetsk convicted three police officers of beating and raping Mykhaylo Byelikov in June 2012. The court sentenced one officer to 10 years in prison while the two others received suspended sentences. The verdict also awarded damages of 250,000 hryvnia (\$31,000) to Byelikov, who criticized the sentences as too lenient.

Physical hazing and violence continued to be a problem in the armed forces. The State Judicial Administration reported that through June courts issued 23 guilty verdicts for hazing offenses. The Office of the Prosecutor General reported that during the year, 11 service members received convictions for hazing, and prosecutors forwarded 19 hazing-related criminal cases to the courts.

Prison and Detention Center Conditions

Prison and detention center conditions remained poor, did not meet international standards, and at times posed a serious threat to the life and health of prisoners.

Poor sanitation, abuse, and the lack of adequate light, food, and medical care were persistent problems. The government permitted monitoring visits by independent human rights observers.

Physical Conditions: According to the State Penitentiary Service (SPS), there were 128,512 persons in penal facilities during the first 11 months of the year. Of these, 22,483 were in pretrial detention. Approximately 7,977 were women and 927 were juveniles. Authorities generally held men, women, and juveniles in separate facilities, although there were reports that in some pretrial detention facilities there was no separation of juveniles and adults. Through November 830 individuals died in custody, including 77 by suicide. Most prisoners had some access to potable water.

According to the Ministry of Internal Affairs, approximately 11,500 persons were in temporary detention facilities during the first nine months of the year, a 41 percent decrease compared with 2012. This was due in part to the 2012 CPC, which reduced the practice of temporary detention. The ministry confirmed five deaths in these facilities, three by suicide and two from illness.

Conditions in police temporary detention facilities and SPS pretrial detention facilities were harsher than in low- and medium-security prisons. The former often lacked adequate sanitation and medical facilities.

On September 5, the Council of Europe's Committee for the Prevention of Torture (CPT) issued a report describing a December 2012 monitoring visit to the country. According to the report, CPT monitors received credible accounts of severe police mistreatment at three correctional facilities in the Dnipropetrovsk, Kharkiv, and Vinnytsya regions. The report called upon authorities "to take further action to combat torture and other forms of mistreatment in correctional colonies." The report also noted that officials denied or delayed medical care to prisoners who alleged mistreatment and those officials often did not respect medical confidentiality.

Administration: Authorities kept records of prisoners in detention, but they were occasionally incomplete, and prison officials applied visitation rules inconsistently. Human rights groups reported instances in which authorities confiscated prisoners' passports and failed to return them upon the prisoners' release. Alternative sentencing, such as fines or community service, was available for some nonviolent offenders. The SPS did not have a human rights ombudsman for prisoners, but the Office of the Parliamentary Ombudsman for Human Rights responded to complaints made by prisoners and conducted prison monitoring.

Officials generally allowed prisoners to receive visitors and observe religious services, although those in disciplinary cells could not receive visitors. Prisoner rights groups noted that some families had to pay bribes to obtain permission for prison visits to which they are entitled by law. Authorities allowed former prime minister Tymoshenko to receive visitors, although arbitrary enforcement of regulations appeared at times to restrict her ability to meet with visitors. On February 23, Tymoshenko's representative charged that SPS officials had refused to allow doctors from the Charite Clinic in Germany to examine Tymoshenko, despite prior approval. The SPS denied the allegation.

Prisoners and detainees may file complaints about conditions in custody with the parliamentary ombudsman for human rights, but human rights organizations noted that prison officials continued to censor or discourage complaints and penalized and abused inmates who filed them. Rights groups reported that legal norms did not always ensure confidentiality of complaints.

Independent Monitoring: The government generally permitted independent monitoring of prisons and detention centers by international and local human rights groups.

CPT monitors visited the country October 9-21 to reexamine the situation of persons in custody in view of the changes introduced by the 2012 criminal procedure code. The monitors visited several Internal Affairs Ministry facilities and temporary detention facilities in Kyiv, Crimea, Dnipropetrovsk, Odesa, and Vinnytsya.

According to the CPT's preliminary report of the October 9-21 visit (issued November 15), the delegation noted some reduction in both the severity and frequency of mistreatment of persons in custody since the new CPC entered into force. Nevertheless, the monitors stated that many current and former detainees of the Ministry of Internal Affairs (including men and women, and male and female juveniles) alleged that ministry personnel physically mistreated them, including with punches, kicks, and truncheon blows. According to the CPT, in some cases the alleged mistreatment was of such severity that it could be considered as amounting to torture. In a number of cases, monitors found medical evidence, either through direct observation or in medical documentation, consistent with the allegations.

Improvements: In the September 5 report on its 2012 visit, the CPT noted in particular improvement in the treatment of prisoners at Correctional Colony No. 89 in Dnipropetrovsk, compared with its first monitoring visit in 2009. It also observed improvements in facilities in Kyiv during the October visit, compared to the other regions visited. Nevertheless, the CPT reported, "much remains to be done in order to ensure the full and adequate implementation of the new CPC."

In November 2012 the parliamentary ombudsman for human rights, in cooperation with civil society groups, began implementing a National Preventive Mechanism to reduce the incidence of torture and mistreatment in prisons. Through November joint teams of monitors conducted 266 visits to pretrial detention centers, prisons, and state facilities for children, the elderly, and persons with disabilities. The

ombudsman subsequently released a report during the year describing various systemic problems, including nonobservance of basic rights, poor sanitation, and psychological and physical abuse.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, but serious problems remained.

Role of the Police and Security Apparatus

The Ministry of Internal Affairs is responsible for maintaining internal security and order; it reports directly to the president and oversees police and other law enforcement personnel. The Security Service of Ukraine (SBU) is responsible for all state security, nonmilitary intelligence, and counterintelligence and reports directly to the president. The Ministry of Incomes and Fees, formed in December 2012, exercised law enforcement powers through the tax police and reports to the cabinet of ministers.

Law enforcement agencies are under civilian control. There were reports that the Ministry of Internal Affairs, SBU, and other law enforcement agencies at times acted with impunity and appeared to act to further the political interests of the presidential administration.

On November 30, Berkut riot police violently dispersed peacefully assembled demonstrators gathered in central Kyiv on Independence Square, which protesters renamed “EuroMaidan.” Although protesters showed no signs of organized resistance, police used batons, tear gas, and stun grenades to drive them from the square. After demonstrators left the square, police pursued them for several blocks and continued beating some who fell behind. The Association of Ukrainian Human Rights Monitors on Law Enforcement stated that the protesters were acting peacefully and that circumstances did not justify the use of force. Both Human Rights Watch and Amnesty International urged authorities to investigate police use of excessive force.

Under the law members of parliament have authority to conduct investigations and public hearings into law enforcement problems. The parliamentary ombudsman for human rights initiates investigations into reported problems and abuses by security forces. On December 26, Human Rights Ombudsman Valeriya Lutkovska announced that she was taking personal control of the investigation into the brutal

beating of activist and journalist Tetyana Chornovol. She was one of the main organizers of antigovernment protests known as “EuroMaidan” and reported critically on alleged government misuse of state resources (see section 2.a., Violence and Harassment).

On December 27, Lutkovska released a statement expressing “deep concern” about growing pressure on civil society activists, including numerous reported attacks on participants in and organizers of peaceful demonstrations, and on journalists.

According to Lutkovska, her office received “dozens of petitions” during the year about attacks on organizers, co-organizers, and activists involved in antigovernment demonstrations in Feodosiya, Uzhhorod, Ivano-Frankivsk, Luhansk, Dnipropetrovsk, Kharkiv, Zhytomyr, Ternopil, Odesa, Simferopol, Kyiv, the Kyiv oblast, and Zhytomyr. The attacks in Simferopol, Luhansk, Uzhhorod, Odesa, and Kharkiv allegedly involved damage to property, including cars belonging to demonstration activists. Journalists and mass media representatives in Kyiv, the Kyiv region, and Zhytomyr were subjected to “cruel beatings.”

At the same time, human rights activists reported that authorities initiated criminal investigations of “EuroMaidan” protesters in Lviv, Lutsk, Chernihiv, Chernivtsi, Ternopil, Vinnytsya, Zaporizhzhya, Kalush, Kharkiv, Donetsk, and Vasylkiv.

Law enforcement personnel were generally effective, but there were significant cases of abuse and impunity. The Prosecutor General’s Office investigated security force abuses, but human rights groups maintained that the office did not properly investigate all cases and did not prosecute many instances of abuse.

The government provided training to law enforcement personnel on how to curb abuses, and NGOs provided human rights training. Human rights groups noted that authorities did not undertake any major reform of security forces and training did not result in substantive changes. Security forces generally prevented or responded to societal violence. At other times, however, they used excessive force to disperse protests and in some cases failed to protect peaceful demonstrators from harassment or violence from opposing protesters.

The Prosecutor General’s Office opened criminal investigations against police following the November 30 “EuroMaidan” violence. The office questioned several high-ranking officials regarding their respective roles, including the deputy secretary of the National Security and Defense Council, Volodymyr Sivkovych; the chief of the Kyiv Main Department of the Ministry of Internal Affairs, Valeriy

Koryak; and the head of Kyiv City State Administration, Oleksandr Popov. Human rights groups and opposition political leaders stated that these officials were merely executing orders and demanded the dismissal of the minister of Internal Affairs, Vitaliy Zakharchenko, and the secretary of the National Security and Defense Council, Andriy Klyuyev. The investigation continued at year's end, although authorities had not detained or arrested any of the police officers or other government officials reportedly responsible for ordering and using excessive force against peaceful protesters.

According to the Prosecutor General's Office, prosecutors opened 2,857 criminal investigations through October into alleged torture or degrading treatment by police. In the same period, the office sent 802 cases of alleged mistreatment involving 950 law enforcement officers to the courts, including 54 cases specifically alleging torture or degrading treatment.

The Prosecutor General's Office reported that through September authorities opened criminal cases for other types of crimes against 146 police officers. The majority of cases related to corruption and abuse of power.

Arrest Procedures and Treatment of Detainees

By law authorities may detain a suspect for three days without a warrant, after which time a judge must issue a warrant authorizing continued detention. According to the CPC, prosecutors must bring detainees before a judge within 72 hours, and pretrial detention should not exceed six months for minor crimes and 12 months for serious crimes. Under the law citizens have the right to challenge an arrest in court or by appeal to a prosecutor. Authorities must promptly inform detainees of their rights and immediately notify family members of an arrest. Police often did not follow these procedures.

Under the law the government must provide attorneys for indigent defendants. Compliance was uneven because of a shortage of defense attorneys or because attorneys, citing low government remuneration, refused to defend indigent clients. In January the government began operating free legal assistance centers in each of the 24 oblasts (administrative divisions), in Crimea, and in the cities of Kyiv and Sevastopol. According to the Ministry of Justice, more than 3,000 lawyers were qualified to provide free legal aid.

The law provides for bail, but many defendants could not pay the required amounts. Courts sometimes imposed travel restrictions as an alternative to pretrial

confinement. Under the CPC prosecutors cannot impose measures that restrict the movements or activities of persons awaiting trial without a court order. Prosecutors must prove that the type of restriction they propose is the minimum to ensure that suspects will appear at future hearings and will not interfere with criminal proceedings.

Arbitrary Arrest: Authorities continued to make arbitrary arrests, in part to extract evidence to use against detainees. There were reports of unsanctioned arrests, and police at times failed to keep records or register detained suspects. In addition courts often extended detention to allow police more time to obtain confessions.

On December 1, police arrested nine activists suspected of participating in antigovernment protests near the Presidential Administration building on Bankova Street in Kyiv. A court remanded all nine to two months of pretrial detention. Human rights activists in the courtroom reported numerous procedural and substantive violations, including a lack of sufficient evidence to convict the activists. In mid-December a Kyiv appellate court released eight of the nine activists. Two were placed under partial home arrest; four were released without bail on condition that they do not leave their place of residence and cooperate with investigators; and two others pled guilty and paid fines of 850 hryvnia (\$105). Although the eight activists were released from pretrial detention, the criminal charges continued. If convicted, they could be sentenced to up to eight years in prison.

On April 30, the European Court of Human Rights (ECHR) ruled that the August 2011 detention of former prime minister Tymoshenko was arbitrary and that her appeal did not receive proper judicial review, a violation of the right to liberty under Article 5 of the European Convention on Human Rights.

Pretrial Detention: According to the Ministry of Internal Affairs and the SPS, implementation of the CPC has lowered by 34 percent the number of individuals assigned to pretrial detention and held in pretrial detention facilities nationwide. For example, in 2012 courts remanded an average of 2,800 individuals per month to custody pending trial. In September 2013 the number for the month was an estimated 700 persons. Through August 18 there were 18,100 individuals in pretrial detention facilities, compared with 32,000 in 2012.

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, courts remained vulnerable to political pressure and corruption, were inefficient, and lacked public confidence. In certain cases the outcome of trials appeared to be predetermined.

According to most local and international legal experts, a number of individuals were victims of politically motivated prosecutions after being denied the right to a fair public trial, including former prime minister Tymoshenko, who was convicted of abuse of office in 2011.

Judges continued to complain about deterioration in the separation of powers between the executive and judicial branches of government. Some judges claimed high-ranking politicians pressured them to decide cases in their favor, regardless of the merits. Lengthy court proceedings, particularly in administrative courts, inadequate court funding, insufficient legal assistance for defendants, and the inability of courts to enforce rulings also impeded the right to a fair trial.

On September 12, the High Administrative Court stripped Ihor Markov, a Party of Regions member of parliament (MP), of his legislative mandate. Political observers said the action was in retaliation for his public disagreement with party leadership. The controversial court ruling found that Markov falsified voting to win his seat during the October 2012 parliamentary elections. On October 22, police arrested Markov for participating in a violent fight in 2007 with government protesters in Odesa. Authorities forwarded his case to a Kyiv court, and Markov remained in jail at the year's end.

On March 6, the High Administrative Court stripped Batkivshchyna MP Serhiy Vlasenko of his parliamentary mandate. The court ruled that Vlasenko violated parliament's ethics rules by serving as former prime minister Tymoshenko's defense counsel while also serving as an MP. Vlasenko claimed the court ruling was politically motivated, as his conduct did not violate ethics rules or other restrictions on the professional activities of MPs.

On February 8, the High Administrative Court invalidated the parliamentary election of Pavlo Baloha and Oleksandr Dombrovsky, citing violation of voter rights. The court ordered both members of parliament to be stripped of their mandates and new elections held in their districts. Both Baloha and Dombrovsky appealed to the ECHR, alleging the court's decisions were politically motivated.

Trial Procedures

The 2012 CPC revised procedures to reduce incentives for authorities to coerce confessions, streamlined investigations, introduced adversarial criminal proceedings and alternatives to pretrial detention, and improved due process guarantees. It shifts the judge's role from that of an active investigator to that of a decision maker, allows cross-examination of witnesses by both prosecutors and defense attorneys, and provides for plea bargaining. At the same time, legal observers cited a need for further reforms to limit the power of the Prosecutor General's Office and to establish an impartial and independent criminal justice system consistent with the country's international commitments.

There is no comprehensive jury system. A single judge decides most cases, although two judges and three public assessors who have some legal training hear trials on charges carrying a maximum sentence of life imprisonment.

Under the CPC defendants are entitled to the presumption of innocence. They have the right to be informed promptly of charges against them. They also have the right to a public trial without undue delay, to communicate privately with an attorney of their choice (or one provided at public expense), to adequate time and facilities to prepare a defense, to access government-held evidence, to confront witnesses against them, and to present witnesses and evidence. They also have the right not to be compelled to testify or confess guilt and the right to appeal. Government officials sometimes undermined the presumption of innocence through public remarks about ongoing or pending cases.

The CPC mitigated lengthy pretrial detention, although high conviction rates called into question adherence to the presumption of innocence. While the law required trials to be public, courtroom space was often limited, and the court at times prohibited the media from observing proceedings. Trials, which must start no later than three weeks after prosecutors file criminal charges, seldom met this legal requirement, and months frequently passed before a court tried a defendant. Complicated cases usually took even longer to go to trial. Human rights groups reported that officials occasionally monitored meetings between attorneys and their clients.

The CPC provides for an improved appeals process for both defendants and prosecution. Appeals courts can no longer dismiss convictions or order new trials based on missing documents, nor may they coerce defendants to sign copies of missing documents.

In August 2012 a new law united attorneys under a single bar, the National Advocates' Association (NAA), which aims to increase the independence of lawyers, create a single registry for lawyers, and broaden professional rights and guarantees for those practicing law.

On November 17, according to media reports, opposition-aligned lawyers were excluded from voting to elect the NAA director, and several lawyers critical of the new director received disciplinary action. The Ukrainian Helsinki Human Rights Union described the situation as suppression of dissent and violation of the lawyers' rights. At year's end a court rejected all petitions to dismiss the NAA director.

During the year parliament did not approve proposed legislation to limit the powers of the Prosecutor General's Office. Human rights experts and international legal experts expressed disappointment in the limited scope of the amendments that parliament considered. They urged more far-reaching reforms that would increase professionalism, improve ethical standards, and limit the authority of prosecutors to exercise power outside of the criminal process, including so-called prosecutorial inspections.

Political Prisoners and Detainees

During the year authorities selectively detained and prosecuted members of the political opposition and civic activists involved in peaceful antigovernment protests. They continued to imprison opposition politicians.

In response to the "EuroMaidan" demonstrations, which began on November 21 and continued at year's end, the Ministry of Internal Affairs initiated more than 50 investigations of administrative and criminal offenses allegedly committed by private citizens.

A number of protesters beaten by Berkut riot police during these demonstrations subsequently faced charges of administrative and criminal offenses. Those mistreated included four persons detained on November 24 near the cabinet of ministers building, 34 persons seriously injured and detained on November 30 on Independence Square, and nine persons detained on December 1 on Bankova Street who were hospitalized with numerous injuries. Human rights activists claimed that threats of criminal charges dissuaded many of the detained from filing complaints against police.

During “EuroMaidan” protests in other parts of the country, authorities charged six activists in Lutsk with criminal offenses for taking portraits of President Viktor Yanukovich out of three regional council buildings to protest the violent November 30 dispersal of protesters in Kyiv. If convicted, they faced up to four years in prison. In Cherkasy a district court imposed two months’ house arrest on activist Yaroslav Prykhodko for raising the EU flag in front of the city council building. Prykhodko was the subject of a continuing investigation at year’s end.

Although parliament passed a new law on December 25 that ostensibly ended all administrative and criminal cases begun against “EuroMaidan” protesters between November 21 and December 25, senior court officials raised questions at year’s end whether the law could be applied.

Former prime minister Tymoshenko remained in prison at year’s end. She was convicted in 2011 of abuse of power and misuse of state funds in proceedings that many domestic and international observers regarded as politically motivated. Observers noted that, while the government had a right to investigate corruption, prosecution should not be selective or politically motivated.

Tymoshenko received a seven-year sentence and was ordered to pay the government 1.5 billion hryvnia (\$190 million) to cover losses incurred by a natural gas agreement she signed with Russia in 2009. In February 2012 former internal affairs minister Yuriy Lutsenko was sentenced to four years in prison for illegally promoting his driver and authorizing funding for a Police Day celebration in 2009. In August 2012 he received a second conviction for abuse of office for improperly renewing authorization of police surveillance.

On April 7, President Yanukovich pardoned Lutsenko and former minister of ecology Heorhiy Filipchuk.

In July 2012 the ECHR ruled that Lutsenko’s arrest and detention had been arbitrary, in violation of Article 5 of the European Convention on Human Rights. The court also ruled that authorities had violated Article 18 of the convention by wrongfully prolonging Lutsenko’s detention past his arraignment. The ECHR ordered the government to pay a fine of 15,000 euros (\$20,250) in compensation, and declined to hear the government’s appeal.

Civil Judicial Procedures and Remedies

The constitution and laws provide for the right to seek redress for any decisions, actions, or omissions of national and local government officials that violate citizens' human rights. An inefficient and corrupt judicial system limited the right of redress. Individuals may also file a collective legal challenge to legislation that they believe may violate basic rights and freedoms. Individuals may appeal to the parliamentary ombudsman for human rights at any time and to the ECHR after exhausting domestic remedies.

Regional Human Rights Court Decisions

Individuals may apply to the ECHR to redress alleged violations of human rights by the state as provided under the European Convention on Human Rights. Through November the ECHR handed down 60 judgments against the country, most involving violation of the right to a fair trial, unduly long judicial proceedings, violation of the right to liberty and security, and inhumane or degrading treatment. Through July the ECHR reviewed 4,655 applications concerning Ukraine.

Independent observers noted that, while the government at times paid damages assessed by the ECHR, it failed to institute reforms to address the root causes of many of the cases brought before the court or to allocate sufficient funds to pay all fines.

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

The constitution prohibits such actions, but authorities generally did not respect the prohibitions.

During the year civil society organizations reported that the SBU increased its pressure and intimidation by questioning civic activists and NGO representatives without justification, and by trying to collect membership lists and information about the NGOs' future plans. Activists also claimed the SBU disrupted several civil society-sponsored youth activities. Activists believed the SBU was trying to discourage them from pursuing their work.

On November 25, opposition politicians alleged the SBU was illegally monitoring their telephone and electronic communications during the "EuroMaidan" protests. They forced suspected SBU employees to exit a vehicle parked outside the "EuroMaidan" headquarters and turn over monitoring equipment.

By law the SBU may not conduct surveillance or searches without a court-issued warrant. In an emergency authorities may initiate a search without prior court approval but must seek court approval immediately after the investigation begins. The Office of the Prosecutor General has the constitutional responsibility to ensure that all law enforcement agencies observe the law. Citizens have the legal right to examine any dossier concerning them in the possession of the SBU and the legal right to recover losses resulting from an investigation. Authorities generally did not respect these rights because there was no implementing legislation, and many citizens were not aware of their rights or that authorities had violated their privacy.

On May 21, Oleh Tyahnybok, an opposition politician and leader of the Svoboda political party, alleged that authorities illegally monitored his private telephone conversations. On March 30, opposition politician Arseniy Yatseniuk alleged that law enforcement officials conducted surveillance of his visit to the western part of the country to attend an opposition rally.

In July parliament approved amendments to the law on personal data protection to transfer oversight from the State Service for Personal Data Protection to the Office of the Parliamentary Ombudsman for Human Rights. The law was scheduled to enter into force in January 2014. Civil society groups stressed that despite the change, the government lacked the expertise and resources to ensure the security of personal data. They maintained the law, initially adopted in 2012, violated the right to privacy by permitting the sharing of large amounts of sensitive personal information across many government agencies without adequate safeguards to protect the data's integrity.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The government did not uniformly respect the rights of freedom of speech and press provided by the constitution and law.

Journalists and media owners at times yielded to government pressure and intimidation by practicing self-censorship, and authorities attempted to direct media content. There were also increased reports that national and local officials and unknown perpetrators intimidated and engaged in violence against journalists, particularly in the weeks after the start of antigovernment protests on November 22 in Kyiv. During the year government officials and government-allied business

interests continued to consolidate control over national television channels and digital broadcast frequencies.

Freedom of Speech: Individuals could criticize the government publicly and privately. During the year authorities intimidated public gatherings to impede civic and political meetings critical of the government.

According to the Institute of Mass Information (IMI), a local media watchdog, 496 violations of freedom of speech were registered during the year. This was almost twice the number of cases IMI registered in 2012 (283), and six times more than in 2009 (79). The largest number of violations was registered in the category of “impeding journalistic activities.”

On September 30, unidentified individuals wearing press badges disrupted the screening in Kyiv of a documentary film about the controversial luxury residence of President Yanukovich. Police escorted the individuals out of the theater and canceled the screening due to an alleged bomb threat. Unknown individuals also attempted to disrupt screenings of the documentary in Mykolayiv, Sevastopol, Simferopol, Odesa, Donetsk, and Cherkasy.

In May police canceled a civil society technology seminar in Ivano-Frankivsk because of an alleged bomb threat. Police cleared only the floor of the building where the venue of the seminar was located, allowing the other occupants of the four-story building to remain. Authorities gathered all seminar participants in a separate building and recorded their personal information before allowing them to leave. Authorities did not allow the seminar to reconvene.

In April a Communist member of the Donetsk City Council participated in a protest that shut down a civil society technology seminar. Police stood by while a group of 200 protesters stormed the venue and intimidated participants.

Press Freedoms: Independent media and internet news channels were active and expressed a variety of views, but both independent and state-owned media engaged in self-censorship when reporting on stories that might expose the government to criticism. Independent television broadcasting practically ceased to exist on the national level as government-allied business interests and, in some cases, government officials established a virtual monopoly of ownership of major channels.

Hromadske TV, a new, unaffiliated internet news channel, began broadcasting in the weeks after the start of antigovernment protests on November 22. The broadcasts were modeled on international public broadcasting channels such as the BBC and Euro News to provide factual and uncensored reports of the developments connected with the “EuroMaidan” civic movement and the continuing protests in Independence Square. In late November and December, Hromadske’s signal was often jammed. Authorities raided its office and destroyed valuable equipment during a subsequent search. Several other online news sources such as Radio Svoboda, Espresso TV, and Spilno TV also experienced signal disruptions.

The National Council for Radio and Television Broadcasting, which allocates broadcast frequencies, continued to be secretive and shun reform. The council has used its authority to distribute new digital television broadcast rights to pressure or punish certain television stations for partisan political purposes. It allocated the vast majority of national and regional licenses for digital broadcasting to stations that were government owned, progovernment, or owned by supporters of the ruling Party of Regions.

Violence and Harassment: According to local media watchdog IMI, there were 101 attacks on and cases of intimidation of journalists during the year. The majority of assaults (70) occurred on journalists covering protests and mass rallies. The offices of 11 media outlets were attacked, including shots fired through windows and damage to property. In addition police either arrested or detained five journalists during the year. The country’s ratings for media freedom by international groups, such as Freedom House and Reporters without Borders, have declined for three consecutive years.

On December 25, a group of men pursued the vehicle driven by journalist and civil activist Tetyana Chornovol, and eventually ran it off the road outside of Kyiv. They broke a car window, chased Chornovol as she attempted to escape on foot, viciously beat her, and fled. Traffic police took Chornovol to the hospital, where doctors began a series of emergency surgeries to repair the damage to her face and body. Hours earlier Chornovol had taken photographs of the lavish residence of Minister of Internal Affairs Vitaliy Zakharchenko. The *Ukrayinska Pravda* internet news site published the photographs with the headline, “Here is where the Butcher lives! The manor of [Minister of Internal Affairs] Vitaliy Zakharchenko.”

In December security forces attacked journalists covering peaceful antigovernment demonstrations in Kyiv. They assaulted more than 50 journalists representing

national and international media outlets and in some cases severely injured them. Police disregarded the journalists' press identifications. In addition, one journalist was arrested while covering the "EuroMaidan" events.

On July 21, two individuals in Donetsk attacked Oleh Bohdanov, a journalist with internet-based newspaper *Dorozhny Kontrol*, who reported on the work of local traffic police. He suffered serious injuries. Prosecutors opened an investigation and the Presidential Interagency Working Group on Freedom of Speech and Journalists' Rights stated it would monitor the investigation.

On May 18, men allegedly hired to provoke conflict with and perpetrate violence on opposition marchers beat two journalists, Olha Snitsarchuk and Vlad Sodel. The media published photographs of the attack supporting the victims' claim that police did nothing to stop the assault or respond to requests for help. Authorities identified four attackers. One pleaded innocent and awaited trial at year's end, while three pleaded guilty and received suspended sentences.

Censorship or Content Restrictions: Local and regional authorities controlled the transmission facilities of local television stations. Stations with perceived leanings toward opposition leaders or critical of the government frequently experienced technical difficulties. IMI reported that it received 63 complaints during the year of censorship, and that numerous journalists for major local publications (*Forbes*, *Korespondent*) and television channels were forced to resign because of censorship and other pressures to control content.

In July broadcasts of the formerly independent TVi television channel reappeared in the cable network listings of 12 of the country's major cities following a hostile takeover in April 2012. After a July 2012 raid on the offices of the previous owners, tax inspectors charged them with tax violations and cable operators dropped the channel from their listings. Independent journalists alleged that the National Council for Radio and Television Broadcasting coerced the cable companies to remove or relocate TVi to different frequencies.

Also in July the television channel TVA in Chernivtsi, owned by opposition parliamentarian Andriy Pyshny, stopped broadcasting due to a fire in a government-owned television company whose technical facilities were used by TVA and other broadcasters to transmit programming. Liquid from fire extinguishers damaged TVA equipment. TVA technicians repaired the equipment but government officials prevented them from reinstalling it and resuming regular

broadcasting. Three other local channels that maintained equipment at the technical facility were either not affected by the fire or resumed broadcasting.

Libel Laws/National Security: Libel is a civil offense, and the law limits the amount of damages that can be claimed in lawsuits. The press can generally publish critical materials and opinions without penalty. Public officials enjoy fewer legal protections from criticism than do other citizens.

Local media observers, however, continued to express concern over high monetary damages demanded and awarded for alleged libel. Government entities, and public figures in particular, used the threat of civil suits based on alleged damage to a “person’s honor and integrity” to influence or intimidate the press and investigative journalists.

Internet Freedom

There were no government restrictions on access to the internet. Individuals and groups could engage in the peaceful expression of views via the internet, including by e-mail. Law enforcement bodies monitored the internet, at times without appropriate legal authority. Recent surveys showed that more than 50 percent of adults were regular internet users.

International and local media watchdogs believed that either government authorities or paid professional hackers were behind cyberattacks and other attempts to discredit independent media outlets on the internet.

In August unknown individuals launched a new website, *Ukrayinska Kryvda* (Ukrainian Lies), which mirrored the design of the leading political news and commentary website *Ukrayinska Pravda* (Ukrainian Truth). The imitation website has targeted independent journalists and activists, accusing them of accepting and embezzling funds from foreign governments.

At least 15 journalists and representatives of media freedom NGOs reported cyberattacks that exposed their personal data and e-mail correspondence. IMI executive director Oksana Romanyuk requested police and President Yanukovich’s press secretary to open formal investigations into the hacking of her e-mail account and personal computer. The hacked information was posted on *Ukrayinska Kryvda*. Media watchdogs claimed that business interests close to President Yanukovich supported *Ukrayinska Kryvda*. Investigations into the incidents continued at year’s end.

On December 10, the National Commission for the State Regulation of Communications and Information approved new rules obligating internet providers to acquire equipment to facilitate the surveillance of their clients in order to assist with law enforcement investigations. The rules are mandatory and were scheduled to come into force once the Ministry of Justice registered and published them.

Academic Freedom and Cultural Events

There were no reports of government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution generally provides for freedom of assembly, but government authorities frequently infringed upon this right by influencing courts to side with local and national governments to ban protests and demonstrations.

Organizers must inform authorities in advance of a planned demonstration or protest, and local authorities have the option to challenge the legality of the planned event.

The sole regulation that outlines procedures to organize demonstrations and protests is a 1988 Soviet-era decree, which gave courts wide and arbitrary discretion to either allow or refuse permission on grounds of protecting the public from a possible disturbance or crime. Authorities often banned protests and demonstrations on dubious grounds.

According to civic groups, the number of restrictions on freedom of assembly and administrative penalties imposed for disobeying them decreased during the year. In the first six months, courts sided with local authorities to deny permission for demonstrations in 65 percent of cases, compared with 84 percent in 2012. At the same time, courts reported that authorities challenged 56 decisions through June, compared with 349 in 2012 and 237 in 2011.

In cases where authorities did not challenge protests, or when protests were conducted in violation of a court order, the government often deployed large numbers of police, sometimes outnumbering the protesters. Police generally

allowed progovernment protests to proceed without interference, with several notable exceptions.

On November 24, police detained four activists near the cabinet of ministers building in Kyiv during a protest intended to block the entrance to the building. Authorities subsequently released three of the activists under partial house arrest pending an investigation of criminal charges against them. A court sentenced the remaining activist, Oleh Matyash from Lviv, to a three-year suspended term of imprisonment.

On November 30, approximately 2,000 police stormed Independence Square (the Maidan) in Kyiv where some 300 demonstrators were peacefully camping out as part of a civic action aimed at expressing dissatisfaction with the government. According to eyewitnesses, police acted without any provocation by demonstrators. Authorities first deactivated a local cell phone network and then chased protesters, including children, from the square using batons and other forms of physical force. Many demonstrators were injured and hospitalized. Police arrested 34 persons, mostly university students from Lviv and Kyiv. Prosecutors charged 30 persons with administrative offenses, but courts had not rendered any verdicts by year's end.

On December 1, in response to these developments, tens of thousands of people joined demonstrations on the Maidan. While the protest was generally peaceful, several violent altercations occurred near the Presidential Administration building, where Berkut riot police forcibly dispersed protesters, injuring dozens and detaining nine persons.

On December 11, police attempted to force protesters out of streets adjoining the cabinet of ministers building, the parliament, the Presidential Administration, and the Kyiv City Council building. Police claimed they were enforcing a court order prohibiting assemblies in the center of the city near government buildings. Three dozen people sought emergency medical attention following clashes with police. Police arrested eight persons, charged them with administrative offenses, and released them the same day.

In November and December, there were numerous reports that universities pressured students not to participate in "EuroMaidan" protests. The Prosecutor General's Office in December demanded that Kyiv National Taras Shevchenko University turn over personal data of students and professors who were absent on November 29. Police also reportedly attempted to collect personal data of students

at Lviv's Ukrainian Catholic University (UCU) who participated in protests. Authorities initiated criminal cases against several UCU students. Other students received anonymous calls warning of the consequences of attending protests and not going "internet silent."

On April 11, police detained four Democratic Alliance activists at President Yanukovich's residence, Mezhyhirya. Courts had banned a proposed gathering there, stating that it would obstruct measures to bring a spring flood under control. The activists traveled to Mezhyhirya and found there was no flood. Police held one of the detained activists for seven days.

Freedom of Association

The constitution and law provide for freedom of association. The government generally respected this right, but some restrictions remained.

Organizations must comply with registration requirements, but there were no reports the government used them to disband existing organizations or to prevent the formation of new ones. On January 1, a new law on public associations went into effect, simplifying registration requirements for NGOs and removing restrictions on their activities. Civil society groups generally supported the new law (see section 5).

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

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

The constitution and law provide citizens with freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights. International and domestic organizations reported that the system for protecting asylum seekers, stateless persons, and other persons of concern did not operate effectively.

Protection of Refugees

A UNHCR report published in July concluded that despite “significant progress,” the country’s asylum system required “fundamental improvements.” The UNHCR continued to advise other countries not to return asylum seekers to Ukraine, because refugees could not have assurance there of a fair and efficient procedure to determine refugee status or effective protection against refoulement. The government also at times denied the UNHCR access to persons of concern.

Access to Asylum: The law provides for asylum or refugee status, and the government has established a legal system to protect refugees. International protection for refugees and asylum seekers was insufficient, however, due to gaps in the law and the system of implementation.

Human rights groups noted that the refugee law falls short of international standards due to its restrictive definition of who is a refugee. The law permits authorities to reject many asylum applications without a thorough case assessment. In other instances government officials declined to accept initial asylum applications without a legal basis, leaving asylum seekers without documentation and vulnerable to frequent police stops, fines, detention, and exploitation. A five-day appeal period prevented asylum seekers from appealing rulings on their detention or deportation.

The UNHCR noted that the Refugee Department of the State Migration Service (SMS) lacked sufficient autonomy to make impartial determinations about refugee status. The absence of such autonomy left asylum decisions open to influence by other factors, such as concerns about irregular migration.

A lack of access to qualified interpreters also hampered the full range of asylum procedures. International observers noted that the government did not provide resources for interpreters, which created opportunities for corruption and undermined the fairness of asylum application procedures.

In 2012 the government refused refugee status in 115 cases, which other governments subsequently found to have legitimate claims under the UNCHR resettlement program. Those governments subsequently accepted the individuals as refugees.

On October 14, the UNHCR expressed concern that authorities denied a Syrian asylum seeker entry into the country. Border guards at Odesa airport refused admission to the Syrian citizen, who lacked a visa. The UNHCR urged authorities

to ensure that Syrian citizens seeking asylum have access to the country's territory and to appropriate asylum procedures.

The government discriminated against asylum applicants from Russia, Belarus, and countries in Central Asia. The government approved three of 38 applications from those countries through September. The government approved 49 of 99 applications by Syrian asylum seekers.

The law authorizes the SMS and State Border Guard Service to order a person detained in one of the two migrant custody centers (MCCs) without a court decision. There was no procedure for judicial review of such detention orders. Authorities may hold individuals in MCCs for up to 12 months if the detainees are unable to prove a legal basis for their presence in the country. According to the UNHCR, as of April, 28 percent of the individuals detained at the MCC facilities were asylum seekers.

Refoulement: The government did not assure protection against the expulsion or return of refugees to a country where there was reason to believe their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The UNHCR described refoulement at the border as a "largely hidden phenomenon," as persons seeking asylum may not receive legal aid or interpretation at border crossing points or temporary holding facilities and were therefore unable to apply for asylum before being deported.

On February 5, authorities at Kyiv's Boryspil International Airport detained Abdoumalik Abdoulladjanov, a former prime minister of Tajikistan and a recognized refugee. Tajik authorities had requested his extradition to face criminal charges in Tajikistan. Ukrainian authorities released Abdoulladjanov on April 4 following an inquiry by the UNHCR.

Human rights groups noted that the law on refugees does not expressly provide protection for war refugees, victims of indiscriminate violence, or unsuccessful asylum seekers who could face the threat of torture or loss of life or freedom if deported. Other laws provide some protection against forcible return for asylum seekers.

Refugee Abuse: Authorities frequently detained asylum seekers for extended periods without court approval. They also regularly detained asylum seekers prior to their deportation. Refugees and asylum seekers, especially those from Africa

and Asia, were at times victims of violent, racially motivated, attacks. Asylum seekers in detention centers were sometimes unable to apply for refugee status within the prescribed time limits and had limited access to legal and other assistance.

Access to Basic Services: Human rights groups reported that authorities did not accord social and economic rights to asylum seekers or assist them. Authorities did not provide language courses, social assistance, or employment assistance, and most asylum seekers were unable to obtain a work permit as required by law. Some attempted to work illegally, increasing their risk of exploitation.

The UNHCR noted an improvement in the quantity and quality of food provided in the MCCs and acknowledged a willingness by authorities to address other shortcomings. The UNHCR cited the lack of educational programs and vocational activities for those in detention for extended periods. The UNHCR encouraged authorities to provide alternative arrangements to care for asylum seekers other than the MCCs and to increase educational support for children of parents in detention.

According to the UNHCR, gaps in housing and social support for separated and unaccompanied children left many without access to state-run accommodation centers or children's shelters. As of April, only 25 percent received accommodation from government authorities. Many children had to rely on informal networks for food, shelter, and other needs. As a result they remained vulnerable to abuse, trafficking, and other forms of exploitation. The UNHCR reported that in 2012 it had lost contact with more than one-third of the unaccompanied and separated children registered with the organization.

Ukraine remained a country of origin, destination, and transit for migrants. Authorities previously increased the number of temporary accommodation centers to house refugees, but the number of available spaces remained inadequate.

Stateless Persons

According to the law, a person may acquire citizenship by birth, territorial origin, naturalization, restored citizenship, and adoption.

The UNHCR estimated there were 35,000 stateless persons in the country. This estimate included an unknown number of persons who lived in the country for decades but failed to clarify their citizenship status after the collapse of the Soviet

Union in 1991 as well as persons who arrived in the country as students or visitors both before and after 1991. Many did not obtain residency documents or take other steps to register as foreign residents according to the regulations of their country of origin. Formerly deported persons (mainly Crimean Tatars) also continued to return to the country and were sometimes at risk of statelessness due to legal and bureaucratic barriers.

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

The constitution and law provide citizens the right to change their government peacefully. The law also provides citizens the right to vote in periodic, free, and fair elections based on universal suffrage. Recent elections did not meet international standards of transparency and fairness.

Elections and Political Participation

Recent Elections: Parliamentary elections in October 2012 did not meet international standards for fairness or transparency. Domestic and international observers characterized them as a step backward compared with other recent national elections in the country. The final monitoring report of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe criticized the absence of a level playing field, caused primarily by the abuse of administrative resources, a lack of transparency in campaign and party financing, and the absence of balanced media coverage.

Domestic and international observers noted widespread abuse of government resources to favor progovernment candidates, misuse of governmental law-enforcement personnel to harass and intimidate opposition candidates, government interference with media, violence toward journalists, manipulation of election commissions, fraud and falsification in vote counting, and selective prosecution of political opponents. Election observers also reported widespread misconduct, including vote buying and intimidation of voters and election officials, which likely affected the outcome of the elections. The Central Election Commission ruled that results in five single-member districts could not be determined due to suspected fraud and other irregularities. Repeat elections for the five districts took place on December 15. According to local election monitors, the revote was no better than in October 2012, as many of the same problems reoccurred.

Election monitors determined that the 2010 presidential election met most international standards for a free and fair election. Yanukovich and Tymoshenko competed in a runoff vote which Yanukovich won by a narrow margin with 48.9 percent of the vote.

In November 2012 the president signed a law introducing the use of national referenda. The country's constitutional scholars believed that the law, which authorizes the adoption of constitutional amendments via referendum, was unconstitutional. Opposition leaders expressed concern that parliament could use the referendum law to elect the president directly. International experts noted substantive and procedural flaws that raised serious questions about the fairness and transparency of any referendum conducted under the law.

Participation of Women and Minorities: There were 43 women in the 450-seat parliament, an increase of seven from the previous parliament. Women held three posts in the cabinet of ministers, and the 18-member Constitutional Court included two female justices.

The number of minorities in parliament and the cabinet was not available due to privacy laws.

The law does not allow regional political parties; Crimean Tatars had to join national political parties or blocs. Only one Crimean Tatar was a member of the national parliament.

In October Refat Chubarov won election as leader of the Crimean Tatar Mejlis (a nongovernmental body), succeeding Mustafa Dzhemilev. National authorities did not recognize the Mejlis. Several Tartar leaders continued to voice concern about the decreasing presence of Crimean Tatars in local government. According to Dzhemilev, authorities continued to replace Crimean Tatar officials with individuals of other nationalities. For example, Crimean Tatars held only 3 percent of senior positions in local government, but constituted 14 percent of the local population. Crimean Tatars occupied seven seats in the 100-member Crimean parliament.

Section 4. Corruption and Lack of Transparency in Government

Corruption remained pervasive at all levels in the executive, legislative, and judicial branches of government and in society. One state agency estimated that corrupt government procurement alone accounted for 10 to 15 percent of all

expenditures. The law provides criminal penalties for corruption by officials; however, the law was not effectively implemented and officials frequently engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year.

Corruption: Authorities took steps during the year to strengthen anticorruption laws. Amendments to the Anticorruption Policy Law and the criminal code strengthened income declaration requirements for government officials, imposed corporate criminal liability for corruption offenses, and authorized the forfeiture of assets gained through corrupt practices. Critics asserted the amendments lacked sufficient enforcement mechanisms and that the government implemented anticorruption laws poorly. For example, while the amendments require government officials to declare their incomes, they did not specify a penalty for failure to comply.

In July the State Statistical Service estimated that budget losses from corrupt procurement amounted to 10 to 15 percent of total budget expenditures. The European Bank for Reconstruction and Development identified corruption as one of the major obstacles to investment. The bank launched an anticorruption initiative to bring together representatives of the government, business, and financial institutions to fight corruption.

The *Freedom in the World* report published by Freedom House in July stated that corruption is “one of the country’s most serious problems” and “continues to worsen.” The report also noted that business interests closely associated with the ruling Party of Regions win a considerable portion of state tenders and that legislative amendments made in 2012 allowed state-owned companies to conduct closed, noncompetitive tenders and freed them from requirements to publish details about those contracts.

Experts criticized the 2012 amendments for rendering a significant part of the government procurement process nontransparent, reducing public oversight of government spending, and providing opportunities for large-scale corruption involving disbursement of billions of dollars of state funds.

Whistleblower Protection: The law provides for state protection of whistleblowers, including the physical safety and property of those who participate in criminal proceedings. In May the government amended the law to include protection against dismissal or disciplinary action. Additionally, the National Anticorruption Strategy provides for development of a mechanism of whistleblower protection.

The Ministry of Justice also developed anticorruption guidelines for central and local governments, including such measures as hotlines and training to become part of the working plans of agencies and organizations.

Financial Disclosure: Under the law the government can assess penalties for corruption on public officials, civil servants, and persons who provide public services, such as notaries and aides to members of parliament. Public officials must declare their income and expenses and may not receive gifts exceeding a certain value, employ close relatives, or use information obtained in the course of their work for personal gain. Amendments to the Anticorruption Policy Law and the criminal code obligate the Ministry of Justice to create a database of government officials and others convicted of corruption. At year's end the database remained unavailable to the public.

Low-level corruption remained a problem. Through June the Prosecutor General's Office initiated and forwarded to courts criminal corruption cases against 340 civil servants, including police officers, local self-government officials, military officers, and tax officials. By contrast the Prosecutor General's Office did not investigate alleged misdeeds by senior government officials, despite the fact that higher-level corruption was widely considered a serious problem, particularly in the public procurement sphere. Anticorruption activists said specific examples of higher-level corruption in the procurement sector were difficult to identify because state-owned companies are permitted to engage in nontransparent tender arrangements.

MPs are immune from prosecution. Judges may not be arrested or detained before they have been convicted unless parliament rescinds their immunity. Only the Prosecutor General's Office can investigate judges, and authorities may not search a judge's property without prior court approval. Through June the office initiated and forwarded 11 corruption cases against judges to court for prosecution.

Public Access to Information: The constitution and law require authorities to provide government information upon request, unless it pertains to national security. By law officials must respond to regular requests within five days, extended to 20 days for requests that require a search for or provision of large amounts of data. Denials can be appealed to a higher level at the agency concerned and then to the court system.

The media and NGOs reported that the government's implementation of the two-year-old public information law remained uneven, and there were reports that

officials refused to accede to requests for substantive information. Enabling regulation was often lacking, especially on the issues of public disclosure. Some experts noted that due to frequent obstacles, persons seeking government information preferred to ask members of parliament to make inquiries on their behalf, despite the longer processing time permitted by law. Failure to respond to an MP's request brings legal consequences for the agency or individual preventing release.

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

A variety of domestic and international human rights groups generally operated without government restriction. The groups investigated and published their findings on human rights cases and openly criticized the government's human rights performance. Government officials were not uniformly cooperative or responsive to their views, and in some instances authorities pressured or intimidated civic groups.

A January law on public associations simplified registration for public associations. It allows NGOs to conduct a range of activities throughout the country on behalf of its members and engage in fundraising to support not-for-profit activities. Civil society groups and public experts played a major role in its development and passage.

In June authorities obtained a court order for forced psychiatric treatment of a civic activist in Zaporizhzhya who has been an outspoken critic of local corruption and police abuse. On July 11, police detained Rayisa Radchenko and compelled her to undergo a psychiatric examination for alleged "antisocial behavior." Radchenko had no history of mental illness, but doctors reportedly prescribed Aminazin, a strong sedative often used to treat depression and schizophrenia. They released her on July 26. On August 8, an appeals court overturned a lower court's order to commit Radchenko for psychiatric treatment.

Authorities investigated two civic activists, Maksym and Kostyantyn Latsyba, from May through July based on falsified evidence in connection with a car robbery. In April the brothers had participated in a protest rally near the president's residence in Mezhyhirya. According to human rights groups, video footage police used against the brothers contained a number of discrepancies that eventually proved their innocence. More than 30 human rights groups and activists signed petitions to the president, the prosecutor general, and the minister of

internal affairs claiming the case was politically motivated to intimidate the activists. Officials dropped the charges by year's end.

In June and July, the SBU attempted to disrupt three youth summer camps, conducted by the youth NGO Foundation of Regional Initiatives in the Donetsk and Zaporizhzhya oblasts and in Transcarpathia, by intimidation and pressure on local authorities. In Donetsk the SBU allegedly called the national park authority and reported that the campers would set fire to the forest. In Zaporizhzhya, the SBU called the youth camp's organizers demanding that they withdraw from the program a lecture on the right to peaceful protest and called in one of the lecturers for questioning. In response a collective of youth NGOs sent an open letter to the head of the SBU challenging the government's right to disrupt the camps and to conduct random questioning of NGO activists.

Government Human Rights Bodies: The constitution provides for a human rights ombudsman, officially designated as the parliamentary commissioner on human rights. Valeriya Lutkovska became ombudsman in April 2012. In July she released her first report to parliament on the human rights situation in the country. The ombudsman's office frequently collaborated and cooperated with NGOs through civic advisory councils on various projects for monitoring human rights practices (see sections 1.c. and 1.d.).

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law and constitution prohibit discrimination based on race, gender, disability, language, social status, and ethnic and social origin. Nevertheless, both governmental and societal discrimination persisted, and the government did not effectively enforce the prohibitions.

In September 2012 parliament adopted a law to prevent and counteract discrimination. It covers discrimination based on race; political, religious, or other beliefs; sex; age; disability; ethnic or social origin; family and property status; place of residence; language; and other characteristics. Experts generally described the law as well intentioned but noted that the definition of discrimination was too narrow because it omitted explicit reference to sexual orientation and gender identity. In addition experts expressed concern that the law lacked meaningful enforcement mechanisms.

In June 2012 President Yanukovich signed a government resolution implementing additional measures to suppress terrorism in the country by banning distribution of

materials that incite ethnic, racial, or religious hatred, intolerance, and discrimination.

Women

Rape and Domestic Violence: The law prohibits rape but does not explicitly address spousal rape. The courts may use a law against “forced sex with a materially dependent person” as grounds to prosecute spousal rape. Under the law authorities can detain a person for up to five days for offenses related to domestic violence and spousal abuse.

Sexual assault and rape continued to be significant problems. According to the Prosecutor General’s Office, through September there were reports of 447 incidents of rape or attempted rape; prosecutors initiated criminal charges in 231 of those cases.

On November 29, a district court in Pervomaysk convicted three police officers and a taxi driver of attempted murder in connection with the assault and rape of Iryna Krashkova, a resident of Mykolayiv. The perpetrators – men she knew – beat and raped Krashkova on June 26. Police detained one of the officers and the taxi driver after the assault, but the second officer, who was the godson of the Mykolayiv oblast police chief, remained free, prompting local residents to attack the regional police department building. Police later arrested the second officer, and the police chief was dismissed for failing to supervise the investigation properly. The hospital discharged Krashkova in August. The two police officers received sentences of 15 years in prison. A third officer who attempted to cover up the assault got a five-year sentence. The taxi driver received an 11-year sentence.

In March 2012 three men in the southern city of Mykolayiv raped, strangled, and set fire to 18-year-old Oksana Makar before leaving her in a ditch. Makar died after two weeks in a hospital. Police initially released her attackers, prompting spontaneous demonstrations. The three men were eventually arrested, tried, and convicted. The court gave one man a sentence of life in prison, while the other two received sentences of 14 and 15 years.

Domestic violence against women remained a serious problem. Spousal abuse was common. Advocacy groups asserted that the percentage of women subjected to physical violence or psychological abuse at home remained high. Human rights groups noted that the ability of agencies to detect and report cases of domestic

violence was limited and that preventive services remained underfunded and underdeveloped.

La Strada-Ukraine, an NGO that focuses on gender issues, reported that through November, 88,162 persons were under police supervision in connection with domestic violence, compared with 117,400 persons for all of 2012.

During the first six months of the year, the Ministry of Social Policy received 65,797 complaints of domestic violence. The majority, 58,039, were from women. Men filed 7,346 complaints; 412 came from children. Police issued 95,329 warnings and protective orders related to domestic violence through November. During the same period, authorities brought administrative charges against 108,467 individuals for domestic violence and disobeying protective orders. Punishment included fines and community service.

La Strada-Ukraine operated a national hotline for victims of violence and sexual harassment. Through June 3,990 individuals called the hotline for assistance related to domestic or sexual violence, accounting for 93 percent of calls to the hotline. La Strada-Ukraine reported that expanded public awareness campaigns had increased the number of requests for assistance each year over the preceding five years.

Although the law requires the government to operate a shelter in every major city, it did not do so, in part due to the lack of municipal funding.

Through September, according to the Ministry of Social Policy, government centers provided domestic violence-related services, in the form of social-psychological assistance, to 797 individuals. Social services centers assisted 1,517 families in matters related to domestic violence and child abuse. NGOs operated additional centers for victims of domestic violence in several regions, but women's rights groups noted that many nongovernment shelters closed due to lack of funding. There were no shelters for adult victims of domestic violence in Kharkiv, Vinnytsya, Poltava, or Cherkasy regions.

According to women's advocacy groups, municipally and privately funded shelters were not always accessible. Shelters were frequently full, and resources were limited. Some shelters did not function throughout the year and administrative restrictions prevented women and families from accessing services. For example, some shelters would only accept children of certain ages, while others did not admit women who were not registered as local residents. Government centers

offered only limited legal, psychological, and economic assistance to victims of domestic violence.

Sexual Harassment: The law puts sexual harassment in the same category as discrimination; however, women's rights groups asserted there was no effective mechanism to protect against sexual harassment. They reported continuing and widespread sexual harassment, including coerced sex, in the workplace. Women rarely sought legal recourse, however, because courts declined to hear their cases and rarely convicted perpetrators. Women's groups also cited a persistent culture of sexism and harassment and protests against sexist comments by senior government officials.

While the law prohibits coercing a "materially dependent person" to have sexual intercourse, legal experts said safeguards for workers and employees against harassment were inadequate.

Reproductive Rights: The government recognized the basic right of couples and individuals to decide freely the number, spacing, and timing of their children. Health clinics and local health NGOs could operate freely in disseminating information on family planning under the guidance of the Ministry of Health. There were no restrictions on the right to access contraceptives. Quality prenatal and postnatal care, however, remained inaccessible to many women because state-funded clinics lacked adequate funds and high-quality equipment, and private clinics were expensive.

Sexually transmitted infections, including HIV/AIDS, continued to rise rapidly. The International HIV/AIDS Alliance of Ukraine reported that Ukrainians with HIV were more likely to die from AIDS than HIV-positive individuals in countries with the highest HIV incidence. The quality of sexual and reproductive health services was poor in state-funded hospitals, and high prices in private medical clinics made them unaffordable for many persons.

Men and women enjoyed equal access to diagnosis of and treatment for sexually transmitted infections. Local health NGOs and clinics reported that women were more likely than men to seek treatment and refer their partners. State-funded clinics discriminated against homeless and economically disadvantaged people in providing medical treatment. Romani women experienced discrimination in medical care and lacked access to information on health matters, according to reports by Romani rights groups.

Discrimination: Under the law women enjoy the same rights as men, including equal pay for equal work. Industries dominated by female workers had the lowest relative wages. Women received lower salaries due to limited opportunities for advancement and the types of industries that employed them. In March the minister of social policy stated that men earned on average 29.5 percent more than women did. Domestic and international observers noted that women held few elected or appointed offices at the national and regional levels. The parliamentary ombudsman for human rights created a permanent representative to address gender equality, children's rights, and nondiscrimination. Unlike in previous years, senior government officials largely refrained from making disparaging and demeaning remarks about women in public.

Children

Two government offices protect children's rights. In May the parliamentary ombudsman for human rights appointed a representative for children's rights, nondiscrimination, and gender equality. Through December, the ombudsman's office received 601 complaints regarding children's rights and made 112 visits to children's facilities and institutions in the first 10 months of the year. In addition, the President's ombudsman for children's rights reported that his office received more than 1,000 complaints and made 112 visits to institutions for children.

Birth Registration: Citizenship is determined by birthplace or parentage. A child born in the country of a family of stateless persons residing permanently in the country is a citizen. The law requires that parents register a child within a month of its birth.

Education: Education was free and compulsory but not universal. According to government figures, during the 2012-13 academic year approximately 4.2 million students were studying in 19,700 schools.

NGOs reported that a lack of schooling remained a significant problem among the rural population and within the Romani community (see section 6, National/Racial/Ethnic Minorities).

Child Abuse: Children continued to be victims of violence and abuse. According to information from the Ministry of Internal Affairs, through November, 1,164 minors were victims of crime. The ministry also recorded 77 cases of sexual crimes against children and 261 cases of corruption of minors. Human rights groups noted that authorities lacked the capability to detect violence against

children and refer the victims for assistance. Preventive services remained underfunded and underdeveloped. There were also instances of forced labor involving children.

Forced and Early Marriage: The minimum age for marriage is 18. A court may grant a child as young as 16 permission to marry if it finds marriage to be in the child's interest. According to a report funded by the UN Children's Fund (UNICEF), during the year 11 percent of women reported being married or in a union before they were 18 (10 percent of urban, and 14.5 percent of rural residents). Romani rights groups reported that early marriages involving girls under 18 were common in the Romani community.

Sexual Exploitation of Children: The minimum prison sentence for child rape is 10 years. Molesting children under 16 is punishable by imprisonment for up to five years. The same offense committed against a child under 14 is punishable by imprisonment for five to eight years.

The Ministry of Internal Affairs recorded 577 sexual crimes against children in 2012. Sexual exploitation of children, however, remained significantly underreported. Commercial sexual exploitation of children remained a serious problem. Domestic and foreign law enforcement officials reported that a significant amount of child pornography on the internet continued to originate within the country. The International Organization for Migration (IOM) reported that children from socially disadvantaged families and those in state custody continued to be at high risk of trafficking and exploitation within the country for commercial sex and the production of pornography.

Courts may limit access to websites that disseminate child pornography and impose financial penalties and prison sentences on those operating the websites.

In an October 2012 report, the international NGO End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes noted that the country lacked a comprehensive approach to preventing commercial sexual exploitation and sexual abuse of children. In addition the government did not have policies to combat the increasing problem of child sex tourism or programs to assist child victims of sexual exploitation.

Displaced Children: According to the Ministry of Social Policy, as of November 15, there were 22 shelters and 85 assistance centers for children across the country. Through June more than 7,800 children came to these shelters.

Institutionalized Children: The childcare system continued to rely on long-term residential care for children at social risk or deprived of parental care. Authorities did not adequately address the abandonment of children or their reintegration with their biological families. In 2012, according to UNICEF, 94,705 children lived in institutions, and more than 62,000 (according to other estimates up to 80,000) lived in institutions for children with disabilities. Human rights groups and media reported that inadequate resources and government inaction created unsafe, inhumane, and sometimes life-threatening conditions in some institutions.

Observers noted that the judicial system lacked expertise to work with minors, and the legal process for juveniles emphasized punishment over rehabilitation. Supportive social services were often lacking, and children in conflict with the law faced bureaucratic and social barriers to reintegration.

International Child Abductions: The country is party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For country-specific information see travel.state.gov/content/childabduction/english/country/ukraine.html.

Anti-Semitism

An estimated 103,600 Jews lived in the country, approximately 0.2 percent of the population, according to census data and international Jewish groups. Local Jewish leaders estimated the number of persons with an ethnic Jewish background to be as high as 370,000.

Jewish community leaders reported that anti-Semitism was in decline and authorities took steps to address problems of anti-Semitism when they arose.

In November the Congress of Ethnic Communities of Ukraine and the Association of Jewish Organizations and Communities of Ukraine (Vaad) issued a joint statement asserting that before the 2012 parliamentary elections, the government and certain political forces engaged in “significant and systemic biased exaggeration” of xenophobia and anti-Semitism in the country’s social and political life. They said these exaggerations were “an essential factor in the rise of xenophobia in general, and anti-Semitism in particular.” The two NGOs also expressed concern over the government’s effort to “impose a conflict between the country’s ethnic minorities and a significant part of the Ukrainian public who support opposition forces.”

Vaad cited long-term data showing “a trend of improvement” in the level of anti-Semitism, stating, “over the last four to five years, there has been a continuous decline in the number of anti-Semitic publications in the press; in the number of acts of vandalism of cemeteries, memorials, and synagogues; and the number of assaults on the street of Jewish people,” as well as declining negative attitudes toward Jewish persons in public opinion polls.

The media, however, reported a number of acts of anti-Semitism during the year, involving physical attacks and vandalism of Jewish property. Members of various political parties and organizations continued to make occasional extremist, intolerant, and anti-Semitic statements.

According to Vaad, there were nine incidents of vandalism in 2012 compared with nine in 2011 and 16 in 2010. Graffiti swastikas continued to appear in Kyiv and other cities.

In September the Jewish pilgrimage to the Uman burial site of Rabbi Nakhman, founder of the Bratslav Hasidic movement, took place without significant incidents. Approximately 27,000 pilgrims traveled to Uman. Increased numbers of Jewish pilgrims visited other burial sites of prominent spiritual leaders in Belz, Medzhybizh, Berdychiv, and Hadyach without significant incidents.

In July vandals damaged more than a dozen grave markers at a Jewish cemetery in Pryluky. On August 20, Jewish community representatives observed swastikas painted on 17 additional grave markers at the same cemetery. Police opened an investigation but had not identified the offenders as of December.

Also in July, a ceremony took place near Lviv marking the 70th anniversary of the creation of the Galicia Division, a Ukrainian unit of the German Waffen SS. Participants dressed in Waffen SS uniforms as part of a reenactment of a key battle against Soviet forces during World War II. An Orthodox priest led a ceremony for fallen soldiers from the unit, sprinkling holy water over several participants wearing swastika emblems, who lowered a coffin in a ritual reburial.

Senior government officials and politicians from various political parties continued efforts to combat anti-Semitism by speaking out against extremism and social intolerance and criticizing anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, and the provision of other state services; however, the government did not effectively enforce these provisions.

In January 2012 the president signed into law several provisions concerning the rights of persons with disabilities. The changes forbid discrimination based on disability and require that the government ensure access to public venues for persons with disabilities and support their involvement in public, educational, cultural, and sporting activities. The new measures also require employers to provide safe workspaces that take into account the individual needs of employees with disabilities and anticipate that NGOs that defend the rights of the disabled would also participate in municipal planning processes to ensure government facilities meet legal requirements for accessibility. The government generally did not enforce these laws.

Advocacy groups maintained that despite the legal requirements, most public buildings remained inaccessible to persons with disabilities. Access to employment and essential services such as education, health care, transportation, and financial services remained difficult. Limited access to public buildings restricted the ability of persons with disabilities to participate in public affairs, but the law requires providing assistance during elections for homebound voters and other voters with disabilities.

On July 4, the president signed legal amendments increasing financial aid to disadvantaged families raising children with disabilities and taking care of disabled family members to raise their total income up to the minimum subsistence level. NGOs claimed this was a nonsystemic improvement and that the government did not allocate adequate resources to help those with disabilities. In addition NGOs noted that the government was unable to provide outpatient care to persons with disabilities, thus putting the main burden on their families and forcing them to place children and sometimes adults with disabilities in state institutions.

The country's system for caring for children with mental and physical disabilities favored institutionalization over placement with their families. The state cared for approximately one-third of the estimated 250,000 children with disabilities. While the country has adopted major international conventions that obligate the state to deinstitutionalize children, it lacks the legal framework and budget resources to do so. Programs to provide for the basic needs of children with disabilities and inpatient and outpatient therapy programs were underfunded and understaffed. The inadequate number of educational and training programs for children with disabilities left many children isolated and limited their professional opportunities in adulthood.

According to Semyon Gluzman of the Ukrainian Psychiatric Association (UPA), patients in mental health facilities remained at risk of abuse, and many psychiatric hospitals continued to use outdated methods and medicines. According to UPA, insufficient funding, patients' lack of access to legal counsel, and poor enforcement of legal protections deprived patients with disabilities of their right to adequate medical care. In November 2012 the parliamentary ombudsman for human rights published a report on monitoring visits made to 11 psychiatric facilities, in which representatives found insufficient funding for patients' food and medicine, the confinement of patients for extended periods when they were not acutely ill, understaffing, overcrowding, poor ventilation, unsanitary bathrooms, and other harsh conditions.

By law employers must allocate 4 percent of employment opportunities to persons with disabilities. NGOs noted that many of those employed to satisfy this requirement received nominal salaries but did not actually work at their companies. Through August an estimated 8,400 persons with disabilities received jobs through government placement services, according to the Ministry of Social Policy.

NGOs expressed concern over the lack of programs to promote the integration of students with disabilities into the general student population and noted that the unavailability of needs assessment programs in state-funded employment centers led to the placement of graduates with disabilities in inappropriate jobs.

National/Racial/Ethnic Minorities

Mistreatment of minority groups and harassment of foreigners of non-Slavic appearance remained problems. NGOs dedicated to combating racism and hate crimes suggested that overall xenophobic incidents declined slightly during the year.

The law criminalizes deliberate actions to incite hatred or to discriminate based on nationality, race, or religion, including insulting the national honor or dignity of citizens in connection with their religious and political beliefs, race, or skin color.

Human rights organizations stated the requirement to prove actual intent, including proof of premeditation, in order to secure a conviction made application of the law difficult. Police and prosecutors generally prosecuted racially motivated crimes under laws against hooliganism or related offenses.

The government acknowledged that racism and ethnically motivated attacks were problems. Some officials continued to minimize their seriousness, maintaining that xenophobia was not a problem and that violent attacks were isolated incidents.

While no official statistics were available on the number of racially motivated attacks, the Diversity Initiative monitoring group, a coalition of international and local NGOs headed by the IOM mission in Kyiv, reported at least nine attacks through September. Twenty attacks reportedly took place in 2012.

According to the Ministry of Internal Affairs, authorities initiated at least 18 criminal cases involving racial, national, or religious hatred through June. Victims reported instances in which police did not investigate after receiving complaints, and some victims did not report incidents to authorities after police declined to investigate previous attacks. Authorities charged one victim who reportedly responded to a racially motivated attack in self-defense.

The Prosecutor General's Office reported that through September prosecutors sent three cases involving criminal intent to incite hatred to the courts. The office also opened investigations into 24 other cases. In 2012 the courts found 10 persons guilty of inciting hatred, compared with five in 2011 and three in 2010.

The law imposes increased penalties for hate crimes. Premeditated killing on grounds of racial, ethnic, or religious hatred carries a 10- to 15-year prison sentence. Penalties for other hate crimes include fines from 3,400 to 8,500 hryvnia (\$420 to \$1,050) or prison sentences as long as five years.

On May 22, Kyiv Pechersk District Court sentenced a 21-year-old student from Cameroon, William Fopa, to five years' imprisonment with a suspended sentence of three years and 21,000 hryvnia (\$2,600) in compensation to the victim for

“serious bodily injury.” In July 2012 a court found Fopa guilty of using a knife to injure a fellow student who had insulted and hit him.

Advocacy groups asserted that police occasionally detained darker-skinned persons and subjected them to far more frequent and arbitrary document checks than others. At times authorities prosecuted victims of xenophobic attacks for taking measures to defend themselves. In April a court in Luhansk released a Nigerian student who police detained in 2011 on attempted murder charges for defending himself and a friend against five attackers. Human rights groups alleged that racial prejudice motivated the attack on Olaolu Femi and that local authorities violated Femi’s due process rights by charging him with attempted murder. As one condition of his release, authorities required Femi to leave the country immediately.

On September 27, the Federation Internationale de Football Association (FIFA) Disciplinary Committee imposed sanctions on the country’s “A” team for racist and discriminatory incidents perpetrated by local fans during a September 6 match in Lviv between Ukraine and San Marino. According to FIFA’s website, the referee, match commissioner, and an observer from Football against Racism Europe observed neo-Nazi banners and fans making “monkey noises and gestures” and Nazi salutes. On September 30, Lviv mayor Andriy Sadovy denied the allegations and urged the Football Federation of Ukraine (FFU) to file an appeal. On November 26, FIFA dismissed the FFU appeal and upheld the sanctions.

Roma continued to face governmental and societal discrimination, although authorities have become more responsive to Romani community concerns. Romani rights groups estimated the Romani population to be between 200,000 and 400,000. Official census data placed the number at 47,600. The discrepancy was due in part to a lack of legal documentation among the Roma. According to experts, there were more than 100 Romani NGOs, but most lacked capacity to act as effective advocates or service providers for the Romani community. Romani settlements are mainly located in Transcarpathia, Odesa, and Eastern Ukraine.

Representatives of Roma and other minority groups claimed that police routinely ignored and sometimes abetted violence against them, or referred pejoratively to Romani ethnicity in crime reports. On July 3, two unknown individuals attacked a Romani settlement in Kyiv. A witness reported that the two threatened the people living there, and then set fire to the settlement. Romani rights groups reported that police initiated an investigation but declined to classify the attack as a hate crime.

Romani rights NGOs also reported repeated police harassment, denial of access to education and health services, routine xenophobic and racist encounters, and barriers to obtaining basic identity documents.

On April 8, President Yanukovich signed a decree approving a strategy for the protection and integration of the Roma national minority into Ukrainian society through 2020. Its aim was to prevent discrimination and improve Romani community access to education, health care, housing, and other government services. The Ministry of Culture was responsible for implementing the strategy including the formulation of an action plan in consultation with Romani NGOs. Romani groups expressed concern about inadequate funding for the strategy and the absence of specific deadlines for its implementation.

Ukrainian and Crimean Tatar minorities in Crimea continued to complain of discrimination on the peninsula and in Sevastopol. They urged the government to grant the Ukrainian and Crimean Tatar languages status equal to Russian.

Crimean Tatars also asserted that discrimination by local officials deprived them of equal opportunities for employment in local administrations. According to the Permanent Commission of the Crimean Parliament for Interethnic Relations and Issues of Deported Persons, approximately 310,000 registered Crimean Tatars lived in the country, including in Crimea and in Kherson oblast.

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

The country's two largest Orthodox churches have opposed adoption of any law extending discrimination protections to LGBT persons, arguing that such laws would "encourage citizens to engage in same-sex relationships."

LGBT individuals complained of widespread societal intolerance and stigmatization. Although LGBT activists succeeded in holding the country's first "equality march" in May, they continued to face discrimination in education, the workplace, and in medical treatment, including impeded access to information on the prevention of HIV/AIDS.

Public officials and members of the public frequently targeted LGBT individuals for violence and abuse. The government took no significant action to combat discrimination based on sexual orientation or gender identity.

On December 14, Prime Minister Mykola Azarov stated at a progovernment rally organized in the European Square that the country was not yet ready to legalize same-sex marriages, a condition for visa liberalization with the EU. The EU ambassador to Ukraine, Jan Tombinski, refuted the statement saying that it was exploiting anti-LGBT sentiment.

From September 2012 to August 2013, the LGBT rights group Our World (Nash Mir) monitored rights violations against LGBT individuals in selected regions of the country and documented 50 cases of violations and discrimination based on sexual orientation or gender identity. More than half were hate-motivated, including 20 incidents of violence or threats of violence, eight instances of disclosure or threatened disclosure of sexual orientation, and four incidents of property damage. Other violations included verbal abuse, theft, extortion, bullying, workplace discrimination, discrimination in educational settings, and divulging of personal information.

Nash Mir also reported more than 20 rights violations against LGBT individuals by law enforcement personnel, including violations of procedural rules, illegal detention, failure to protect individual rights, unlawful disclosure of personal information, and extortion.

In March a group of drunken young men assaulted a young gay man in Rivne, breaking his nose in the attack. Police questioned the assailants but did not arrest them. The assailants continued to threaten the victim, but police refused to take further action. Also in March students in Sumy severely assaulted a transgender girl as she walked to the entrance of her school.

On May 25, LGBT activists hosted Kyiv's first equality (pride) march. Courts initially prohibited the march from taking place in central Kyiv, but the Ministry of Internal Affairs later helped secure a separate site and provided police protection and barriers for the march to take place.

Other Societal Violence or Discrimination

Persons with HIV/AIDS faced discrimination and at times lacked access to treatment. According to the Ministry of Health, at the beginning of the year there were 219,862 persons with HIV/AIDS in the country. Through October the ministry registered 26,113 new HIV/AIDS cases and 2,876 deaths from HIV/AIDS. The International HIV/AIDS Alliance in Ukraine reported that persons with HIV/AIDS continued to face harassment by law enforcement officials

and prosecutors, discrimination in the workplace, job loss without legal recourse, social isolation, and stigmatization. The organization stated that lack of state funding, inadequate access to HIV testing, limited antiretroviral treatment, and counterproductive government policies all exacerbated the spread of HIV/AIDS and the resulting increased mortality.

UNICEF reported that children with HIV or a disability were at high risk of abandonment, social stigma, and discrimination. Many of the 2,929 children infected with HIV were prevented from attending kindergartens or schools, subjected to negligent treatment, and kept isolated from other children. The most at-risk adolescents faced higher risk of contracting HIV/AIDS as well as additional barriers to accessing information and services for prevention and treatment.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides most workers with the right to form and join independent unions and to bargain collectively without previous authorization. There were discrepancies between the civil code and the Trade Unions Act regarding trade unions' acquisition of legal rights. By law trade unions are equal, and the establishment of a trade union does not require government permission.

Human rights groups described the law governing registration of trade unions as excessively complex and bureaucratic and stated that it raised obstacles to registration. Unions reported significant bureaucratic hurdles in the registration process, entailing the payment of multiple fees and requiring visits to as many as 10 different offices. The International Trade Union Confederation (ITUC) characterized the registration requirement as "a restriction unacceptable by international labor standards." In addition independent unions reported multiple incidents of harassment by local law enforcement while navigating the registration process, including nonstandard requests for documentation and membership information.

The constitution prohibits judges from forming trade unions.

In January an administrative court denied the Zaporizhzhya oblast branch of the Confederation of Free Trade Unions of Ukraine (CFTU) status as a legal entity. The CFTU asserted that the court's decision violated Article 4 of International

Labor Organization (ILO) Convention number 87, forbidding the dissolution of a trade union by administrative decision.

The constitution grants the right to strike, and by law most workers have the right to strike. There were noteworthy obstacles to calling a strike, however, including the requirement that a large percentage of a workforce vote in favor of striking, a number of poorly defined legal grounds for denying the right to strike, and the prohibition of strikes by specific categories of workers.

In order to call a strike, the law requires that two-thirds of conference delegates, or 50 percent of workers in an enterprise, vote in favor of it, a threshold trade unions considered unfairly high.

The law provides grounds for prohibiting strikes based on subjective criteria. According to the law, a court may prohibit a strike it determines would jeopardize national security, public health, or the rights and liberties of citizens.

The law prohibits strikes in certain sectors. Personnel of the Prosecutor General's Office, judiciary, armed forces, security services, law enforcement agencies, transportation sector workers, and employees in the public service sector do not have the right to strike. The restriction is part of a public service legislation that came into effect January 1. The law does not distinguish between civil servants that exercise authority in the name of the state and those that do not. Section 293 of the criminal code prohibits transportation workers from undertaking organized actions that seriously disturb public order or significantly disrupt public transport.

While the National Mediation and Reconciliation Service mediates labor disputes, there are no laws or legal mechanisms to prevent antiunion discrimination. The law requires employers to provide justification for layoffs and firings, and union activity is not an acceptable justification. Legal recourse is available for reinstatement, back wages, and punitive damages, although critics described court enforcement as arbitrary and unpredictable.

A 2011 law significantly increased the difficulties faced by smaller and independent unions seeking to take part in tripartite negotiations, participate in social insurance programs, and represent labor at the national and international levels. The law further entrenched the Federation of Trade Unions (FPU), the country's largest union, and hindered the ability of smaller independent unions to act as effective representatives of their members' interests. The FPU maintained its membership by absorbing older Soviet-era unions after independence. In an

opinion poll published in 2011, the ITUC expressed doubts about the true independence and objectivity of the State Mediation and Reconciliation Service of Ukraine, a body that determines which unions meet the law's representation criteria.

The Confederation of Free Trade Unions of Ukraine (CFTU) meets the representation criteria to participate in tripartite negotiations. In September 2012 CFTU Chairman Mykhailo Volynets signed an agreement with the chairs of four other national trade unions, including the FPU, to establish a "joint representation body on the national level for all trade unions." The agreement provides for participation of independent trade unions, via the confederation, in the tripartite system at the national level.

The government continued to deny unions not affiliated with the FPU a share of disputed trade union assets inherited by the FPU from the Soviet era. The retention of these assets, which include social insurance benefit funds, other financial holdings, trade union halls and offices, and other real estate, gave the FPU a benefit that independent unions cannot offer. Leaders of non-FPU trade unions and some government officials continued to claim that the FPU improperly sold some Soviet-era assets to thwart their future distribution. A 2007 parliamentary moratorium on the FPU's sale of property remained in place during the year.

Statutory worker-management commissions were not always effective, and enforcement was arbitrary and uneven. Management, or union representatives co-opted by management, at times dominated these commissions. Renouncing membership in an FPU-affiliated union and joining a new union was bureaucratically onerous and typically discouraged by management. Workers who joined different unions complained that FPU-affiliated unions illegally deducted dues from their salaries. Members of CFTU-affiliated unions continued to claim that management sometimes forced them into additional or undesirable work and threatened them with dismissal if they refused to leave their unions.

Discrimination and threats against independent trade unions continued and included numerous alleged instances of employers dismissing trade union activists, leaders, and other workers because of trade union membership or other legally protected activity. In a well-known case in Lviv, local law-enforcement officers detained a coal miner's husband after the miner brought a case against her employer for wage arrears. They released the husband after the national union publicized the case.

There were several reports that employers pressured union members to leave a CFTU-affiliated union. For example, in February the chair of the CFTU's primary organization at the Novodruzheska mine, an employee named S. Marchenko, found that the mine's management prevented him from performing his duties. While Marchenko did not leave the union, 10 other members did. Another employer, Rovenkyanratsyt, reportedly interfered in the activities of a union that was a member of the Independent Trade Union of Miners in the town of Rovenki. According to the union, the company threatened miners in an attempt to force them to leave the independent union.

There were also instances of direct attacks on union organizations, rather than against individual members. In Zaporizhzhya oblast, the CFTU's trade union was liquidated as a result of a questionable court ruling. The court justified its decision to force liquidation based on a late tax declaration submission. Trade union entities, as nonprofit organizations without business activity, normally are not required to submit these types of specific tax documents.

Print and broadcast media, trade unions, and social media noted extraordinary pressure on workers either to compel or prevent their participation in the massive "EuroMaidan" demonstrations in Kyiv and across the country in November and December. One union leader noted that representatives of employers threatened to dismiss a number of his members attempting to travel to Kyiv in support of opposition rallies. He alleged that some employers tipped off law enforcement, which then harassed workers and their families to compel them not to participate in demonstrations. There were multiple reports of Kyiv-bound auto convoys, buses, and trains being delayed, stopped, or canceled.

There were also reports alleging that state-owned businesses and progovernment private businesses were expected to provide attendees for counter rallies; they often threatened workers to ensure participation. One union leader noted that local governments asked coalmines to provide salary, transport, and expenses for specific numbers of workers to attend a progovernment rally. Multiple news sources reported about convoys arranged by public enterprises for employees who were paid to attend. Also common were reports of such workers not receiving their promised compensation. In a Donetsk enterprise, managers reportedly asked workers who refused to support a local counterdemonstration on December 14-15 to submit their resignations.

There were also several cases of companies, private and state-owned, not honoring collective bargaining agreements during bankruptcies. In one highly publicized

case, airline workers and their unions accused Ukrainian air carrier Aerosvit of ignoring collective bargaining agreements and trade union demands. The carrier fired employees and halted wage payments in violation of existing agreements, resulting in the accumulation of huge wage arrears. From the start of bankruptcy proceedings, 2,300 of 2,547 positions were eliminated. Trade union employees petitioned the Presidential Administration, Prosecutor General's Office and the cabinet of ministers for redress. Unions filed hundreds of court cases in Kyiv and oblast courts. The courts did not consider the cases, delayed ruling, or ruled against the workers. The aviation trade unions continued to pursue the nonoperating airline in courts, while the CFTU submitted a complaint to the ILO and International Labor Confederation.

In May small ad hoc groups of retired Chernobyl cleanup workers that were not associated with any traditional unions petitioned the cabinet of ministers in Kyiv to protest a constitutional court ruling reducing their retirement and social benefits and demand that these benefits be returned. Ministry of Social Policy representative met with protesters, but could not meet their demands in full, citing budget constraints.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. While observers did not believe forced labor was a widespread problem, there were reports that women, men, and children were trafficked for labor. Enforcement continued to be a serious challenge for the government, in part due to a lack of resources. As of September 30, the IOM assisted 587 adult victims of labor exploitation.

Also, see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/.

c. Prohibition of Child Labor and Minimum Age for Employment

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

The law sets 16 as the minimum age for most employment. Children 15 years of age may perform "light work" with a parent's consent, but the law does not clearly define the term. Children can legally do some forms of work beginning at age 14 as part of an apprenticeship in the context of vocational educational training.

The Child Labor Division of the State Labor Inspectorate under the Ministry of Social Policy is responsible for enforcing child labor laws. The Department on Adoption and Children's Rights Protection in the Ministry of Social Policy and the Criminal Police for Children's Affairs in the Ministry of Internal Affairs are responsible for identifying children in the informal sector involved in the worst forms of child labor. The Internal Affairs Ministry's Department on Countertrafficking is responsible for the enforcement of laws against child trafficking, and the Criminal Juvenile Police deal with crimes performed by and against minors.

The criminal code sets criminal penalties for exploiting children for labor. The penalty for forcing children into begging is up to three years in prison. According to the Ministry of Health, there were very few recent or official statistics about exploitation of child labor. In 2012 the Office of the Ombudsman for Children's Rights conducted a study on child labor trends, which surveyed 4,000 children and 1,000 parents. It found child labor in agriculture (30 percent), sales activities in kiosks and in the distribution of advertising leaflets (25-30 percent), construction (19 percent), and other unskilled positions. The survey was not nationally representative and did not include children in the informal sector. The IOM reported that children from socially disadvantaged families and those in state custody continued to be at high risk of being trafficked and exploited inside the country for begging.

Enforcement during the year improved over 2012, with a marked increase in the number of inspections, but the number of cases that officials prosecuted remained a small fraction of cases that inspectors discovered. The State Labor Inspectorate reportedly conducted 6,816 child labor inspections through September. It identified 866 working minors, six of whom were under 14, and 10 who were 14-15 years of age. Sixty-three of the employed minors were 15-16 years old, and the remaining 787 were ages 16-18. During inspections the State Labor Inspectorate discovered 416 employers using child labor. Inspectors filed 222 administrative cases against employers, who were expected to face local court proceedings and possible fines. Law enforcement bodies passed 19 cases to the courts for criminal action. The most frequent violations of labor law for minors related to their work in hazardous conditions, long workdays, failure to maintain work records, and delayed salary payments.

Also, see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The national monthly minimum wage for all sectors, as specified in the state budget, is 1,218 hryvnia (\$150) or approximately 8.03 hryvnia (\$0.98) per hour, as of December 1, based on the monthly subsistence income level set by the government. Workers in the informal sector might have received wages below this established minimum.

Wage arrears increased 10.6 percent through November. According to the State Statistics Committee, arrears stood at 939 million hryvnia (\$115 million) as of December 1. Most arrears accumulated in industry, but also significantly impacted construction, transport, communications, real estate, and agricultural enterprises.

The law provides for a maximum 40-hour workweek, a 24-hour period of rest per week, and at least 24 days of paid vacation per year. It provides for double pay for overtime work and regulates the number of overtime hours allowed. The law requires that all overtime be agreed upon with the respective local trade union organization and sets limits on the number of allowable overtime hours. Authorities did not always effectively enforce regulations covering rest periods, maximum work hours, and overtime.

While the country has had a labor inspectorate since independence, a 2011 presidential decree established the present State Labor Inspectorate as part of an administrative reform.

The State Labor Inspectorate is responsible for enforcing the labor laws. Observers asserted that it was understaffed. As of October 1, the inspectorate's staffing schedule provided for 760 labor inspector positions but the agency employed only 717 nationwide and did not have enough inspectors to monitor all employers.

The law contains occupational safety and health standards; however, employers frequently ignored them because of the lack of enforcement mechanisms and the government's failure to hold employers accountable for unsafe working environments. Lax safety standards and aging equipment caused many injuries on the job. The mining sector proved particularly problematic, with wage arrears, nonpayment of overtime, and operational safety and health complaints common. For example, during the summer, miners filed complaints regarding wage arrears for mines in Luhansk, Volyn, Lviv, and Dnipropetrovsk oblasts. Workers also registered safety and health complaints at a mine in Luhansk, among others.

Mineworkers, particularly in the illegal mining sector, faced very serious safety and health problems. The government does not produce official statistics regarding the size of the illegal mining sector. According to media and expert reports, the production of illegal coal grew compared to the previous year.

Through September there were 70 mining fatalities, almost 38 percent fewer than for the same period in 2012. In the same period, 2,318 coal miners were reported injured, 16 percent fewer than in 2012. The fatality rate was approximately 1.4 deaths per million tons of coal mined. The total number of work-related injuries through September was 6,207 (down 15 percent from the same period in 2012), while work fatalities through September decreased to 383, a 22 percent decline from 2012.

The law provides workers the right to remove themselves from dangerous working conditions without jeopardizing their continued employment; however, according to one NGO that follows labor issues, employers in the metal and mining industries often violated the rule and retaliated against workers by pressuring them to quit.