



JANUARY 2010

COUNTRY SUMMARY

Ukraine

Another period of instability characterized political life in Ukraine in 2009. Political scuffles between President Viktor Yushchenko and Prime Minister Yulia Timoshenko continued through most of the year. In March Yushchenko proposed a constitutional amendment that would restructure parliament into two chambers—ostensibly the intent is that a bicameral parliament will better withstand political crisis, but critics suggest that the amendment is also designed to limit presidential power after Yushchenko’s term ends in 2010. On October 22, parliament voted against the president’s proposal.

Relations with Russia continued to deteriorate. As 2008 drew to a close, tensions erupted over a Russian gas pipeline to Europe that crosses Ukraine, prompting the European Union to convene an emergency summit, held in January 2009, dedicated to regional energy security. Although Russia and Ukraine eventually reached a compromise, diplomatic disagreements aggravated political tension between the countries. In August 2009 Russian president Dmitry Medvedev accused the Ukrainian government of “anti-Russian” policies and declared that he refused to work with the Ukrainian government as composed. Ukraine responded by condemning Russia’s “empire complex.”

Despite some improvements, Ukraine’s overall human rights record remains poor, with torture and ill-treatment in detention still commonplace. Hostility to asylum seekers, hate attacks on ethnic minorities, and Ukraine’s staggering HIV/AIDS epidemic are problems that the government still fails to address effectively.

Criminal Justice System

The Criminal Justice and Law Enforcement Authorities reform enacted in 2008 achieved some positive changes in 2009, in particular better treatment of mentally ill detainees and improved adherence to due process requirements. However, Ukraine’s criminal justice system is still plagued by a high number of arbitrary detentions, ill-treatment in custody, corruption among law enforcement personnel, and a weak judiciary.

Ukraine’s human rights groups report high numbers of forced confessions extracted under torture, which are then allowed as evidence during trials. Impunity in the police force is

widespread. However, in 2009 mobile monitoring groups composed of Ministry of Internal Affairs personnel and members of the public successfully drew attention to poor conditions in custody. The monitoring groups made 41 visits in the first six months of 2009, uncovering routine violations of detention procedures such as failing to register arrests and to read detainees their rights during arrest, as well as overcrowding and lack of natural light in cells. As a result, by May 2009 more than 50 law enforcement officials had been convicted of crimes related to abuse of power, including ill-treatment.

Treatment of Asylum Seekers and Refugees

With no clear migration policy and a flawed and restrictive refugee law that results in only 3 percent of asylum seekers obtaining refugee status, Ukraine continues to deny asylum seekers protection. However, the Department on Refugees and Asylum-Seekers of the State Committee on Nationalities and Religion has proposed legislation to address these shortcomings.

In 2009 Ukraine continued to refuse to grant refugee status to Chechens, since Ukraine does not recognize war as grounds for granting refugee status. On September 2, six people from the Democratic Republic of Congo, including at least one who sought asylum, were returned two days after arriving in Kyiv. The six were deported despite protests from representatives of the United Nations High Commissioner for Refugees in Ukraine, who were not granted access to them. The Ukrainian authorities cited an August 2009 law requiring persons from Africa, Asia, and several countries of the former Soviet Union entering Ukraine to have at least 12,620 hryvnia (approximately US\$1,600), or risk being refused entry. This requirement poses a significant new obstacle for asylum seekers in Ukraine.

In 2009 Ukrainian authorities continued to comply with requests of other governments that violate fundamental refugee rights. In June they provided the Prosecutor General's Office of Kazakhstan with confidential documents from the refugee status applications of four Kazakhstan citizens, in direct violation of article 11 of the Ukrainian refugee law. As a result, Kazakhstan launched criminal cases against people who had provided, in support of the refugee applications, evidence that the four had suffered persecution.

Hate Crimes and Discrimination

Physical assaults and attacks on immigrants, refugees and asylum seekers, foreign students, Roma, and people of non-Slavic appearance persist in Ukraine. On January 18, 2009, a young Nigerian man was stabbed to death, and police promptly ruled out a racial motive without evidence supporting an alternate theory. Ukraine continues to lack legislation on

racially motivated crimes, and the current civil and administrative anti-discrimination law does not provide proper protection and access to justice for the victims of racially motivated abuses.

Crimean Tatars continue to endure discrimination, including unequal land allocation, employment opportunities, and access to places of worship, and unavailability of education in their native language. A group of Tatars held a months-long demonstration in front of the government building in Kyiv to protest unequal access to land ownership. On July 30 the protestors were attacked by a group of young people while police looked on.

Health Issues and the HIV/AIDS Epidemic

The Ukrainian National AIDS Center reported 13,039 newly registered cases of HIV infection in the first eight months of 2009, nearly half among injection drug users. On March 19, parliament approved a national HIV/AIDS prevention and treatment program for 2009-13, aiming to provide treatment to 20,000 patients by 2013.

The government expanded provision of antiretroviral therapy (ART) for people living with HIV/AIDS, and increased drug users' access to medication-assisted treatment (MAT) with methadone and buprenorphine (widely recognized as the most effective means to treat opiate dependence and critical to HIV prevention and treatment support for opioid-dependent drug users), though not on a scale sufficient to address the need. As of November 1, 2009, 13,500 people living with HIV/AIDS were receiving ART, and over 4,800 people were receiving MAT in 102 healthcare institutions in 26 regions of Ukraine. There is no MAT in prisons, however, and limited access to ART.

In contrast, Ukraine has made little progress ensuring that patients who face severe pain have adequate access to opioid medications like morphine. Due to excessively restrictive narcotics regulations, tens of thousands of cancer and AIDS patients are likely to suffer from severe pain unnecessarily because they cannot get access to appropriate treatment.

Media Freedom

On June 9, 2009, parliament held the first reading of a draft law imposing criminal liability for violations of public morality, sparking harsh criticism from media and human rights groups concerned that overbroad or subjective definitions of the term "public morality" could make editors and journalists vulnerable to criminal prosecution for publishing otherwise protected speech.

There was welcome progress in the investigation into the murder of journalist Georgy Gongadze. On July 21 Alexei Pukach, a former Ministry of Internal Affairs official suspected of ordering Gongadze's killing in 2000, was arrested after being on the run for four years. He reportedly gave key evidence to investigators, including names of other people involved in the murder.

Key International Actors

On February 9, 2009, the UN Working Group on Arbitrary Detention released a report on its 2008 visit to Ukraine. The report noted positive changes in the detention practices of Ukraine's law enforcement agencies, but expressed concern at the high number of arbitrary detentions, the regular use of torture to extract confessions, and the lack of a separate juvenile justice system.

During an April 2009 visit to Ukraine, Sabine Leutheusser-Schnarrenberger, co-rapporteur of the Parliamentary Assembly of the Council of Europe's Committee on Legal Affairs and Human Rights, cautiously encouraged reform of the parliamentary system in Ukraine. She also expressed regret that those who ordered Georgy Gongadze's murder had still not been brought to justice. The Council of Europe's European Commission against Racism and Intolerance (ECRI) recommended in May that Ukraine sign and ratify the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families. The ECRI also noted problems in the response by Ukrainian law enforcement to racially motivated crimes.

Procedural obstacles hindered the appointment of a new Ukrainian judge in the European Court of Human Rights in 2009, requiring that judges be appointed ad hoc to hear cases brought against Ukraine. The court has nearly 10,000 pending applications against Ukraine, comprising 8.7 percent of all pending cases for the first eight months of 2009.

United States Vice President Joe Biden visited Ukraine in July 2009 to reassure the Ukrainian government of US support for Ukraine's bid for NATO membership. Biden also encouraged Ukraine to resolve the political crisis in the government, to implement economic reforms to alleviate growing unemployment and inflation, and to become less dependent on Russia for energy.

In 2009 the European Union introduced projects related to migration regulation and equal labor policies in Ukraine. On the initiative of the European Commission, an Eastern Partnership Civil Society Forum was established, including over 60 Ukrainian civil society actors.