

IHF FOCUS: Elections; freedom of expression and the media; judicial system, independence of the judiciary and detainees' rights; torture, ill-treatment and misconduct by law enforcement officials; conditions in prisons and detention facilities; death penalty; protection of ethnic minorities; intolerance, xenophobia and racial discrimination.

The fall 1999 presidential elections in Ukraine revealed an immature election system. There were also direct and serious violations of international standards, particularly the mobilization of the executive branch to campaign for the incumbent President, Leonid Kuchma. Throughout the year, and particularly in the run-up to the elections, opposition and independent media faced increasing repression.

The judicial system remained loyal to the executive, implementing a disproportionate sentencing policy and showing clear bias. The courts suffered from a lack of funds and professional expertise. One serious problem was the failure to implement court decisions to finally pay salaries and pensions which had been pending for months, or even years.

Torture and ill-treatment were commonplace, and produced most of the "evidence" upon which the courts based their rulings. The conditions in prisons and detention facilities remained inhuman. Further, the situation of the Crimean Tatars remained unresolved: they were not *inter alia* allowed to vote in the presidential elections. In a positive development, the Constitutional Court ruled the death penalty unconstitutional and all death sentences were converted into prison terms.

Elections

Mayoral Election in Kyiev

In early 1999, parliament adopted the law "On the Capital of Ukraine," which gave the residents of Kyiev the right to elect the mayor – a right they had been illegally deprived of during the 1998 elections. The elections were held on 30 May despite the fact that some legal provisions were dubious, thus questioning the legitimacy of the elections. The victor was the incumbent Mayor, Alexander Omelchenko.

However, most observers stated that the elections could not be seen as valid due to widespread irregularities in terms of campaigning (campaign materials were confiscated and their distribution was obstructed), and the illegal arrests of activists. The other candidates filed a suit to nullify the election results, which was approved by the first instance court. However, on 8 August, the Supreme Court overturned the decision of the first instance court and declared the election results valid. The court held that the irregularities did not significantly affect the election results. Most observers considered such a decision to be politically motivated, and a dangerous precedent. The Supreme Court handed down its ruling just after President Kuchma's statement that the "[first instance] court decision reflected the will of thousands of voters in Kyiev," a statement which could be considered as the exertion of direct pressure by the president on the Supreme Court.

¹ Unless otherwise noted, based on information from the Ukrainian Committee Helsinki-90 to the IHF.

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Presidential Elections²

The first round of presidential elections were held on 31 October, and the second round on 14 November. According to the OSCE/ODIHR and the Parliamentary Assembly of the Council of Europe, who observed the elections, numerous violations of fair election standards were recorded. In addition, despite improvements in earlier legislation, the election law still showed serious deficiencies.

On the positive side, the 25 March Law on the Elections of the President of Ukraine (amended on 8 September) provided a clear legal framework through which to regulate the electoral process, and increased transparency through the adoption of multi-candidate election commissions and the supply of protocols to all members of those commissions. Nevertheless, drawbacks remained. For example, the law incompletely regulated campaign activities and candidates' media coverage, and it did not secure enforcement mechanisms for the Central Election Commission (CEC) to effectively apply the law in cases of abuse. There were still discrepancies and lacunae with regard to the definition of electoral offences and the associated legal remedies. In addition, the law was selectively enforced and did not provide for any effective avenue by which to complain.

According to the Ukrainian Committee Helsinki-90, the law provided for improved polling procedures and counting of votes, but restricted the candidates' right to free campaigning.

The CEC made commendable efforts to improve the transparency of the election procedure and to train election officials.

While in the first round, election-day procedures were carried out in a peaceful and orderly manner, apart from minor irregularities in very few polling stations, on 14 November, these procedures were not followed as closely, and more serious violations were observed. For example, people cast more than one vote, family-voting took place, and more unauthorized persons were present at polling stations.

During the campaign period, serious violations of OSCE standards were recorded. State-run media coverage clearly favored the incumbent President, Leonid Kuchma.³ In clear violation of both local standards and OSCE commitments, public officials were involved in his campaign: in extreme cases, police officers distributed his election propaganda and security forces were involved in politically motivated interventions. Postal workers distributed Kuchma's campaign materials. Heads of state administration, and officials of the educational and medical facilities in many *oblasts* (administrative regions) openly urged people to vote for Kuchma. According to the ODIHR and the Council of Europe, during the second round of elections, the campaign by state institutions was "systematic and coordinated across the country", and much false material on other candidates was anonymously distributed throughout the country. Authorities frequently refused to let other candidates display their campaign materials, and they took no measures to halt the circulation of the anonymous materials or false editions of some newspapers that were targeted at other candidates. In addition, in a number of areas, the members of election commissions were nominated by a state institution, and not by the candidates or the parties.

² Based on OSCE/ODIHR and the Parliamentary Assembly of the Council of Europe, *International Election Observation Mission, Ukraine Presidential Elections, 31 October 1999, Joint Preliminary Statement; and International Election Observation, Ukraine Presidential Elections, Second Round, 14 November 1999.*

³ See also *Freedom of Expression and the Media.*

Freedom of Expression and the Media

Several articles of the criminal code provided for long terms of imprisonment for the production, or dissemination of, printed materials or video tapes. The new draft criminal code under discussion includes the same provisions, and some which are even more restrictive: for example, it would provide for imprisonment for individuals who reveal human rights violations.

In the run-up to the October/November presidential elections, the Ukrainian media faced increasing repression. The publicly funded media was required to inform voters about the candidates and their programs, but it failed to fulfil this obligation. UT1, the state-owned national television, promoted the incumbent president throughout the first and second rounds of elections.

All mass media outlets that were critical of the executive were under constant pressure. Authorities used a variety of direct and indirect methods to prevent the critical press from publishing material, and suspended the operation of independent television and radio stations. The media were subjected to various hostile inspections, their operations were interrupted, and journalists and reporters were harassed. The main targets were those media outlets who had criticized the authorities' misconduct or corruption, and those who had supported President Kuchma's competitors or simply granted them access to their outlets. Media outlets loyal to President Kuchma were not subjected to hostile or bureaucratic scrutiny.

On 15 July, the Ukrainian parliament (the majority of whom opposed President Kuchma), adopted an appeal to the Coun-

cil of Europe, the OSCE, foreign governments and international organizations complaining about the "troubling situation in the Ukrainian information environment." According to the statement, media outlets opposed to the government, or those who were non-partisan, were being literally strangled.⁴

In 1999, the Security Service issued a report on the Mykolaiv region, the focus of which is how the local media have supported President Kuchma in the upcoming elections. The report recommends the "neutralization" of disloyal media outlets. Local monitors suspected that similar reports have been prepared on other regions in Ukraine.

Printed Media

A number of other newspapers, including *Pravda Ukrainy*, *Dneprovskaya Pravda*, *Kirovogradskaya Pravda*, and *Poltavska Dumka* were closed down and journalists were harassed.

■ *Pravda Ukrainy* was closed down and Gorobets, the editor, was arrested in 1998. In May 1999, he was acquitted and released, but he was not entitled to any compensation for the seven months he had spent in detention.

■ On 13 January, journalist Vladimir Efremov, editor-in-chief of the daily *Sobor* in Dnepropetrovsk, was arrested and sent to prison. The authorities accused him of irregularities in the processing of a loan for the newspaper in 1995. However, the loan had been entirely reimbursed, with interest, in 1996. The bank had not instigated the complaint.⁵ Efremov was released following public protests.

■ The legal proceedings launched in December 1998 against Oleg Liachko, editor-

⁴ *Glasnost Defence Foundation/IFEX, 28 July 1999.*

⁵ *Reporters sans frontières/IFEX, 15 January 1999.*

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in-chief of the opposition weekly *Politika*, carried into 1999. He was accused of libeling the president. *Politika* ceased to publish regularly in May 1998. Following a series of articles concerning individuals close to President Kuchma, the Prosecutor's Office ordered that the weekly's bank accounts be frozen. In December 1998, the Supreme Court ruled that such a measure was legal.⁶ Liachko was released, but could not continue publishing. In December, the prosecutor continued to demand that Liachko be sentenced to three years imprisonment and be banned from his profession. However, on 14 December, the court acquitted him on all counts and a new case was opened against the officials who had fabricated charges against him.

■ In July, the Mayor of the town of Zaporizhzhya ordered the dismissal of the chief editor of the newspaper *Zaporizka Sich*, Konstantin Sushko.

On 13 and 15 October, as the presidential elections approached, independent or opposition media were put under severe constraints.

■ Under pressure from authorities, local printing houses in Kryviy Rih and Luhansk refused to print four newspapers that had endorsed President Kuchma's political rivals for the presidency. The newspapers were *XXI Vek* – whose editor had refused to pull a front page photo of candidate Yevhen Marchuk and several articles critical of President Kuchma – as well as *Rakurs* and *Nashe Zavtra*. The printers cited “technical problems.” The papers had supported Oleksander Moroz's presidential campaign. Also, the city-owned printing house in Kryviv Rih told the editors of *Kryvoi Rog Vecherny* that it wanted

to terminate the contract to print the paper. This paper had also endorsed Moroz. Following a grenade attack against rival presidential candidate Natalia Vitrenko, the paper faced severe politically-motivated repression, suggesting its involvement in the attack: it had to undergo hostile tax audits, and the police ransacked its offices and detained its editor, Inna Chyrchenko.⁷

Electronic Media

Several television and radio stations faced reprisals and were taken off the air, reporters were harassed and at least one was killed.

■ On 11 March, the Dnepropetrovsk authorities took down and seized the transmitters of the television station TV 11 and journalists were ordered to leave the station. TV11 had not broadcast for more than a week for “technical reasons,” although it had a license to operate until the year 2001. The station's staff suspected that the measure was a pretext to silence the station's criticism of the government.⁸

■ On 16 May, Igor Bondar (32), director of the AMT television station, was shot to death in Odessa as he drove in his car with Boris Vikhrov, the Odessa court's presiding judge, who was also killed. Investigations were initiated on the assumption that the case was linked to the fight against organized crime.⁹

■ On 8 June, the STB private television station was suspended from broadcasting. According to the Ministry of Information, the Kyiev relay station used by the STB did not conform to “sanitary norms”: the ministry had received complaints that its transmitter had caused some people's health to

⁶ *Reporters sans frontières/IFEX*, 6 January 1999.

⁷ *Committee to Protect Journalists/IFEX*, 29 October 1999.

⁸ *Reporters sans frontières/IFEX*, 19 March 1999.

⁹ *Reporters sans frontières*, 17 May 1999.

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deteriorate. In addition, the Ukrainian Frequency Inspection cited the end of the validity of STB's radio frequencies. STB submitted a new application but was told that the license would not be granted. The next step was the 7 June order to cease STB's satellite broadcasting as it might cause "complications in the operation of the Defense Ministry." Earlier in 1999, authorities had threatened to close the station for "technical reasons." It was believed that the measures were motivated by the live broadcasts of parliamentary debates by STB despite the government's ban on such broadcasts, apparently because the majority of the deputies opposed President Kuchma. STB was one of the few independent audiovisual media outlets in Ukraine. It had stated that it did not support any particular presidential candidate, but wanted to give all political groups access to its programming. The station was also known for its reports on corruption and the misappropriation of funds, and had been a target of reprisals from financial groups close to the circles in power. In March, two masked men forced their way into the apartment of the station's commercial manager, Dmitro Dahno, and threatened him and his wife, who was eight months pregnant, with a knife. In February, Serguei Korenev, a STM cameraman, was assaulted and his equipment stolen by unknown individuals.¹⁰ On 26 August, local tax officials froze STB's bank accounts, claiming that the station had failed to submit tax documents on time – documents that were already under investigation by other authorities. The station was forced to suspend the production of a new program about the parliament and feared it would be forced to lay off employees – and eventually go off the air altogether. It filed a suit

against various authorities for harassment with a view to forcing the station out of business.¹¹

■ On 26 July, the broadcasts of four non-governmental Crimean TV companies – Chernomorskaya TV and radio, ITV (in Simfreopol), Ekran TV and radio (in Jankoy) were discontinued. Anatoly Trushkov, the head of the State Electrical Communication Inspection for the Autonomous Republic of Crimea, stated that the stations had been taken off the air because they lacked the permits to use the frequency channels of the Crimea TV and Radio Broadcasting Center (CTVRBC). However, the state TV and Radio Crimea, which also used the CTVRBC transmitter, were allowed to continue broadcasting.¹²

■ The chief editor of the independent TV-studio VIKKA (in the town of Cherkassy), Victor Borisov, was dismissed because he gave one of the opposition candidates access to his media outlet.

Judicial System and Independence of the Judiciary and Detainees' Rights¹³

Judicial System

The judicial system in Ukraine was based on the 1995 constitution, which more or less corresponded to European standards. In practice, however, the administration of justice was carried out by judicial bodies whose structure had remained unchanged since 1939 – in the height of Stalin terror – and based on Soviet-era legislation. Problems included a lack of funding for courts, corruption, poor qualifications of and misconduct by judges, prolonged judicial pro-

¹⁰ *Reporters sans frontières/IFEX, 9 June 1999.*

¹¹ *Committee to Protect Journalists, 24 September 1999.*

¹² *Committee to Protect Journalists, 28 July 1999.*

¹³ *Based on Evgen Dikiy, Ukrainian Committee Helsinki-90, a paper delivered at the International Seminar "The Human Rights and Democratic Institutions in Ukraine," Kyiv, 15–16 October 1999.*

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cedures, the virtually nonexistent use of release on bail, unjust sentencing policy, insufficient access to qualified legal aid, and the failure to implement court sentences. Moreover, the executive interfered in court cases, as did President Kuchma, who frequently commented on pending court cases.

Higher courts frequently altered the sentences of lower courts on appeal, and acquitted numerous people, a fact which suggested the poor expertise of lower courts.

The state budget only provided about 55 percent of the funds necessary for the courts – the rest was provided by “donations” from local authorities, companies, and private persons. These “donations” took the forms of, for example, painting the court buildings, or giving judges and other judicial staff “presents,” a practice which seriously endangered the independence of the courts. A strange “privatization” of the courts, to the benefit of their most generous “donors”, took place in many cities. As a result, people’s trust in the court system was minimal, encouraging them to solve disputes outside of court.

Due to the lack of funding, some 40 percent of Ukrainian courts suffered from the shortage of appropriate premises, equipment and basic necessities, and more than 90 courts operated in dilapidated buildings without heating or electricity. The constitution provided for the compulsory audio-recording of all court hearings, but this provision was never implemented because of a lack of tape recorders.

Despite lacking resources, the number of court cases increased from about 1.5 million lawsuits in 1998 to up to 2 million in 1999, resulting in a serious shortage of time dedicated to each case.

Victims and witnesses were poorly protected during court hearings. In open tri-

als, they were forced to give their names, places of work, and home addresses during court hearings – all of which were used by criminals to put pressure on their families. No mechanisms of witness and victim protection were provided. At the same time, it was a crime to refuse to give evidence.

The failure to implement court sentences was perhaps the weakest part of the Ukrainian judicial system. This happened particularly in civil cases. In most civil cases regarding wage arrears, the plaintiff won the case but virtually none of the court rulings were implemented. The same applied to decisions on private property.

Independence of Judiciary

Most judges had served in the judicial system of the Soviet era, thus reflecting an authoritarian and repressive attitude. They were accustomed to obeying the advice of the Communist Party, rather than the constitution. Although the judiciary was formally independent in 1999, it still tended not to contradict the will of the authorities and followed the advice of the executive and the courts’ “donors.” In fact, the prosecution, the defense and the judges were all employees of the Ministry of Defense, which seriously affected court proceedings.

The judges did not respect the constitution in judicial proceedings. If there were contradictions between the 1995 constitution and certain articles of the criminal, criminal procedural, civil, or administrative codes (all of which were adopted in the 1960s’, with insignificant subsequent amendments), the overwhelming majority of judges failed to apply the constitution – although it took precedence over other legislation. The same applied to international human rights instruments ratified by Ukraine, which should have been directly applicable. In addition, they accepted information extracted under duress as evi-

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dence. There was no avenue of complaint for procedural errors, and most judges were completely ignorant of the law. Only corruption and the falsification of court protocols were punishable, but even in such cases, there was no independent avenue for appeal. However, nine judges were dismissed for their misconduct.

Judges were often unqualified and abused their status. Many, particularly in rural areas, appeared in court drunk. Defendants were sometimes ill-treated by militia in front of the court without any intervention, minors were judged on the bases of articles that should only have been applied to adults; and, most of all, "confessions" obtained under torture or other illegal methods of investigation were accepted.

The fabrication of court hearing protocols was commonplace: the sentences announced at the court hearings were "rewritten," and significantly edited texts were sent to the authorities responsible for implementing the sentence. Such a practice was facilitated by the absence of audio-recording in the courts.

In criminal cases, the sentences were extremely harsh. More than one third of the first instance courts' sentences were appealed because of an evident discrepancy between committed crimes and convictions: those involved in organized crime often received a lenient sentence, while minor offenders were punished harshly. This practice suggested corruption on the part of the judiciary.

■ Two female students were each imprisoned for three years for stealing a skirt and a blouse worth 55 hrivna (U.S.\$ 12).

■ In several cases, collective farm workers were sentenced to 5–8 year imprisonment for stealing two bags of cattle fodder. The fact that they had not received their salaries for years did not help them in court proceedings.

Detainees' Rights

The maximum pre-trial detention period, which was 18 months, could easily be legally prolonged. Thousands of people were held in overcrowded, unsanitary detention facilities for several months or even years (in extreme cases 4–8 years) awaiting trial or a court decision – often without any legal reason – due to prolonged judicial proceedings. By law, they were not entitled to compensation.

According to the law, detainees could be released prior to sentencing on two conditions: either on bail or with a certified assurance not to leave the town or region. However, a minimal number of individuals were released on bail (123 out of 80,000 cases in 1998). Ironically, mainly people accused of corruption and organized crime were released on an assurance not to leave the area. They were often the courts' "donors."

Under international standards, if the prosecution cannot provide enough evidence to prove the guilt of the defendant, the defendant must be acquitted. In Ukraine, however, such cases were sent back for "additional investigation." Such a procedure was often repeated several times, dragging the court procedures out for months, or even years. As a rule, the accused remained in custody during this time.

The administrative cases (i.e. minor offenses) were regulated by the 1960 Code of Administrative Breaching of Law, which allowed the imposition of substantial monetary penalties and imprisonment of up to 15 days through an extremely simplified procedure. The involvement of a lawyer, witnesses or experts was routinely rejected. In many cases, the sentence was simply read to the defendants in their cells and they were sent to serve the term. Administrative sentences came into force immediately: and could only be appealed

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after the sentence had been served. Administrative judicature was therefore often used as a means of political pressure, particularly against anti-government demonstrators.

Lawyers frequently failed to fulfill their duties, particularly those ordered by the court. Most of them had been trained in the Soviet era, and many still respected the authorities, rather than the law – taking a passive position and actually supporting the prosecution, often completely uninformed about the case. At the same time, those lawyers who fulfilled their duties often fell victim to direct or indirect pressure, including threats and intimidation.

Many independent advocates were accused of “contempt of court” and sentenced to 15 days imprisonment through an extremely simple court procedure. As of this writing, the Supreme Court of Ukraine was considering an administrative sentence that was brought against advocate Paliy in the city of Sevastopol. The Paliy case was expected to produce an important precedent for the future respect of the right to legal counsel.

Military servicemen accused of a crime were brought before a military tribunal, which was comprised only of military lawyers. The court hearings were always closed to media and NGO representatives.

Torture, Ill-Treatment and Misconduct by Law Enforcement Officials¹⁴

During an IHF mission to Ukraine, members of the Parliamentary Human Rights Committee told the IHF and the Ukrainian Committee Helsinki-90 that the “behavior of the militia is worse than it was five years ago.” According to National Ombudsman

Nina Karpachova, 30 percent of detainees reported having been tortured, and she believed the actual number was considerably higher since many feared reprisals for acknowledging their torture. Karpachova noted that her reports to the interior minister and police commander were apparently not well received since those officials considered the ombudsman’s reports to be partial.

In Ukrainian courts, most charges and court verdicts were based on “confessions” extracted under torture or ill-treatment. The urge to get convictions in court was facilitated by the fact that the militia was under pressure to have higher crime clarification rates, in order to be promoted. Therefore, the torture or ill-treatment of persons on remand was routine during interrogations, although it was prohibited by law. There were no statistics on cases of torture, but local NGOs believe that there were several thousands of such cases.

Moreover, it was not explicitly forbidden for courts to base a sentence on information extracted under duress.

Isolation facilities were particularly dangerous. Inmates were frequently subjected to various forms of torture, ill-treatment or humiliation. Access to a lawyer or medical assistant was routinely denied. The least information was received from the hundreds of short-term isolation facilities in city departments of the militia, although local monitors feared that torture and inhuman treatment were even worse in those facilities. By law, a person could not be held in short-term isolation cells for longer than 72 hours, but in practice this time limit was often exceeded by up to 15–30 days. There were cases in which persons were detained in such facilities for over two months. Almost everyone in short-term detention was subjected to

¹⁴ Based on information from the Ukrainian Committee Helsinki -90 to the IHF, August 1999 and updates.

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harsh treatment, including beating and torture.

The most common torture methods included beating, kicking, electroshocks, and placing a gas mask over the face of the victim and blocking the air hose until the victim was close to suffocation. Often, the victims' arms were bound behind their backs and then pulled towards the feet, bending the body to form an arch for as long as an hour. Another popular method was to place the suspect in a special steel case and beat heavily on the case to mentally break the suspect with the unbearable noise.

The perpetrators enjoyed virtual immunity. A law on accountability for torture and ill-treatment was met with opposition by the Security Service and the Ministry of Justice, but was eventually passed in October.

Many participants of peace meetings were severely beaten by the officials of *Berkut* (formerly OMON) forces, which operated under the Ministry of Interior and frequently used excessive force. The *Berkut* had been especially created to punish demonstrators. Not a single *Berkut* officer was known to have been charged with ill-treatment or held responsible for disciplinary offences.

■ The latest example of *Berkut* misconduct was the 11–12 September illegal arrest and beating of over 100 members of the opposition party, the Ukrainian National Assembly, in the town of Uman. Most members were also tortured. The *Berkut* officers were not punished and continued to work in their division.

During the mayoral and election campaigns, collectors of signatures and other activists were arrested on a massive scale

and held for some days on political grounds.

Conditions in Prisons and Detention Facilities¹⁵

Conditions in most places of confinement were extremely inhuman and humiliating. The investigation isolators were overcrowded, often housing inmates at 3–4 times the official capacity, leading to extremely poor sanitary conditions. Regardless of overpopulation, the courts seldom released defendants on bail or handed down suspended or alternative sentences – rather, they prescribed prison sentences even for minor offences. In the first six months of 1999, 114,551 individuals had been sentenced, mostly to prison terms.

NGO requests to visit detention facilities and labor camps were rejected by the Ministry of Interior.

Death Penalty

During the first half of 1999, Ukrainian courts handed down 35 death sentences. However, on 30 December, in a milestone decision – and virtually the only positive human rights development in Ukraine – the Constitutional Court ruled that the death penalty contradicted the provision of the constitution which guaranteed the right to life. Therefore, it declared all articles of the criminal code that provided for the death sentence unconstitutional: since 1 January 2000, such laws are no longer applicable. At the same time, all death sentences that had been handed down before the ruling of the Constitutional Court, but which had not yet been carried out, were converted into prison terms. On 22 February, the parliament ratified the 6th Protocol of the ECHR, effectively abolishing the death penalty.

¹⁵ *Ibid.*

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Protection of Ethnic Minorities¹⁶

Crimean Tatars

The situation of some 250,000 Crimean Tatars, who had returned from the places of Stalin's deportation to their historical home in the Crimea, remained problematic. Tatars faced active resistance by the ethnic Russian majority and the parliament in the Autonomous Republic of Crimea.

The failure to resolve the issue of their citizenship (although former USSR citizens) continued to cause numerous problems in everyday life. Some 80,000 Crimean Tatars – i.e., more than half of the adult Tatar population in Crimea – did not have Ukrainian citizenship, and were therefore deprived of the right to take part in the national and local elections, including the 1999 presidential elections.

During the night of 15 January 1999, the building of Medglis – the main representative body of the Crimean Tatars – was burned down in Simferopol, Crimea. Tatar media outlets were also suspended in the run-up to the presidential elections.¹⁷

Conscientious Objection

Generally, all male Ukrainian citizens had to perform the military service. The terms varied from 1-2 years, the average term being 18 months. The law "On Alternative Non-military Service" was discriminatory because, under its provisions, the civil service was twice as long as the military service, i.e., as a rule, three years. The right to an alternative service was only provided on religious grounds and only to members of officially registered religious communities whose doctrine forbade military service. Other conscientious objectors were

seen as avoiding the military service and faced up to three years imprisonment. Several such cases were pending in courts at the end of 1999.

Intolerance, Xenophobia and Racial Discrimination

Despite legal guarantees for the equality of all nationalities, persons whose appearance differed from that of the majority population – particularly people of African, Asian, and Caucasian origin, but also Tatars and Roma – were regular targets of militia abuse. Militia had the right to stop them for identity checks, and, if their documents appeared suspicious, to detain them. The militia officers demanded money from them and often ill-treated them until they paid. In addition to harassment by the militia, Africans often fell victim to ultra-rightist racists. Such cases were, as a rule, not investigated by the militia.

Since the beginning of the war in Chechnya, the militia and security service targeted Chechens staying in Ukraine temporarily. They were regularly detained and their homes were searched – allegedly because of suspected terrorism.

In general, anti-Semitism was not a notable problem in Ukraine. However, during the May mayoral elections in Kyiev, agitators that supported the acting city leadership issued a number of openly anti-Semitic statements, denying Jews the right to run for the Kyiev mayor's office. Also, at least two members of parliament made anti-Semitic statements during parliamentary debates. The Ukrainian Committee Helsinki-90 expressed its concern that such statements constituted a dangerous new tendency in the political arena.

¹⁶ *Ibid.*

¹⁷ See *Freedom of Expression and the Media*.

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Social, Economic and Property Rights

Forty-five percent of employees in Ukraine worked but did not receive their salaries on a regular basis: 2-3- months arrears were considered normal, but some persons (particularly state employees) had not been paid for 2-3 years. Their official employment stripped them of the right to state benefits.

In 1999, there were still no laws on the return of property to the pre-Communist era owners or their heirs, or any laws on compensation. In the early 1990's, state savings from the Soviet era were illegally withdrawn by the state. No compensation had been paid as of the end of 1999.

In 1999, the president issued a decree providing for the right for private land ownership, which had been abolished by the communist regime. However, it does not provide for any compensation to former landowners, or their heirs, for the illegal confiscation of the property.

The 1998 presidential decree, which vested the tax militia with the right to confiscate the property of any person viewed as a debtor without a court warrant, remained in force. The same decree allowed the tax militia to carry out searches, and even arrest individuals. During 1999, such a practice continued in all regions throughout Ukraine. ■■■■