UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
[REGION] ASYLUM OFFICE
[CITY], [STATE]

In the Matter of:

XXXXXXXXX A No. 000 000 000

INDEX TO DOCUMENTATION OF COUNTRY CONDITIONS REGARDING PERSECUTION OF LGBTQ AND HIV-POSITIVE PERSONS IN UKRAINE

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<td>• Police regularly do not adequately protect participants in LGBTI rights demonstrations from attack. “For example, according to press reports, organizers of a pride festival in the city of Kriviy Rih cancelled a planned march on July 24, citing the inability of police to guarantee the event’s security around the time of parliamentary elections. On December 24, the Rivne City Council voted to ban the holding of pride marches.” (p. 33)</td>
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<td>• “Events organized by women’s rights activists or the LGBTI community were regularly disrupted by members of violent radical groups. For example, on May 8, a group of approximately 10 members of C14 disrupted the gender issues festival Find the Balance in Kryvy Rih, occupying the premises shortly before the beginning of the event, putting up homophobic posters, and insulting the organizers.” (p. 33)</td>
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<td>• There is a “lack of accountability for crimes committed by radical groups in cases documented in 2018. During the year members of such groups committed violent attacks on … LGBTI persons…” (p. 43)</td>
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• “There were reports that police used laws on human trafficking or prostitution as a pretext to target LGBTI persons. For example, on April 20, police in Dnipro raided a gay nightclub. According to the LGBTI rights organization Nash Mir, at around 1 a.m., 20 to 25 police officers burst into the nightclub, forced all those present to lie down on the floor for three hours, and seized all mobile phones and the club’s equipment. Officers reportedly behaved in an aggressive and homophobic way, expressed insults, made jokes related to sexual orientation, and forced two foreigners, who were in the club, to sing loudly the anthem of Ukraine. While the purported grounds for the raid were the prevention of human trafficking, the published police report about the raid contained no evidence of human trafficking but claimed that the club’s owners took money from patrons in exchange for ‘creating the conditions for disorderly sexual intercourse.’” (p. 51)

• “There was societal violence against LGBTI persons often perpetrated by members of violent radical groups, and authorities often did not adequately investigate these cases or hold perpetrators to account. The HRMMU noted that attacks against members of the LGBTI community and other minorities were rarely classified under criminal provisions pertaining to hate crimes, which carried heavier penalties. Crimes and discrimination against LGBTI persons remained underreported. For example, according to press reports, on June 23, four unknown men beat two participants in the Kyiv Pride March who were heading home after the event, spraying them with pepper spray, kicking them, and insulting them.” (p. 51-52)

• “[R]adical groups consistently tried to disrupt LGBTI events with violence or threats of violence. For example, on April 11, members of radical groups Tradition and Order and Katechon attacked participants of the European Lesbian Conference in Kyiv. Perpetrators broke into the premises and sprayed tear gas, injuring 10 persons. Police intervened and detained the attackers; [but] the attackers were subsequently released, and no charges were filed.” (p. 52)

• Public officials make public statements that are “homophobic or that called for violence against LGBTI persons. For example, Sumy deputy mayor Maksym Halytsky posted on a social network a picture of a concentration camp with the caption ‘before long the so-called prides will look like this.’” (p. 52)

• “Transgender persons reported difficulties obtaining official documents reflecting their gender identity, which resulted in discrimination in health care, education, and other areas.” (p. 52)

• “[I]n the Russia-controlled parts of Donetsk and Luhansk Oblasts, social stigma and intolerance based on sexual orientation and gender identity have become more acute, reportedly due to the application of laws criminalizing the ‘propaganda of same-sex relationships.’” (p. 52)
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<td>• “Stigma and discrimination in health-care centers were barriers to HIV-positive individuals’ receiving medical services. UNICEF reported that children with HIV/AIDS were at high risk of abandonment, social stigma, and discrimination. Authorities prevented many children infected with HIV/AIDS from attending kindergartens or schools. Persons with HIV/AIDS faced discrimination in housing and employment.” (p. 52-53)</td>
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<td>• In Russia-occupied Crimea, “[h]uman rights groups and local LGBTI activists reported that most LGBTI individuals fled Crimea after the Russian occupation began. Those who remained lived in fear of abuse due to their sexual orientation or gender identity.” (p. 79)</td>
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<td>• “NGOs working on access to health care among vulnerable groups have found it impossible to advocate for better access to healthcare for LGBTI persons due to fear of retaliation by occupation authorities.” (p. 79)</td>
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<td>• “Occupation authorities prohibited any LGBTI group from holding public events in Crimea. According to the HRMMU, LGBTI residents of Crimea faced difficulties in finding a safe environment for gatherings because of occupation authorities’ encouragement of an overall hostile attitude towards the manifestation of LGBTI identity. LGBTI individuals faced increasing restrictions on their right to free expression and assembly peacefully, because occupation authorities enforced a Russian law that criminalizes the so-called propaganda of nontraditional sexual relations to minors (see section 6 of the Country Reports on Human Rights for Russia). For example, on June 29, the organizers of the theater company Territoria apologized for producing a play that showed two women kissing during a state-sponsored theater festival. High-ranking members of the Russian government called for the company to be prosecuted under the Russian law that prohibits the ‘propaganda’ of ‘nontraditional sexual relations’ to minors.” (p. 79)</td>
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<td>• Police regularly do not adequately protect smaller LGBTI rights demonstrations, especially those organized by persons belonging to minority groups or opposition political movements. “Events organized by women’s rights activists or the LGBTI community were regularly disrupted by members of nationalist hate groups. On March 8, members of right-wing groups attacked participants in public events in Uzhhorod, Lviv, and Kyiv aimed at raising awareness of women’s rights and gender-based and domestic violence. Police launched investigations of</td>
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the incidents. Police briefly detained attackers but no charges were filed.” (p. 111)

• “There was frequent violence against LGBTI persons, and authorities often did not adequately investigate these cases or hold perpetrators to account. An increase in attacks was due to increasingly active nationalist hate groups (see national minorities above). The HRMMU noted that attacks against members of the LGBTI community and other minorities were rarely classified under criminal provisions pertaining to hate crimes, which carried heavier penalties. Crimes and discrimination against LGBTI persons remained underreported.” (p. 130)

• “For example on June 30, about 10 unidentified young persons attacked Boris Zolotchenko, the head of the organizing committee of the Kryvbas Equality march. Witnesses called police, who refused to come to the crime scene. An investigation into a prior attack on Zolotchenko that took place in January in which five unknown men beat him was closed due to ‘lack of suspects.’” (p. 130)

• “According to the LGBTI rights group Nash Mir, nationalist hate groups consistently tried to disrupt LGBTI events with violence or threats of violence. For example, on May 10, members of a nationalist hate group disrupted a public discussion in Kyiv on LGBTI rights in Russia. More than 20 men arrived at the venue and threatened participants with violence unless they left. The venue owner joined in the calls and told the organizers to cancel the event and vacate the premises. Police officers present on the site refused to intervene.” (p. 130)

• “Although leading politicians and ministers condemned attacks on LGBTI gatherings and individuals, officials sometimes failed to protect LGBTI persons. Transgender persons continued to face discrimination and violence. On August 19, an unknown person made homophobic remarks and beat transgender activist Anastasia Kristel Domani. Police opened an investigation for minor assault charges, but as of late November had made no arrests.” (pp. 130-131)

• “Transgender persons reported difficulties obtaining official documents reflecting their gender identity, which resulted in discrimination in health care, education, and other areas.” (p. 131)

• “According to Nash Mir, the situation of LGBTI persons in Russia-controlled parts of the Donetsk and Luhansk Oblasts. Most LGBTI persons either fled or hid their sexual orientation or gender identity. (p. 131)

• “Human rights groups and local LGBTI activists reported that most LGBTI individuals fled Crimea after the Russian occupation began. Those who remained live in fear of verbal and physical abuse due to their sexual orientation or gender identity.” (p. 158)

• “According to HRMMU, NGOs working on access to healthcare among vulnerable groups, have found it impossible to advocate for better access
to healthcare for LGBTI persons because of fear of retaliation by occupation authorities.” (p. 158)

- “Russian occupation authorities prohibited any LGBTI group from holding public events in Crimea. According to HRMMU, LGBTI residents of Crimea faced difficulties with finding a safe environment for gatherings because of the overall hostile attitude towards the manifestation of LGBTI identity. In May a gay-friendly hotel closed due to continuous and unwarranted inspections, accusations of extremism, harassment by authorities, and an organized campaign of telephone threats by ‘city residents.’ LGBTI individuals faced increasing restrictions on their right to assemble peacefully, because occupation authorities enforced a Russian law that criminalizes the so-called propaganda of nontraditional sexual relations to minors (see section 6 of the Country Reports on Human Rights for Russia).” (p. 158)


- “Smaller demonstrations suffered from insufficient security and protection by police, especially those organized by persons belonging to minority groups or opposition political movements. … Police failed to prevent a violent attack against individuals participating in a 200-person Equality March in Zaporizhzhia on September 30 which resulted in several injuries requiring hospitalization. Police arrived later and detained several individuals.” (p. 187)

- “There was sporadic violence against LGBTI persons, and authorities often did not adequately investigate these cases or hold perpetrators to account. For example, there was no investigation following events on July 9, when the speaker, organizers, and attendees of a Kyiv lecture on transgender problems were attacked by 10 masked individuals. Several lecture attendees pushed the attackers from the room, and one organizer pursued them and caught three individuals at the Khreshchatyk metro station. Police then intervened and detained the perpetrators. Lawyers and two members of parliament came to the police station where the attackers were detained, and they were soon released.” (p. 203)

- “Crimes and discrimination against LGBTI persons remained underreported, and law enforcement authorities opened only 17 cases related to such acts.” (p. 203)

- “The LGBTI rights group Nash Mir stated that extortion remained a problem and that anti-LGBTI groups employed social media to entrap LGBTI persons. Although leading politicians and ministers condemned attacks on LGBTI gatherings and individuals, local officials sometimes
voiced opposition to LGBTI rights and failed to protect LGBTI persons.” (p. 204)

- “Transgender persons continued to face discrimination and stereotyping. In one case a municipal transportation company in Kharkiv fired a transgender woman because of her appearance.” (p. 204)

- “[R]egulations still prevent reassignment for married individuals and those with minor children. Transgender persons claimed to have difficulty obtaining official documents reflecting their gender.” (p. 204)

- “According to Nash Mir, the situation of LGBTI persons in parts of the Donetsk and Luhansk Oblasts under the control of Russia-led forces was very poor. Most LGBTI persons either fled or hid their gender identity.” (p. 204)

- “Stigma and discrimination in health-care centers were a barrier to HIV-positive individuals’ receiving counseling, testing, and treatment services. UNICEF reported that children with HIV/AIDS were at high risk of abandonment, social stigma, and discrimination. Authorities prevented many children infected with HIV/AIDS from attending kindergartens or schools. Persons with HIV/AIDS faced discrimination in housing and employment. Injection drug users and their sexual partners were also particularly at risk of discrimination.” (p. 204)

- “Human rights groups and local gay rights activists reported that much of the LGBTI community fled Crimea after the Russian occupation began. Those who remained live in fear of verbal and physical abuse due to their sexual orientation.” (p. 227)

- “Russian occupation authorities prohibited any LGBTI group from holding public events in Crimea. LGBTI individuals faced increasing restrictions on their right to assemble peacefully, because occupation authorities enforced a Russian law that criminalizes the so-called propaganda of nontraditional sexual relations to minors (see section 6 of the Country Reports on Human Rights for Russia).” (p. 227)

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<td>“Human rights groups and local gay rights activists reported that much of the LGBTI community fled Crimea after the Russian occupation began. Those who remained live in fear of verbal and physical abuse due to their sexual orientation. According to a report commissioned by the Ukrainian Center for Civil Liberties and Memorial’s Antidiscrimination Center in Saint Petersburg, the Russian group Occupy Pedophilia is active in Crimea. The group used social media to</td>
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lure suspected LGBTI persons to locations where they are humiliated, filmed, and beaten. According to one report, a group of six men patrolling a park beat two individuals in Simferopol. The victims did not file a complaint with police for fear of retaliation. Individuals were accosted and abused for wearing nonconformist clothing, on the assumption that they must be LGBTI persons. Human rights groups stated that these groups operated with the tacit support of local authorities, who did not investigate such crimes.” (p. 309)

- “Russian occupation authorities prohibited any LGBTI groups from holding public events in Crimea. On April 25, an LGBTI activist in Sevastopol announced plans to hold a peaceful protest. In response Sergei Aksyonov, the head of the occupation authorities in Crimea, stated that authorities would prevent any such assembly. Subsequently, “self-defense” forces threatened to expel LGBTI individuals from Crimea forcibly. LGBTI individuals faced increasing restrictions on their right to assemble peacefully, as occupation authorities enforced a Russian law that criminalizes the so-called propaganda of nontraditional sexual relations to minors.” (p. 310)

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<td>“On August 13, an Odesa court prohibited an LGBTI march at the request of the city council, citing a potential for “real danger and threat to public order in the city, as well as to the health and lives of participants and other citizens.” On August 15, in Odesa persons claiming to belong to the Freedom Party attacked the LGBTI meeting held in lieu of the march with firecrackers. Authorities charged the attackers with hooliganism.” (p. 338)</td>
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<td>“[T]he level of homophobic aggression from right-wing nationalist groups increased, and government agencies consistently avoided any discussion of problems facing the LGBTI community.” (p. 359)</td>
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<td>On June 6, several dozen men, including members of Right Sector, attacked the Equality March in Kyiv, beating protesters and police and throwing firecrackers laced with shrapnel. The attackers injured nine participants and 10 officers. While law enforcement authorities protected the march, the Kyiv City State Administration had initially discouraged march organizers from holding the event. Law enforcement authorities arrested more than a dozen persons on charges of hooliganism. In July several men attacked two LGBTI activists holding hands in central Kyiv.” (pp. 359-360)</td>
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“Our World stated that violence against LGBTI persons was underreported. During the year the group recorded 16 assaults and four killings related to the victims’ sexual orientation. Our World indicated that victims and families were reluctant to pursue hate crime charges in these cases due to homophobia. They reported an additional 52 cases of discrimination and abuse, mostly in the cities of Kyiv, Dnipropetrovsk, Odesa, and Zhytomir.” (p. 360)

“According to the Ukrainian Gay Alliance, an assailant killed a man in Odesa on December 12 due to his sexual orientation. The accused killer reportedly confessed to police that he killed his acquaintance due to his hatred for persons of a ‘nontraditional sexual orientation.’” (p. 360)

“LGBTI victims also suffered from discrimination in court proceedings. On November 11, a Kharkiv court handed down a sentence of only eight years to a man who murdered another person solely due to his homosexuality.” (p. 360)

“According to HRW transgender persons in the country faced discrimination. They must undergo mandatory psychiatric treatment and an examination before a state medical board prior to receiving treatment for sexual reassignment. Transgender persons found the process humiliating and claimed to have difficulty obtaining official documents reflecting their gender.” (p. 360)

“According to Our World, the situation of LGBTI persons continued to deteriorate in Russia-occupied Crimea and the parts of Donetsk and Luhansk Oblasts controlled by Russia-backed separatists (see section 1.g. and the Crimea section).” (p. 360)

“Human rights groups and local gay rights activists reported most of the LGBTI community fled Crimea after the Russian occupation began. LGBTI individuals were verbally and physically assaulted for their sexual orientation, and members of the LGBTI community reported that they were “completely underground.” Russian occupation authorities prohibited any LGBTI groups from holding public events in Crimea. LGBTI individuals faced increasing restrictions on their right to peaceful assembly as occupation authorities enforced a Russian law that criminalizes the so-called propaganda of nontraditional sexual relations to minors (see section 6 of the Country Reports on Human Rights for Russia).” (p. 386)

• “OHCHR is concerned with expressions of intolerance voiced by some local Government authorities, such as the Ivano-Frankivsk City Council’s resolution on 15 December, calling upon the Parliament of Ukraine to discriminate against the LGBT community.” (p. 413)
• “Such statements not only contravene core obligations of States with respect to protecting the human rights of LGBT persons, but also violate anti-discrimination provisions set out in national legislation. OHCHR calls on all members of the Government, including local authorities, as well as on all political parties, to refrain from and sanction calls for any forms of discrimination, intolerance and hatred, and to strenuously adhere to the principle of nondiscrimination in word and action.” (p. 413)

### NGO and Academic Sources


   • “Groups advocating hate and discrimination continue to put ethnic minorities, lesbian, gay, bisexual, and transgender (LGBT) people and rights activists at risk.” Law enforcement has failed to protect LGBT group on multiple occasions. (p. 453)


   • “On the night from 19th to 20th April, the police in Dnipro city conducted a homophobic raid on a local gay club “Potemkin”. About 1 a.m., 20-25 police officers burst into the night club, compelled all those present to lie down on the floor (about 25 visitors + the club staff), and did not allow anyone to get up for three hours while opening all windows (the night temperature was not above +5). The police seized mobile phones from all present people, and some things disappeared from the cloakroom. The club staff also claimed about the loss of some club’s equipment. Except the mobile phones, no disappeared things were included in the list of the seized things.” (p. 457)
   • “According to eyewitnesses, police officers behaved in very aggressive and homophobic way, expressed insults and jokes related to sexual orientation, and forced two foreigners, who at that time were in the club,
to loudly sing the anthem of Ukraine. They also inflicted injuries to one of the club’s visitors. The club’s owners and some visitors filed applications on illegal actions of the police to Soborne Police Department in Dnipro city.” (p. 458)

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<td>“On 18 June, thousands joined the biggest march yet of Equality, the annual LGBTI Pride demonstration, in Kyiv, as well as several dozen counter-protests. Police provided effective protection from those protesting against the march and no incidents were reported during the rally. After the march, members of far-right groups attacked and beat several participants. Overall, the number of violent attacks against LGBTI people rose in 2017. In September, a group of right-wing protesters severely beat a number of participants of an LGBTI festival in the city of Zaporizhnya.” (p. 465)</td>
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<td>“The number of attacks on LGBTI events rose across the country.” (p. 462)</td>
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|     | “Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) people in Ukraine continue to face discrimination, and many are targeted for violence and abuse by public officials and members of the public.” (p. 469) |
|     | “Ukraine is failing to protect the basic rights of LGBTI people such as the right to be free from discrimination, the right to security of person and the rights to freedom of peaceful assembly and expression. Ukraine has an international obligation to uphold the principle of non-discrimination and ensure that all individuals, including LGBTI people, are treated equally irrespective of their sexual orientation and gender identity in both law and fact.” (p. 469) |
|     | “Amnesty International has documented several violent attacks against LGBTI people, some carried out by public officials, and some by members of the public. In some cases such attacks have resulted in death. Yet the authorities fail to investigate these crimes promptly, thoroughly, effectively and impartially, and, moreover, fuel the |
pervasive negative stereotypes about LGBTI people in Ukrainian society which underpin the attacks.” (pp. 469-470)

- “To date, no Pride march has taken place in Ukraine. In 2012 a Pride march planned for 20 May was cancelled by the organisers because they had received multiple violent threats from various individuals and groups and because the Kyiv police failed to guarantee the safety of the demonstrators, telling them ‘people would get hurt’. Other public events by LGBTI groups have been attacked by extremists, while police were present and LGBTI activists have been prosecuted for exercising their right to freedom of peaceful assembly.” (p. 470)

- “If the government of Ukraine is to succeed in its ambition to achieve association and visa liberalisation with the European Union (EU) it must ensure that its legislation is in line with European human rights standards, and must implement international and regional human rights agreements including by upholding the principle of non-discrimination and ensuring that all individuals, including LGBTI people, are treated equally in both law and fact.” (p. 470)

- “Attempts to bring Ukraine into line with European standards on preventing discrimination on grounds of sexual orientation and gender identity have unleashed vociferous opposition from religious and conservative groups in society.” (p. 470)

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<td>“Members of radical nationalist groups violently disrupted a May 10, 2018 discussion in Kyiv about LGBTI rights... Despite the intruders’ aggressive behavior and threats of violence, the Kyiv police did not remove them from the event or the premises, and the owner of the site canceled the event.” (pp. 474-75)</td>
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<td>“About an hour before the start of the discussion, about 20 members of nationalist groups arrived and threatened the organizers with violence unless they canceled the event. The nationalists accused the organizers and participants of serving foreign interests and yelled ‘extremists’ at the organizers. After a standoff of almost an hour, the owner of the venue told the organizers that their event was canceled, and they had to leave.” (p. 475)</td>
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<td>“In recent months, dozens of attacks by members of radical nationalist groups in Ukraine have targeted ethnic minorities – such as Roma – civic activists, and LGBTI people. The police have often ignored the</td>
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attacks and are reluctant to hold the attackers accountable.” (pp. 478-479)

|     | “[A]nti-LGBT sentiment remains strong among high-level government officials and the public.” (p. 486) |
|     | “In March 2016, about 200 anti-gay, far-right supporters attacked a venue in Lviv hosting a LGBT equality festival, eventually causing the event to be cancelled. The Kyiv LGBT Pride march held in June took place without the violence against participants that had marred it in previous years. Ultra-nationalist groups had threatened to make the march a ‘bloody mess.’ Around 6,000 police officers protected the 1,500 march participants.” (p. 486) |
|     | “A new draft of the amended labor code does not include an anti-discrimination provision that would protect LGBT people in the workplace.” (p. 486)

|     | “The largest number of cases was recorded as expected in the country's biggest city – Kyiv; the peak number of incidents took place in 2015, reaching 40 cases. The largest numbers of cases of LGBT human rights violations also correlate with the most populous regions in the East and the South of the country: Dnipropetrovsk (48), Kharkiv (31), Odesa (29), Donetsk (29), and Zaporizhzhya (22).” (p. 504) |
|     | “Additional evidence favoring a conclusion that the crimes and incidents occurred precisely on the basis of sexual orientation and / or gender identity, is that the number of cases of extortion and robberies is low when compared with other types of violations. Thus, in 2014 were registered 17 cases of hate crimes and incidents against LGBT minors but including only 4 cases of robbery or extortion; in 2015 within a total of 13 cases – respectively, were only 2; and in 2016 within a total of 6 cases there were no robbery or extortion cases.” (p. 506) |
|     | “Victims rarely appealed to public associations that protect the rights of LGBT people, and in about half the cases they did not get help from them. This may be connected both with LGBTs’ ignorance about the presence in their region of non-governmental organizations (NGOs,
which can provide such assistance), and with a certain distrust of them. Appeals to the police were more numerous, but the effectiveness of those appeals turned out to be even lower than in the case of assistance from NGOs: in 2014 10 persons received assistance, 18 – did not get any; in 2015 – respectively, 7 to 28; in 2016 – 6 to 18. The attitude of many of the respondents to the police may be characterized by a comment of one of them who answered the question "Did you try to protect the rights violated as a result of the incident?" with: "How can I apply for help to the police when only homophobes and extortionists work there?" (p. 508)

- “An unacceptably high level of homophobia and transphobia expressions among law enforcement officers, demonstrated by the results of our monitoring, leads to the fact that Ukrainian LGBT people do not trust such officers and do not see opportunities to protect their rights with their help. This results in the impunity status of LGBT rights abusers as well as to an underestimation of the prevalence of crime and incidents under homo / transphobic motives – already low due to the fact that the victims of such crimes are simply afraid or find it nonsensical to inform the law enforcement agencies of their own enforcement staff peers.” (p. 549)

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<td>• “Nash Mir Center in 2017 documented 226 cases of acts motivated by homophobia / transphobia, discrimination and other violations of LGBT people's rights in Ukraine. 20 cases included events that happened in 2016, the rest – 206 cases – occurred in 2017.” (p. 565)</td>
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<td>• “Actions motivated by homophobia / transphobia and hate speech on the part of persons not vested with official authority were observed in 172 cases. 99 of them (13 in 2016 and 86 in 2017) may be described as hate crimes, and 71 (1 in 2016 and 70 in 2017) – as hate incidents. In 7 cases manifestations of hate speech were recorded.” (p. 596).</td>
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<td>• “October 22, 2017, around 9 pm, two unknown men who identified themselves as activists of the Radical Party of Ukraine, attacked LGBT activist Oleksandr at his home in Kyiv. They beat the victim and cut his hand with a knife, trying to get from him the names, addresses, telephone numbers of LGBT activists he knew, and the places and dates of the upcoming LGBT events. The victim asked for medical help and put in an application report on the crime to the police. Then he was phoned by unknown persons with threats; also homophobic threats appeared on the walls of his home's entrance in a week after the attack.</td>
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LGBTQ NGO Insight planned to hold an Equality Festival in Lviv, but upon asking the city’s major office for support, the Mayor told local media “The City Council considers it inappropriate to hold such events in Lviv, in order to guarantee the safety of all residents and visitors of our city.” Subsequently, groups “who opposed the festival began to threaten the organisers and participants. The proposed venue for the festival, the Underground Museum of Ideas, pulled out on 15 March after it received anonymous threats. Insight then wrote to Lviv city hall and the police to request security support for the festival. On 18 March, the night before the festival was due to open, a court ruled that all public events planned for the weekend were banned. Approximately 70 participants had already arrived at a local hotel in preparation and, on 19 March, the Dniester hotel was surrounded by 200 armed protestors who shouted “kill, kill, kill”, according to activists.” (p. 865-867).

“Equality Festivals were also organised in Odesa, Dnipro and Zaporizhzhia. The festival in Dnipro was moved from the central city library to a new location after the library refused, fearing homophobic aggression. Organisers in Zaporizhzhia had a similar experience, when the Max Grant Jewish Centre refused to host the event after receiving homophobic threats.” (p. 865).

“In September, the Spiritual Council of Christian Churches in Zaporizhzhia wrote to the city’s mayor, asking that all LGBT-related activities carried out there by equality NGOs be banned. The Council announced plans to hold a march in Kyiv on 2 October to promote traditional family values; similar marches also took place in Khmelnytskyi, Lutsk, Chernivtsi and Ivano-Frankivsk.” (p. 866).

“This is gay propaganda’, a documentary film about the Maidan revolution in the context of the LGBT community in Ukraine, was screened on 18 October in Chernivtsi. The event was disrupted when supporters of the right-wing Pravyi Sektor (‘Right Sector’) and Azov groups threatened attendees with physical violence. Two participants were beaten up after they left the screening by unknown people in masks and camouflage.” (p. 866).
“Societal discrimination against LGBT persons remains a major problem in Ukraine. A 2011 study by the Gorshenin Institute showed that 78.1% of the population considered sexual relations between two persons of the same sex to be unacceptable in all circumstances, with a civil society survey in 2013 finding that 63% of respondents agreed that homosexuality is unnatural and immoral – that LGBT people are both mentally and emotionally ill. 39% of respondents in another investigation from 2011 believed that LGB people should be isolated from society, and in 2013, a GfK study found that 80% of respondents opposed any recognition of relationships between same-sex couples. Of particular concern is the fact that these attitudes appear to be worsening over time. As a result of this social context, many LGBT persons choose not to disclose their sexual orientation or gender identity, as doing so exposes them to severe discrimination in employment, education and healthcare.” (pp. 877-878)

“As regards the legal context, the withdrawal of a number of explicitly homophobic and transphobic legislative bills in 2014 has been welcomed. However, there is no comprehensive protection against discrimination on the basis of sexual orientation and gender identity and expression (SOGIE) in Ukraine; SOGIE are not listed as protected grounds within national non-discrimination legislation adopted in 2014. Although the list of prohibited grounds in the legislation is non-exhaustive, courts have not recognised SOGIE as generally prohibited grounds of discrimination. A law was adopted in November 2015 prohibiting discrimination on the basis of sexual orientation and gender identity in employment, but this only applies to the existing Labour Code. The draft of the new Labour Code, which is currently being considered by the Parliament, does not include the prohibition on discrimination on the basis of SOGIE. Moreover, there remain significant protection gaps in all other areas of life.” (p. 878)

“According to civil society reports, there are systematic and widespread abuses committed by law enforcement officials against LGBT persons in the Ukraine. This includes arbitrary detention, blackmail, treats, ill-treatment and poor conditions in detention facilities. Insight has highlighted that these situations are exacerbated by ‘the absence of systematic reporting or recording’. (p. 879)

“Reports of arbitrary detentions of LGBT persons often include allegations of mental and physical abuse in custody.” (p. 879)
### Media Sources


- “For activists in other countries, however, that simple celebration of self is often fraught with real threats to life. Ukraine is one such country. In both 2012 and 2014, efforts to organize Pride celebrations were dashed when local authorities withdrew their promise to protect participants, and the same problem is happening this year. Although Kyiv Pride organizers hope to hold this year’s event on June 6, city administrators and the local police have failed to meet with organizers to plan security measures for this event.” (p. 884)

- “For lesbian, gay, bisexual, and transgender Ukrainians, each day comes with the threat of verbal abuse or intimidation, loss of employment, and potential violence. Polls in Ukraine indicate widespread homophobic views: a poll by the Ukraine Gay Alliance and Ukraine State Sociological Institute found that 63% of respondents labeled homosexuality as a ‘perversion’ and a ‘mental disease.’” (p. 884)

- “Since the 2014 ‘Maidan revolution,’ Ukrainian authorities have softened their anti-LGBT rhetoric in order to strengthen ties with their partners in the European Union. At the same time, however, they have resisted EU recommendations to officially adopt legislation banning discrimination based on sexual orientation. On the ground, the threat of anti-LGBT violence remains real in post-Maidan Ukraine, as evidence most dramatically by the October 2014 attack on a historic Kyiv theater screening an LGBT film.” (p. 884)

- “At the very core of this situation is the failure by Ukrainian leaders to recognize LGBT rights as human rights. Although the Maidan revolution sought to bring the country in line with the liberal values and democratic freedoms of Europe, Ukraine’s LGBT community has been left behind.” (p. 884)


- “This self-directed approach to HRT is a result of Ukrainian doctors’ general lack of sympathy towards transgender people…Even just three years ago people turning to Ukraine’s ‘Sex Realignment Commission’ could be refused the diagnosis of ‘transsexualism’ which is essential in order to receive HRT.” (p. 889)
• “Because in Ukraine transgender people are diagnosed as ‘transsexuals’, they are banned from adopting children.” (p. 895)
• “Transgender men and women are also barred from certain professions, especially those connected with education and defence. …[T]ransgender persons’ problems with education and employment mean that they live on the verge of poverty. … [P]arents often reject their transgender children, throwing them onto the street to earn their own living.” (p. 895)
• “‘Transgender people’s only opportunities for employment are in the human rights field and distance working, such as IT.’” (p. 895)
• Transgender people have also often restricted access to healthcare. “‘Young transgender men, for example, find it hard to sit in a gynaecology waiting room. People try not to go to hospital, they allow illnesses to develop[.]’” (pp. 895-896)
• “Transgender people also encounter psychological and physical violence. In September, Anastasia Domani was detained in a bank in Kyiv. According to Anastasia, the bank manager used masculine forms of address to her, said that she knew her story and suggested she “go and see a doctor”. Anastasia wrote about the incident and posted her account together with a photo of the manager on her Facebook page, after which the bank security guard blocked the door and tried to make her delete the photo. Anastasia called the police and wrote a statement complaining about her unlawful detention and attempts to disclose her identity details.” (p. 896)
• “Last November, a right-wing radical groups broke up a march in Kyiv to commemorate transgender people who have been killed or subjected to violence, while members of ultra-nationalist organisations held a counter protest. Two marchers were injured while police, they said, stood around doing nothing. And transgender people are not the only group to be targeted: right-wing and ultra-conservative groups regularly attack members of the LGBT+ community during and after Equality marches in Kyiv and around the regions.” (p. 896)

20. Chased by conflict in Ukraine, an artist finds a haven in Helsinki

• Spartak Kachanov’s “figurines” in the shape of phalluses “got him expelled from the National Academy of Arts in Kyiv and inspired death threats from right-wing vigilantes that drove him and his wife, Anastasia, from Ukraine.” (p. 903)
• “He was denounced in the press and forced to take refuge in the academy at one point when an ultranationalist gang called C14 came looking for him.” (p. 904)

• “Last year, an art exhibit on right-wing violence in Ukraine, especially against LGBT people, was quickly shut down after C14 condemned it. In 2017, vandals destroyed and defaced items in an exhibit of “anarchy” works by David Chichkan.” (p. 904)


• “When the [LGBT] march ended, most of the participants left safely through a nearby subway station, but a crowd of far-right counterdemonstrators had gathered in a neighboring park, apparently on the hunt for LGBT activists attempting to leave on foot. Video from the scene captured one slightly-built teenager with a streak of dyed hair trying to move through the burly opposition group. Suddenly a tattooed man slaps the teen in the head and a mob chases him -- kicking at his legs and punching him in the head -- as his female friend, wearing a rainbow T-shirt, looks on helplessly. After the teen is kicked to the ground amid chants and cheers, two masked men try to stomp on and kick him in the head.” (p. 911)

• “As the beating continued in Kharkiv's Shevchenko Park, a second photographer, Andrew Kravchenko, captured what happened next. After the same tattooed man who had begun the violence grabbed hold of the badly hurt teen, Garanich stepped in to seize the boy from the man's grasp and, without addressing the mob, simply walked the teen out of the situation.” (p. 912)


• “Unfortunately, anti-LGBT+ violence continues to be a major problem in Ukraine - due in large part to the fact that perpetrators almost always get away with it. In 2018, there were at least 93 violent anti-LGBT+ attacks in Ukraine.” (p. 916)

• “Nearly all of the 25 people detained for hurling explosives at participants in the 2015 Equality March in Kyiv, injuring many participants and police officers, were released without charges. Only four people, who openly admitted their anti-LGBT+ hate motivation, were eventually convicted of simple hooliganism, though the judge
reduced their sentence from three years’ imprisonment to two years’ probation. No one has been held accountable for a violent assault on an event organised by Amnesty International Ukraine in May 2018, despite the group’s efforts to basically do investigators’ job for them by providing them with extensive evidence. The LGBT+ rights group Nash Mir has documented these and dozens of other incidents in the past few years, almost all taking place without any consequences.” (p. 916-917)

- “In a disappointing development for counter protesters this year, only around 300 showed up to oppose the thousands who came to march for equality. They threw eggs at Equality March participants, tried to break through the police protection, tore down LGBT+ rights signs, and, in a bizarre twist, robbed portable toilets of fecal matter in order to throw it at Equality March participants.” (p. 917)


- “Same-sex unions are not legally recognized in Ukraine and Pozdnyakov, 32, and Ivasiy, 27, wed in a ceremony attended by their friends in Copenhagen’s city hall in May. Under Western-backed leadership, Ukraine’s parliament passed legislation in 2015 to ban discrimination in the workplace as part of a series of laws Ukraine needed to pass to qualify for an European Union visa-free travel agreement.” (p. 925)

- “But activists say homophobia remains widespread. ‘There are people who are afraid to even think about (marrying a same-sex partner). And because of this way of thinking, they are unable to find a soul mate, because they are struck dumb with fear, pure fear, and they are unhappy,’ Pozdnyakov said.” (p. 925)

- “Sunday’s march in Kiev - part of ‘Pride Month’ celebrated by lesbian, gay, bisexual and transgender (LGBT) people around the world - regularly attracts counter protests by right-wing and religious activists.” (p. 925)

- “Earlier this week people attending a film screening held as part of Pride Month were attacked in the street, prompting the U.S. Embassy to call on law enforcement to help ensure Ukrainians could attend the march safely and without fear.” (p. 925)

- “Human rights groups last year wrote an open letter to the authorities criticizing police inaction in response to violence against ethnic minorities, women’s rights activists and LGBT people.” (p. 926)

- “Instead of fighting for gay and lesbian rights, Ukraine’s presidential candidates continue to fight for their ratings by promoting populist ideas, rather than the ones that Ukrainian society needs. The idea of introducing same-sex marriage is still not accepted in Ukraine, and the majority of the population do not understand what the term “civil partnership” means.” (p. 936)

- “Yet Ukrainian society did not react to the latest homophobic attack by the country’s leading politicians. For example, Oleksandr Turchynov, head of the National Security and Defence Council, made the following statement at a recent family forum in Kyiv: ‘Under the guise of defending human rights, an anti-Christian term [gender] is being forced on our society [...] We need to remove the ideological terms from our laws and reinstate the word ‘sex’ instead of the artificial term ‘gender’ that has been forced on us.’ This forum hosted many representatives of the country’s top political elite: President Petro Poroshenko, Yuliya Tymoshenko, his main opponent, and key ministers of Prime Minister Volodymyr Hroysman’s cabinet. The audience applauded Turchynov’s statement.” (p. 938)

- “Outrage to these statements has not travelled beyond Ukraine’s LGBT community. Not a single politician has ventured to publicly criticise how the head of state and principal opposition candidate seemingly stopped their campaigns to send a joint signal to society: ‘We have remained in the USSR, and the values declared on Maidan five years ago mean nothing to us.’” (p. 939)

### 25. Political Art Exhibitions in Ukraine Face Attacks and Censorship (March 7, 2019), available at https://hyperallergic.com/488085/political-art-exhibitions-in-ukraine-face-attacks-and-censorship/?fbclid=IwAR1xUDNu7RV0k8gOZG4g8vGSYIPzmdhXYR7d5iS9I5Zy94sJtEkshbSwzU

- “In December, a professor at the National Academy of Arts in Kyiv, Ukraine damaged a student’s artwork depicting the Russian army as phalluses. This follows a number of attacks on political artworks by rightwing groups across the country.” (p. 949)

- “The artist [Spartak Khachanov] (a refugee from Donetsk, Ukraine who traveled in Kyiv to study art) was also expelled from the academy. On the day this was decision taken by the director, a paramilitary nationalist
“Paramilitary groups, the most active of which is called C14, have existed as a form of “art critics” since 2009, when they first burnt down the Gudimov Centre for its presentation of a book with a provocative name: 120 Pages of Sodome. Since then, they have intended to impact Ukraine’s cultural life, censoring the topics of gender, sexuality, and politics in art.” (p. 951)

“In April 2018, the exhibition Vykhovni Akty (Educational Acts), organized by Alyona Mamay and Valeria Zubatenko, was shuttered on its opening day. The show, which took place at a gallery affiliated with the National Pedagogical University in Kyiv, focused on violence employed by rightwing groups, with some works dedicated to the LGBT community and their uneasy situation in Ukraine, and other works reconsidering the topic of identity and violence. This exhibition was condemned by the same C14 group that acted in the case of Khachanov.” (pp. 951-952)

“In May 2012, an exhibition of photographs by Eugenia Belorusets called Svoia Kimnata (A Room of My Own), which focused on LGBT families in Kyiv, was destroyed one day before its closure. The attackers lightly wounded the exhibition’s security guard and tore apart the photographs. The police never reacted to requests for a proper investigation for either case. This is a particularly insidious type of censorship that has become increasingly common in Ukraine. It is not led by the government, but rather the role of “censors” is taken by the informal groups that play the offended public fighting for traditional values, and these actions are actively supported or ignored by authorities.” (pp. 952-953)


“Activists for transgender rights were forced to disband a demonstration in Kyiv after counterdemonstrators assaulted several protesters and attacked a Canadian journalist trying to cover the event. The organizers of the event criticized Ukrainian police for failing to protect about 40 lesbian, gay, bisexual, and transgender (LGBT) rights activists who had planned to gather in Shevchenko Park on November 18 for a legally sanctioned march through the streets of the Ukrainian capital coinciding with International Transgender Remembrance Day.” (p. 956)
- “The demonstrators, who were holding rainbow flags and banners with slogans such as ‘Transphobia must be stopped,’ were forced to relocate to a nearby location after about 100 "religious radicals and far-right groups" arrived in the park for a counterdemonstration. The counterdemonstrators included members of the far-right groups Tradition and Order, Right Sector, and the Religious National Front.” (p. 956)

- “Ukrainian police did not try to remove the counterdemonstrators, but shoved the LGBT rights activists through turnstiles of the subway station while swearing at them and shouting slurs.” (p. 956)

- “An RFE/RL correspondent saw two female activists who remained on the street being physically assaulted by the counterdemonstrators. The two women were attacked with pepper spray and were given first aid at the scene, according to the AFP news agency.” (p. 957)

- “Ukraine today: National Police opted to protect the right for (peaceful) assembly of far-rights and traditionalist[s] instead of Trans*march event,’ Ruslana Panukhnyk, executive director of Kyiv Pride and one of the organizers of the march, wrote on Facebook.” (p. 957)

- “Olena Shevchenko, director of the Ukrainian LGBT rights NGO Insight, said in a post on her Facebook page that ‘Ukraine seems under control of ultra-radicals.’” (p. 957)


- “Two activists have been attacked with pepper spray in Kiev during a transgender rights march that was interrupted by dozens of far-right protesters. About 30 people were taking part in the demonstration in the Ukraine capital, holding rainbow flags and banners with slogans including ‘Transphobia must be stopped’ and ‘If you stay silent, they will come after you too’. The far-right protesters lit smoke bombs and threw them into the crowd, an Agence France-Presse journalist at the scene said.” (p. 960)

- “The two women attacked with pepper spray were given first aid at the scene, according to the correspondent. Police led the activists into a subway station and blocked the entrance to protesters to avoid further clashes. ‘Today’s events have demonstrated that the level far-right radical aggression and violence is increasing in Ukraine,’ the organisers of the march wrote on Facebook.” (p. 961)
- “Homophobia is still commonplace in post-Soviet Ukraine, even if Kiev authorities have allowed gay pride marches to take place, in contrast to neighbouring Russia.” (p. 961)


- “For while gay sex has been legal in Ukraine since 1991, it remains socially taboo with lesbian, gay, bisexual and transgender (LGBT) people facing stigma, discrimination and sometimes violent attacks, rights groups say.” (p. 966)
- Homophobic attitudes remain widespread in Ukraine. “The country scored 19 out of 100 points in a 2016 survey by EU-funded Rainbow Europe ranking LGBT people’s rights in Europe.” (p. 966)


- “Many LGBTI people face stigma, harassment and violent attacks. In some cases, home has become such a terrifying place that the only option is to leave.” (p. 978)
- “‘It is not easy to be LGBTI in the East,’ says its director, Olena Shevchenko. ‘They can beat you, they can rape you. It’s not possible to be open, because you’re never sure what will happen next. You need to lead a hidden life.’” (p. 979)
- “Even in Kyiv, the nation’s capital which this year hosted its fourth gay pride parade, homophobic discrimination abuse is not unusual. Graffiti recently emblazoned on the wall of a Lush store, which participates in the LGBTI-friendly Kyiv City Map, read: “Ukraine is against perversions. Get out of here!”’ (p. 979)
- “Viktor spent four months at the Insight shelter in Kyiv, trying to find a job and a place to live. For internally displaced people (IDPs), who face negative stereotypes in Ukraine, this can be difficult. But for gay or transgender people the stigma doubles.” (p. 979)
- “‘When my mum first found out I was gay, she didn’t understand,’” he says. “It was very shocking for her. She called the police three times to scare me – the first two times they came to our home and just spoke with me, but the third time they took me to the station. They tormented me for hours and told me I was a faggot. I was terrified. When I got
home, I remember I said: ‘You are not my mum, because mums don’t do this. We didn’t speak for a long time.’” (p. 980)


- “Discrimination against individuals with diverse sexual orientations and gender identities (SOGI) in Ukraine is widespread, with several dozen hate crimes and incidents reported each year. Almost 30% of all hate crimes reported in 2015 were based on SOGI, and almost 50% of violent attacks were motivated by the victim’s real or perceived SOGI.” (p. 987)

- “Because of this hostile environment and direct threat to life, many LGBTI persons residing in Crimea and NGCA of Donetsk and Luhansk regions have had to flee. However, as discrimination based on SOGI is widespread throughout Ukraine, LGBTI IDPs continue to face discrimination in GCA. LGBTI IDPs, thus, face double discrimination in accessing labour markets, housing, social services and health care institutions. This, in turn, puts LGBTI individuals at higher risk of experiencing social isolation and may impact on their psychosocial well-being.” (p. 987)


- “With the subsequent ousting of pro-Russian president Viktor Yanukovych – who was known to court president Vladimir Putin’s favour by emulating his infamous “anti-gay laws” – the LGBT community was optimistic that attitudes would change.” (pp. 990-991)

- “However, two years on many have since found that persecution and prejudice continues, and that the freedoms called for by the protesters in Kiev’s independence square have been unevenly applied in post-revolution Ukraine – particularly when it comes to sexuality.” (p. 991)

- “In the western city of Lviv local authorities announced earlier this month they could not protect a festival organised by an LGBT organisation, allowing the hotel where the event was about to take place to become surrounded by far-right activists in masks shouting ‘kill, kill, kill’. The organisers were forced to cancel the event and leave the city over fears for their safety.” (p. 991)
• “Recent polls also suggest attitudes amongst Ukrainians are yet to shift. A recent study conducted by the Kiev International Institute of Sociology found that just 4.3% of Ukrainians hold ‘a positive view’ of gay people, with 45.2% believing there should be restrictions on gay people’s rights down from 49% in 2011.” (p. 992)
Crimea/Donbass

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|     | • “The European Parliament’s resolution on the human rights situation in Crimea, adopted on 4 February, highlighted its “…grave concern regarding the situation of LGBTI people in Crimea, which has substantially worsened following the Russian annexation, and regarding repressive action and threats by the de facto authorities and paramilitary groups.” (p. 864)  
• “NGO Memorial released their ‘Violations of the rights of LGBT people in Crimea and Donbas’ report on 14 June 2016. The report, prepared in cooperation with the Centre for Civil Liberties, analyses the existing legal situation in Crimea and eastern Ukraine and also includes information on the social situation from eyewitness interviews. It concludes that “…the position of LGBT people in Crimea and eastern Ukraine has deteriorated greatly in the past two years, and activists of the movement have been forced to leave or abandon their work in organising the community.” (p. 866). | |
|     | • “Many LGBTI people saw the annexation of Crimea as a tragedy because it signified the spread of the homophobic norms of Russian law and discriminatory practices to the area. The LGBTI community saw the day Crimea was officially declared a part of Russia--18 March 2016--as a line marking the end of their ability to live openly.” (p. 1017)  
• “LGBTI people in Crimea asserted that they were “frequently beaten on the streets.” Members of the LGBTI community who have remained in Crimea report that intolerance of gay men is greater.” (p. 1018)  
• “Sources described typical cases of homophobic aggression related to the victims’ external appearance. For example, in Crimea in April 2016 P. was attacked because “he was wearing an earring. This guy noticed and started with him: ‘What? Are you one of them? What are you? A fag?’ . . . . . . The guy started beating him up.’”” (p. 1019) | |
• “Most of the attacks described in Crimea were committed by ‘regular’ residents who were prejudiced against people of a different SOGI. But there is another group of homophobs that tracks LGBTI people on the streets and online. An example of this is the so-called movement Occupy Pedophilia, which has been active in Crimea. . . In particular, gay people were set up on false dates and beaten and humiliated when they arrived. Frequently the attacks were even recorded on video.” (p. 1019)

• Information about violence against LGBTI people in Donetsk and Luhansk oblasts are so scarce because people are afraid they will be killed “if fighters learn about a witness’s sexual orientation or sympathy for LGBTI people. According to people in the Luhansk Oblast, ‘any activity that even tangentially alludes to LGBT is dangerous.’ . . . Another problem was the lack of electricity and communication lines from the spring to fall of 2014. . . A final reason for the scarcity of information is the psychological difficulties that a person experiences after living through violence and degrading treatment.” (p. 1020).

• “One of the most important problems in Donbass and Crimea is the difficulty of LGBTI people have communicating. Members of the LGBTI community have been forced into hiding--informants from Crimea assert that “it is only possible to meet in secret places, and only when it is dark.” One place where gay people in Simferopol were able to meet was destroyed by unknown people presumed to be homophobes. In the so-called NDR and LNR, meetings were possible only at home and with extreme caution.” (p. 1025)

• “However, it is admittedly more difficult for LGBTI people to find housing and jobs: activitists from the NGO Insight spent a long time looking for a place to have a shelter. . . A member of the LGBTI community who came to Kieve from Luhansk changed jobs in the restaurant business more than 20 times--he was fired without pay as soon as his employers learned of his orientation. Transgender people continue to face problems finding work and renting housing because their appearances do not match the photographs on their documents.” (p. 1033).

Media Sources


• “According to human rights groups, since Russia annexed Ukraine’s Crimean peninsula in 2014 the situation for the LGBT community has deteriorated badly. Over the past four and a half years of occupation, Russian-state-sponsored homophobia has led to a rise in violence,
closures of gay-friendly venues and the demise of activism—crippling the peninsula’s queer community.” (pp. 1043-1044)

• “Moscow’s occupation meant Russian laws would now be imposed in Crimea, including the highly controversial “anti-gay propaganda” legislation, which was adopted by the government in 2013 to ban “the promotion of non-traditional relationships” to minors.” (p. 1047)

• “Following the occupation, that September the peninsula’s de facto leader, Sergei Aksyonov, announced that Crimea didn’t need gay people and they would not be allowed to hold public events. If they tried, he said, the police would quickly explain to their supporters what orientation they should have.” (p. 1047)


• “In September 2014, Sergey Aksenov – the head of the government of Crimea – threatened on Twitter: ‘If gays take to the streets, self-defense forces and police will react accordingly. There won’t be gay parades in Crimea.’” (p. 1068)

• “In the self-proclaimed ‘DPR’ and ‘LPR’ the situation is even worse. In the first edition of the ‘Constitution of the DPR’ there was a direct ban on same-sex relationships: ‘Perverted unions between people of the same sex are prosecuted by law.’ These lines were removed from the ‘constitution,’ but persecution remained.” (p. 1070)

• “Transgender people have it even harder. Due to inconsistencies in appearance in the documents, they cannot leave. And social discrimination makes it almost impossible to find work, get social services, rent housing.” (p. 1070)


• “For the gay community in Crimea, the most worrying piece of legislation was the Russian ban on ‘homosexual propaganda,’ which Putin signed in 2012. Although the law is billed as an effort to protect Russian children from learning about “non-traditional sexual relationships,” its critics say the law encourages homophobia, signaling to Russians that gays are somehow inferior and should not be allowed to insist on their equality in public.” (p. 1076)

• “Through their patrons from City Hall, the bar’s owners learned that ‘someone had whispered to the new leadership that they have a gay bar sitting right underneath them,’ says Guskov. A series of fire and tax inspections followed, hitting the bar with fines and official reprimands
that made its managers understand they weren’t welcome anymore.” (p. 1076)

- “In Crimea, adds Zinchenko, the warning signs are easy to see. If elderly neighbors were happy before to coddle Timur and offer his parents advice on how to raise him, now the Soviet tradition of the ‘donos’ – denouncing an acquaintance to the police – has started to return, he says. ‘People are writing these accusations against their neighbors just to show how patriotic they are, how loyal,’ he says. ‘These are all signals for us. They show that we can become a target.’” (p. 1077)
### HIV+ Status

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<td>2. <strong>Bureau of Democracy, Human Rights and Labor, U.S. Dep’t of State, Ukraine 2017 Human Rights Report—(Apr. 20, 2018), available at <a href="https://www.state.gov/wp-content/uploads/2019/01/Ukraine.pdf">https://www.state.gov/wp-content/uploads/2019/01/Ukraine.pdf</a></strong></td>
<td>“Stigma and discrimination in health-care centers were a barrier to HIV-positive individuals’ receiving counseling, testing, and treatment services. UNICEF reported that children with HIV/AIDS were at high risk of abandonment, social stigma, and discrimination. Authorities prevented many children infected with HIV/AIDS from attending kindergartens or schools. Persons with HIV/AIDS faced discrimination in housing and employment. Injection drug users and their sexual partners were also particularly at risk of discrimination.” (p. 131)</td>
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<td><strong>NGO and Academic Sources</strong></td>
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<td>36. <strong>Laetitia C. Rispel, Allanise Cloete &amp; Carol A. Metcalf, “‘We keep her status to ourselves’: Experiences of stigma and discrimination among HIV-discordant couples in South Africa, Tanzania and Ukraine”, SAHARA-J: Journal of Social Aspects of HIV/AIDS (2015)</strong></td>
<td>“Ukraine experiences a concentrated epidemic with transmission mainly occurring through injecting drug use, and it has an estimated HIV prevalence of 0.9%” (p. 1082)</td>
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<td>“In Ukraine, discrimination by health-care professionals was a reported problem. ‘I needed serious surgery on my jaw. When I applied to medical professionals, the surgeons, informing them about my positive status, I was refused on the basis of all kinds of made-up reasons.’ (HIV-positive man, Rivne, Ukraine) (p. 1084)</td>
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“When I need medical assistance I try to apply to the AIDS centre. If they don’t have a medical specialist I need, I go to the clinic but I don’t inform them about my [HIV-] positive status. I feel better that way.’ (HIV-positive woman, Kiev, Ukraine)” (p. 1084)

“One of the Ukrainian participants reported having difficulty in securing a car loan because she worked for an HIV service organisation. ‘There was such a moment when I was buying a car. I was paying a rather good pre-payment – 25% of total cost and when I presented an income statement – it was okay, I have a decent salary – it had the name of my employer. I received a phone call from the bank asking a lot of questions about the organisation I work for. I think it was connected with that, and because of that I was asked to present a number of additional documents they didn’t mention before, and find a guarantor, although with such big pre-payment the guarantor is not required.’ (HIV-positive woman, Kiev, Ukraine) (p. 1084)

“Some countries have policies barring entry by travellers who are HIV-positive. One HIV-positive woman interviewed in Ukraine reported that she had been refused a US travel visa because she was HIV-positive.” (p. 1084)


“Ukraine is home to the worst HIV/AIDS epidemic in Europe and one of the fastest growing epidemics in the world. As many as 416,000 people-1.7 percent of all Ukrainian adults age fifteen to forty-nine-are estimated to be living with HIV/AIDS. Driven largely by injection drug use and sex work, the epidemic disproportionately affects people who live at the margins of society and who face a high risk of police violence and abusive treatment in the health care system.” (p. 1092)

“Police abuse, sometimes rising to the level of torture, is a chronic and widespread problem in Ukraine extending beyond the context of HIV/AIDS. Yet drug users and sex workers are often the victims of such abuse, as their marginalized status makes them easy targets for police seeking to fulfill arrest quotas. Police use drug addiction as a tool to coerce testimony from drug users: when faced with painful withdrawal symptoms, drug users are especially vulnerable and more likely to submit to police pressure. And since drug users and sex workers are widely regarded as socially undesirable, police face little risk of censure for their actions.” (p. 1092)

“Drug users said they were identified for arrest based on their efforts to obtain information and sterile needles from legal needle exchange sites, in direct contradiction to Ukrainian policies supporting needle
exchange, and despite stated support for this from high-level police officials. Drug users and service providers gave accounts of police harassing, arresting, and severely beating drug users merely for possessing syringes at or near the syringe exchange sites. Police interfered with outreach workers' efforts to provide HIV/AIDS information to drug users, sometimes by detaining or beating them. Where access to sterile syringes was impeded by police presence at the exchange, injection drug users would share and reuse syringes, placing themselves, their sex partners, and their children at significant risk of HIV infection.” (p. 1092)

- “Human Rights Watch also found that health care providers widely discriminated against people living with and at high risk of HIV/AIDS in Ukraine. People living with HIV/AIDS and injection drug users were turned away from hospitals, summarily discharged when their HIV status became known, or provided poor quality care that was both dehumanizing and debilitating to their already fragile health status. Ambulances refused to transport drug users and people living with HIV/AIDS. In some cases, care could be negotiated only through payment for services that should have been provided free of charge. Denial of care was identified by people living with HIV/AIDS, physicians specializing in AIDS care, and AIDS service workers as a particular problem for people seeking treatment at tuberculosis clinics. Tuberculosis is widespread in Ukraine, easily transmitted, and a major cause of death for people living with HIV/AIDS; refusal to treat people living with HIV/AIDS for tuberculosis threatens to jeopardize their lives and the health of thousands of other Ukrainians.” (p. 1092)

- “Police have a legitimate interest in controlling illicit drug possession and prostitution, to the extent that both are proscribed by Ukrainian law. But Ukraine's law enforcement practices are undermining government efforts to provide HIV information and services to drug users and sex workers, the very people whom the government has identified as at highest risk of HIV/AIDS. Indeed, police practices drive people at risk away from services that prevent HIV/AIDS.” (p. 1100)

- “Research on sex workers in Central and Eastern Europe and Central Asia has identified police abuse, including rape and other forms of physical violence, as a significant factor contributing to sex workers' vulnerability to HIV/AIDS and other health risks. The practice of subbotnik, in which police demand free sexual services (often without condoms) as a condition of limiting police harassment or in lieu of arrest, has also been reported in several countries of the former Soviet Union.” (p. 1101)

- “Research in several countries has established that criminal laws proscribing drug possession and associated policing practices targeting drug users increase the risk of HIV and other adverse health outcomes in
both direct and indirect ways. The fear of arrest or police abuse creates a climate of fear for drug users, driving them away from lifesaving HIV prevention and other health services, and fostering risky practices. In some countries, many injection drug users do not carry sterile syringes or other injection equipment, even though it is legal to do so, because possession of injection equipment can mark an individual as a drug user, and expose him or her to punishment on other grounds. Police presence at or near government sanctioned harm reduction programs (such as legal needle exchange sites) drives drug users away from these services out of fear of arrest or other punishment.” (p. 1101)

### Media Sources


- “In Ukraine, HIV discrimination and stigma is still common. And due to the conflict in the country, cases of HIV are on the rise. Families are struggling to cope with the shortage of medicine as most international medical organisations have been banned from delivering aid.” (p. 1141)
- “Euronews Correspondent, Elena Cavallone says that living in a conflict zone is hard, but for HIV positive women, it’s even worse.” (p. 1141)
- Yelena knows very well. She comes from the separatist region of Luhansk in Eastern Ukraine. When she found out she was HIV positive, she faced a harsh reality. There was no medical treatment for her disease, so she decided to move with her child to Kyiv to get treatment. Leaving her family and a disabled father was not easy, but conditions were unbearable, she says.” (p. 1141)
- “The stigmatisation of HIV is a broader issue among Ukrainian society. Fears of violence and discrimination make women reluctant to be tested or treated. Based in Kyiv, Vera Varyga set up the NGO Positive Women in partnership with the United Nations Development Programme, and provides information and assistance to HIV positive women.” (p. 1141)
- “According to the UNAIDS, Ukraine has one of the largest HIV epidemics in Europe. Anti-retroviral coverage has increased in recent years but a high rate of new infections in conflict areas threatens to outpace these gains.” (p. 1141)
Tab 1
UKRAINE 2019 HUMAN RIGHTS REPORT

Note: Except where otherwise noted, references in this report do not include areas controlled by Russia-led forces in the Donbas region of eastern Ukraine or Russian-occupied Crimea. At the end of this report is a section listing abuses in Russian-occupied Crimea.

EXECUTIVE SUMMARY

Ukraine is a republic with a semipresidential political system composed of three branches of government: a unicameral legislature (Verkhovna Rada); an executive led by a directly elected president who is head of state and commander in chief, and a prime minister who is chosen through a legislative majority and as head of government leads the Cabinet of Ministers; and a judiciary. On April 21, Volodymyr Zelenskyy was elected president in an election considered free and fair by international and domestic observers. On July 21, the country held early parliamentary elections that observers also considered free and fair.

The Ministry of Internal Affairs is responsible for maintaining internal security and order. The ministry oversees police and other law enforcement personnel. The Security Service of Ukraine (SBU) is responsible for state security broadly defined, nonmilitary intelligence, and counterintelligence and counterterrorism matters. The Ministry of Internal Affairs reports to the Cabinet of Ministers, and the SBU reports directly to the president. The Ministry of Defense protects the country against foreign and domestic aggression, ensures sovereignty and the integrity of national borders, and exercises control over the activities of the armed forces in compliance with the law. The president is the supreme commander in chief of the armed forces. The Ministry of Defense reports directly to the president. The State Fiscal Tax Service exercises law enforcement powers through the tax police and reports to the Cabinet of Ministers. The State Migration Service under the Ministry of Internal Affairs implements state policy regarding border security, migration, citizenship, and registration of refugees and other migrants. Civilian authorities generally maintained effective control over security forces in the territory controlled by the government.

Significant human rights issues included: unlawful or arbitrary killings; torture and other abuse of detainees by law enforcement personnel; harsh and life-threatening conditions in prisons and detention centers; arbitrary arrest and detention; substantial problems with the independence of the judiciary; restrictions on freedom of expression, the press, and the internet, including violence against
journalists, censorship, and blocking of websites; refoulement; widespread government corruption; and crimes involving violence or threat of violence targeting persons with disabilities, ethnic minorities, and lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons.

The government generally failed to take adequate steps to prosecute or punish most officials who committed abuses, resulting in a climate of impunity. Human rights groups and the United Nations noted significant deficiencies in investigations into alleged human rights abuses committed by government security forces.

In the Russia-induced and -fueled conflict in the Donbas region, Russia-led forces reportedly engaged in killings of civilians; forced disappearances and abductions; torture; unlawful detentions; and committed gender-based violence. Other egregious human right issues in the areas controlled by Russia-led forces included harsh and life-threatening prison and detention center conditions; political prisoners; the absence of judicial independence; severe restrictions on freedom of expression, the press, and the internet; restrictions on the rights of peaceful assembly, freedom of association, and religious freedom; restrictions on freedom of movement across the line of contact in eastern Ukraine; and unduly restricted humanitarian aid.

Significant human rights issues in Russia-occupied Crimea included: abductions; torture and abuse of detainees to extract confessions and punish persons resisting the occupation; unlawful detention; significant problems with the independence of the judiciary; restrictions on free expression, the press, and the internet, including for members of the press; restrictions on the rights of peaceful assembly and freedom of association and religion. Occupation authorities in Crimea continued to engage in violence against and harassment of Crimean Tatars and pro-Ukrainian activists in response to peaceful opposition to Russian occupation (see Crimea sub-report).

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

**a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were reports that the government or its agents committed possible arbitrary or unlawful killings.
Human rights organizations and media outlets reported deaths due to torture or negligence by police or prison officers (see section 1.c.). For example, according to press reports, on June 11 in Vinnytsia, a police officer approached Civic Position political party activist Oleksandr Komarnitsky at a bus stop and beat him when he allegedly refused to serve as a witness in a criminal case. He was taken to the hospital in a coma and died 12 days later. On June 22, the State Bureau of Investigations (SBI) charged one officer with abuse of power and unlawful violence. A court placed the officer under house arrest on June 23. Several top officials of Vinnytsia Oblast police, including its chief, were suspended or fired in connection with the case.

There were reports that state actors ordered or took part in targeted attacks on civil society activists and journalists in connection with their work, which in some cases resulted in death. For example, on February 11, the Prosecutor General’s Office arrested and charged the head of the Kherson regional legislature, Vladyslav Manger, with organizing the 2018 fatal acid attack on public activist and advisor to the Kherson city mayor Kateryna Handziuk. The same day the Prosecutor General’s Office announced that it was investigating the deputy governor of Kherson Oblast, Yevhen Ryshchuk, for involvement in Handziuk’s killing. In March investigative reporters at Slidstvo.info published allegations by one of the men who allegedly carried out the attack that Ryshchuk had sought to hire him to “punish” Handziuk. On April 17, authorities downgraded 2018 charges against former parliamentary aide Ihor Pavlovsky from complicity in murder to concealment of a crime, alleging that he worked to cover up responsibility for the killing of Handziuk. As of October his trial continued, but he had been released on bail. According to October press reports, Pavlovsky repeatedly refused to appear at court hearings, citing unsubstantiated health concerns. On June 6, a court in Dnipropetrovsk Oblast convicted five persons accused of carrying out the killing on charges of deliberately causing grievous bodily harm resulting in death. They were sentenced to terms of three to six-and-a-half years in prison. Each suspect agreed to testify against those who ordered the killing. As of late September, prosecutors had not charged anyone for ordering the killing. Human rights defenders and Handziuk’s supporters alleged that authorities failed to investigate the crime fully. In July 2018 an unknown person poured concentrated sulfuric acid on Handziuk, resulting in serious chemical burns to more than a third of her body. Handziuk died of her injuries in November 2018.

There were reports of politically motivated killings by unknown actors. For example, on the morning of May 4, an unknown assailant attacked journalist Vadym Komarov, known for his investigative reports on corruption, in downtown
Cherkasy. The assailant hit him on the head several times with an object police believed to be a hammer, breaking his skull. On June 20, Komarov died in the local hospital. Komarov faced threats for years as a result of his reporting and was shot at in 2016 and seriously beaten in 2017, according to the Institute for Mass Information (IMI). As of October a police investigation continued, but no arrests had been made. Among the individuals reportedly under investigation for involvement in the crime was the father of a local deputy mayor.

On December 12, police arrested five suspects in connection with the killing of prominent Belarusian-Russian journalist Pavel Sheremet. All suspects had previous military experience as volunteers in the conflict with Russia-led forces. The investigation continued at year’s end.

Law enforcement agencies continued to investigate killings and other crimes committed during the Euromaidan protests in Kyiv in 2013-2014. The Office of the UN High Commissioner for Human Rights Monitoring Mission in Ukraine (HRMMU) noted little progress had been made in investigating the killings of protesters. Human rights groups criticized the low number of convictions despite the existence of considerable evidence. A February 19 statement by Amnesty International alleged that law enforcement bodies “resisted and obstructed justice” in relation to Euromaidan cases. As of late November, the Prosecutor General’s Office had identified 448 suspects in Euromaidan-related crimes, most of them former law enforcement officers, but also city administration officials, prosecutors, and judges. In total, the cases of 298 individuals were sent to court. Of those, 58 cases resulted in court decisions including 48 convictions, but only nine custodial sentences were handed down. Not one of the individuals imprisoned was a former police officer. On July 16, a Kyiv court authorized the release of one former Berkut officer on bail, and on October 24, a court removed the requirement that he wear a monitoring bracelet, which observers believed made him a flight risk. On August 31, a court acquitted a former Berkut officer and current police officer of torturing two Euromaidan activists. The prosecution appealed the case. On August 8, as part of reforms of the Prosecutor General’s Office, the prosecutor general dissolved two units within the Special Investigation Department responsible for the majority of investigations into crimes committed during the Euromaidan protests. Human rights experts saw the decision as another step endangering investigations into Euromaidan-related crimes. On October 28, human rights groups and families of the victims released a joint statement expressing their fear that investigations into the killings will be further delayed or halted altogether, because the National Anticorruption Bureau and the SBI, two newly-created bodies to which the Prosecutor General’s Office transferred the
Euromaidan investigations, did not have the necessary processes or personnel to fulfill the task. On December 29, the country released into the custody of proxy authorities in Donbas former Berkut officers Pavlo Abroskin, Oleksandr Marynchenko, Serhiy Tamtur, Oleh Yanishevsky, and Serhiy Zinchenko, who were charged with killing 48 protesters and wounding another 80 in Kyiv in 2014, as part of a negotiated prisoner and detainee exchange with Russia.

The HRMMU did not note any progress in the investigation and legal proceedings in connection with the 2014 trade union building fire in Odesa that stemmed from violent clashes between pro-Russian and Ukrainian unity demonstrators. During the clashes and fire, 48 persons died. As of August 15, preliminary hearings had begun against three high-ranking Odesa police officers and two officials charged with abuse of authority, forgery, and dereliction of duty in protecting people from danger.

There were civilian casualties in connection with Russian aggression in the Luhansk and Donetsk Oblasts (see section 1.g.).

b. Disappearance

There were reports that state agents abducted and deported without due process foreign citizens whose return was allegedly sought by their governments (see section 2.d.).

There were reports of politically motivated disappearances in connection with the Russian aggression in the Donetsk and Luhansk oblasts (see section 1.g.).

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

Although the constitution and law prohibit torture and other cruel and unusual punishment, there were reports that law enforcement authorities engaged in such abuse. While courts cannot legally use as evidence in court proceedings confessions and statements made under duress to police by persons in custody, there were reports that police and other law enforcement officials abused and, at times, tortured persons in custody to obtain confessions.

In the Donbas region, the HRMMU continued to document cases of abuse by government agents, including torture and arbitrary arrests. There were reports that Russia-led forces in the “people’s republics” of Donetsk and Luhansk
systematically committed numerous abuses, including torture, to maintain control or for personal financial gain. According to international organizations and nongovernmental organizations (NGOs), abuses included beatings, forced labor, psychological and physical torture, public humiliation, and sexual violence (see section 1.g.).

Abuse of detainees by police remained a widespread problem. For example, on September 17, the Prosecutor General’s Office and SBI in Transcarpathia announced the opening of a criminal investigation into reports of torture by police in Uzhhorod. According to press accounts, on September 13, police detained Ihor Harmatiy and Ivan Bukov, who were reportedly ethnic Roma, on suspicion of involvement in a theft. According to Harmatiy, police took him to the police station, chained him to a radiator, beat him to coerce a confession, and hung him in stress positions until he lost consciousness. He was subsequently hospitalized with two broken arms, a ruptured spleen and bladder, and pelvic displacement. He also lost several teeth. Bukov managed to loosen his handcuffs and jumped out of a fourth-story window to escape abuse and was hospitalized for injuries sustained in the fall. As of October no arrests had been made.

In a report released on January 17 based on a May-June 2018 visit to the country, the UN special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (UN SRT) stated that he “had received numerous allegations of torture and ill-treatment at the hands of the police, including against juveniles as young as 14, almost always occurring at the time of apprehension and interrogation. Most inmates reported that investigative officers used such treatment to intimidate them or to force them to confess to an alleged crime.” The report cited allegations of excessive use of force, including kicks and truncheon blows after being handcuffed and placed face down on the ground, and use of threats of death, pain, and violence, including rape with objects, during questioning. The special rapporteur further found that lawyers, police officers, prosecutors, and judges lacked basic knowledge to investigate and document allegations of torture and mistreatment adequately. As a consequence victims of torture or other mistreatment generally did not get help from state authorities.

According to the Kharkiv Human Rights Protection Group, those who filed complaints of torture with the Office of the Prosecutor General reported that law enforcement officers intimidated them or their relatives, forcing them to withdraw their complaints.
There were reports of sexual violence being committed in the context of the conflict in eastern Ukraine (see section 1.g.).

**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. Physical abuse, lack of proper medical care and nutrition, poor sanitation, and lack of adequate light were persistent problems.

**Physical Conditions:** Overcrowding remained a problem in some pretrial detention facilities, although human rights organizations reported that overcrowding at such centers decreased as a result of reforms in 2016 that eased detention requirements for suspects. While authorities generally held adults and juveniles in separate facilities, there were reports that juveniles and adults were often not separated in some pretrial detention facilities.

Physical abuse by guards was a problem. For example, in March experts from the Kharkiv Human Rights Protection Group visited Prison #26 in Zhovti Vody in response to complaints of a mass beating of inmates after prison administrators called in special forces, allegedly to prevent a riot. The experts identified seven inmates with signs of serious physical abuse; eight other inmates were transferred to a prison facility in Kryvy Rih after the incident. Inmates alleged that prison staff beat them, restrained them with tape, put plastic bags on their heads, threw them in prison trucks, and transported them to a different facility. Prison administrators claimed the inmates had inflicted bodily injuries on themselves. Police opened an investigation of the incident that continued as of mid-October.

There were reports of prisoner-on-prisoner violence. For example, according to press reports, in March an inmate of a Berdyansk Prison raped an inmate, allegedly at the direction of the prison administration. The victim was reportedly a 23-year-old veteran serving time for going absent without leave. Authorities at the facility denied allegations that the rape occurred at the direction of prison administrators. Police opened an investigation, but no arrests had been made as of October. According to press reports, the local military prosecutor and police repeatedly approached the victim and demanded that he sign documents stating that he did not hold prison authorities responsible for the attack. According to human rights defenders, the facility had a reputation for torture.
Most detention facilities were old and needed renovation or replacement. According to the UN SRT, some cells and facilities had very poor sanitary conditions. Some detainees reported that their cells were poorly ventilated and infested with insects. In Odesa the UN SRT reported remand prison cell walls were covered with mold and that sanitary facilities were clogged. Conditions in police temporary detention facilities and pretrial detention facilities were harsher than in low- and medium-security prisons. Temporary detention facilities often had insect and rodent infestations and lacked adequate sanitation and medical facilities. In a report of its 2017 visit to the country, the Council of Europe’s Committee for the Prevention of Torture (CPT) expressed concern that prisoners in pretrial detention were generally not offered any out-of-cell activities other than outdoor exercise for an hour per day in small yards.

The quality of food in prisons was generally poor. According to the January report of the UN SRT, inmates received three meals a day, although in most places the food was described as “inedible,” leading inmates to rely on supplementary food they received through parcels from family. According to the CPT, in some pretrial detention centers, detainees did not have consistent access to food and water. According to the UN SRT, most hygienic products including toilet paper, soap, and feminine hygiene products were not provided, and detainees relied on supplies provided by family or donated by humanitarian organizations. In some facilities cells had limited access to daylight and were not properly heated or ventilated.

UN and other international monitors documented systemic problems with the provision of medical care. The CPT observed a lack of medical confidentiality, poor recording of injuries, and deficient access to specialists, including gynecological and psychiatric care. There was a shortage of all kinds of medications with an overreliance on prisoners and their families to provide most of the medicines. Conditions in prison health-care facilities were poor and unhygienic. Bureaucratic and financial impediments prevented the prompt transfer of inmates to city hospitals, resulting in their prolonged suffering and delayed diagnoses and treatment.

The condition of prison facilities and places of unofficial detention in Russia-controlled areas continued to deteriorate. According to the Justice for Peace coalition, there was an extensive network of unofficial places of detention in the Donetsk and Luhansk Oblasts located in basements, sewage wells, garages, and industrial enterprises. There were reports of severe shortages of food, water, heat, sanitation, and proper medical care. The HRMMU was denied access to detainees held inside Russia’s proxies—the so-called Donetsk People’s Republic (“DPR”)
and Luhansk People’s Republic (‘LPR’). The lack of access to detainees raised concerns about the conditions of detention and treatment.

The East Human Rights Group continued to report systemic abuses against prisoners in the LPR, such as torture, starvation, denial of medical care, and solitary confinement as well as the extensive use of prisoners as slave labor to produce goods that, when sold, provided personal income to the leaders of the Russia-led forces. Based on interviews with prisoners transferred to government-controlled territory, the HRMMU reported that forced labor was used in Sukhodilsk Prison in Luhansk Oblast. Those who refused to work were punished through beatings or solitary confinement.

Since 2015 more than 500 inmates had been transferred from the areas in Donbas controlled by Russia-led forces to facilities in government-controlled areas.

**Administration:** Although prisoners and detainees may file complaints about conditions in custody with the human rights ombudsman, human rights organizations noted prison officials continued to censor or discourage complaints and penalized and abused inmates who filed them. Human rights groups reported that legal norms did not always provide for confidentiality of complaints. According to representatives of the national preventive mechanism, an organization that conducted monitoring visits of places of detention, authorities did not always conduct proper investigations of complaints.

While officials generally allowed prisoners, except those in disciplinary cells, to receive visitors, prisoner rights groups noted some families had to pay bribes to obtain permission for prison visits to which they were entitled by law.

**Independent Monitoring:** The government generally permitted independent monitoring of prisons and detention centers by international and local human rights groups, including the CPT, the Ombudsman’s Office, and the HRMMU.

**d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her arrest or detention in court, but the government did not always observe these requirements.
The HRMMU and other monitoring groups reported numerous arbitrary detentions in connection with the conflict between the government and Russia-led forces in the Donbas region (see section 1.g.).

**Arrest Procedures and Treatment of Detainees**

By law authorities may detain a suspect for three days without a warrant, after which a judge must issue a warrant authorizing continued detention. Authorities in some cases detained persons for longer than three days without a warrant.

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 ones. Persons have the right to consult a lawyer upon their detention. According to the law, prosecutors may detain suspects accused of terrorist activities for up to 30 days without charges or a bench warrant. Under the law citizens have the right to be informed of the charges brought against them. Authorities must promptly inform detainees of their rights and immediately notify family members of an arrest. Police often did not follow these procedures. Police at times failed to keep records or register detained suspects, and courts often extended detention to allow police more time to obtain confessions.

In a report on its 2017 visit to the country, the CPT expressed concern about a widespread practice of unrecorded detention, in particular, the unrecorded presence in police stations of persons “invited” for “informal talks” with police and noted that they encountered several allegations of physical mistreatment that took place during a period of unrecorded detention. Authorities occasionally held suspects incommunicado, in some cases for several weeks.

According to the Association of Ukrainian Human Rights Monitors on Law Enforcement, detainees were not always allowed prompt access to an attorney of their choice. Under the law the government must provide attorneys for indigent defendants. Compliance was inconsistent because of a shortage of defense attorneys or because attorneys, citing low government compensation, refused to defend indigent clients.

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.
**Arbitrary Arrest:** The HRMMU and other human rights monitors reported a continued pattern of arbitrary detention by authorities.

In one case the HRMMU reported the SBU arbitrarily detained a man from August 7 to 12 without officially arresting him. On August 7, the national police detained the man at the Petropavlivka checkpoint in Donetsk Oblast. They took him to police stations in Petropavlivka and Sieverodonetsk, registered him as a visitor, interrogated him without a lawyer, forced him to take a polygraph test, and filmed him making a forced confession that he participated in armed groups. On August 8, two SBU officers took him to an unknown location and questioned him, again without a lawyer. The next morning they drove him to Sieverodonetsk, questioned and detained him in an apartment. On August 9, the man was taken to the prosecutor’s office where he met a free legal aid lawyer. The same day, a judge of the Sieverodonetsk City Court scheduled a court hearing for August 12 without ordering his detention. After the hearing, when his lawyer had left, SBU officers continued to detain him arbitrarily, holding him in a rented flat in Sieverodonetsk for two nights. On August 12, a Lysychansk city court ordered that he be detained for 60 days.

As of mid-August, the HRMMU had documented 11 cases of arbitrary detention in the context of conscription into the armed forces. For example, on May 28, eight staff members of the local military commissariat, which has no arrest authority, detained a man, placed him in a vehicle, and brought him to the district conscription office where he was detained for a night. The next morning, they brought him to the preassignment unit and threatened him with 20 years of imprisonment if he attempted to refuse military service, despite his being exempt. On May 30, they released the man after he posted his story on social media.

Arbitrary arrest was reportedly widespread in both the “DPR” and the “LPR.” The HRMMU raised particular concern over the concept of “preventive arrest” introduced in 2018 by Russia-led forces in the “DPR” and “LPR.” Under a preventive arrest, individuals may be detained for up to 30 days, with the possibility of extending detention to 60 days, based on allegations that a person was involved in crimes against the security of the “DPR” or “LPR.” During preventive arrests detainees were held incommunicado and denied access to lawyers and relatives.

**Pretrial Detention:** The HRMMU continued to report the Ukrainian security services’ persistent use of extended pretrial detention of defendants in conflict-related criminal cases as a means of pressure to force them to plead guilty. In
March the HRMMU documented 34 cases in which defendants spent more than four years in pretrial custody. In September the Constitutional Court found unconstitutional an article of the criminal code that made pretrial detention compulsory in conflict-related criminal cases. The HRMMU viewed the ruling as a positive step and noted that following the decision, in some conflict-related cases, courts replaced pretrial detention with house arrest or allowed defendants to be released on bail.

**e. Denial of Fair Public Trial**

While the constitution provides for an independent judiciary, courts were inefficient and remained vulnerable to political pressure and corruption. Confidence in the judiciary remained low.

Despite efforts to reform the judiciary and the Prosecutor General’s Office, corruption among judges and prosecutors remained endemic. Civil society groups continued to complain about weak separation of powers between the executive and judicial branches of government. Some judges claimed that high-ranking politicians pressured them to decide cases in their favor, regardless of the merits. Some judges and prosecutors reportedly took bribes in exchange for legal determinations. Other factors impeded the right to a fair trial, such as lengthy court proceedings, particularly in administrative courts, inadequate funding and staffing, and the inability of courts to enforce rulings.

During a visit to the country from March 4 to 8, representatives of the International Commission of Jurists (ICJ) emphasized that attacks on lawyers were often associated with their defense of clients in politically sensitive criminal cases. The ICJ concluded such attacks undermined the ability of lawyers to adequately perform their duties and protect the rights of their clients. In one such case, on August 22, an unknown person shot lawyer Oleksandr Ivanov near a pretrial detention center in Kropyvnytskyi. Ivanov died on the scene from his wounds. Police opened a murder investigation. The National Bar Association stated that it believed the killing was in response to Ivanov’s professional activities.

In March the HRMMU expressed concern about intimidation of judges, defendants, and defense lawyers by members of violent radical groups. The HRMMU noted three documented cases in which members of these groups disrupted court hearings by verbally abusing judges and defendants. In one case they beat a defendant in a conflict-related case outside the courtroom, but police did not stop the beating.
Trial Procedures

A single judge decides most cases, although two judges and three public assessors who have some legal training hear trials on charges carrying the maximum sentence of life imprisonment. The law provides for cross-examination of witnesses by both prosecutors and defense attorneys and for plea bargaining.

The law presumes defendants are innocent, and they cannot be legally compelled to testify or confess, although high conviction rates called into question the legal presumption of innocence. Defendants have the right to be informed promptly and in detail of the charges against them, with interpretation as needed; to a public trial without undue delay; to be present at their trial; to communicate privately with an attorney of their choice (or one provided at public expense); and to have adequate time and facilities to prepare a defense. The law also allows defendants to confront witnesses against them, to present witnesses and evidence, and to appeal.

Trials are open to the public, but some judges prohibited media from observing proceedings. While trials must start no later than three weeks after charges are filed, prosecutors seldom met this requirement. Human rights groups reported officials occasionally monitored meetings between defense attorneys and their clients.

The HRMMU documented violations of the right to a fair trial in criminal cases related to the Russia-led conflict in Donbas, notably the right to a trial without undue delay and the right to legal counsel. Authorities also failed to effectively investigate and prosecute perpetrators for interfering in investigations and manipulating court proceedings. The HRMMU reported persistent allegations that during pretrial investigation in conflict-related criminal cases, ammunition or other incriminating evidence was planted in suspects’ homes to strengthen weak cases.

Russia-led forces terminated Ukrainian court system functions on territories under their control in 2014. The “DPR” and “LPR” did not have an independent judiciary, and the right to a fair trial was systematically restricted. The HRMMU reported that in many cases individuals were not provided with any judicial review of their detention and were detained indefinitely without any charges or trial. In cases of suspected espionage or when individuals were suspected of having links to the Ukrainian government, closed-door trials by military tribunals were held. There were nearly no opportunities to appeal the verdicts of these tribunals.
Subsequent “investigations” and “trials” seemed to serve merely to create a veneer of legality to the “prosecution” of individuals believed to be associated with Ukrainian military or security forces. The HRMMU reported that de facto authorities generally impeded private lawyers from accessing clients and that court-appointed defense lawyers generally made no efforts to provide an effective defense and participated in efforts to coerce guilty pleas.

Political Prisoners and Detainees

There was one individual that some human rights groups considered to be subjected to politically motivated detention.

As of mid-September the trial of Zhytomyr journalist Vasyl Muravytsky continued. Muravytsky was charged in 2017 with state treason, infringement of territorial integrity, incitement of hatred, and support for terrorist organizations based on statements deemed pro-Russian. He could face up to 15 years in prison. Some domestic and international journalist unions called for his release, claiming the charges were politically motivated.

According to the SBU, as of mid-September Russia-led forces kept an estimated 227 hostages in Donbas (see section 1.g). A December 29 prisoner exchange affected this number, but the SBU had not issued a revised estimate as of year’s end.

Civil Judicial Procedures and Remedies

The constitution and law 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 they believe may violate basic rights and freedoms. Individuals may appeal to the human rights ombudsman at any time and to the European Court of Human Rights (ECHR) after exhausting domestic legal remedies.

Property Restitution

The country endorsed the 2009 Terezin Declaration but has not passed any laws dealing with the restitution of private or communal property, although the latter has been dealt with partly through regulations and decrees. In recent years most
successful cases of restitution have taken place as a result of tacit and behind-the-scenes lobbying on behalf of Jewish groups.

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

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

By law the SBU may not conduct surveillance or searches without a court-issued warrant. The SBU and law enforcement agencies, however, sometimes conducted searches without a proper warrant. In an emergency, authorities may initiate a search without prior court approval, but they must seek court approval immediately after the investigation begins. Citizens have the right to examine any dossier in the possession of the SBU that concerns them; they have the right to recover losses resulting from an investigation. There was no implementing legislation, and authorities generally did not respect these rights, and many citizens were not aware of their rights or that authorities had violated their privacy.

There were some reports the government had accessed private communications and monitored private movements without appropriate legal authority. For example, on September 20, the head of the SBI claimed that he found a listening device in his office. The SBI was investigating the case.

There were reports that the government improperly sought access to information about journalists’ sources and investigations (see section 2.a.).

**g. Abuses in Internal Conflicts**

The Russian government controlled the level of violence in eastern Ukraine, intensifying the conflict when it suited its political interests. Russia continued to arm, train, lead, and fight alongside local militants in two Russia-controlled proxies, the so-called Donetsk people’s republic (“DPR”) and the so-called Luhansk people’s republic (“LPR”). Russia-led forces throughout the conflict methodically obstructed and threatened international monitors, who did not have the access necessary to record systematically ceasefire violations or abuses committed by Russia-led forces.

International organizations and NGOs, including Amnesty International, Human Rights Watch, and the HRMMU, issued periodic reports documenting abuses
committed in the Donbas region. As of September the Organization for Security and Cooperation in Europe (OSCE) fielded 1,305 persons supporting a special monitoring mission, which issued daily reports on the situation and conditions in most major cities.

According to the HRMMU, since the start of Russia’s aggression against Ukraine, more than three million residents have left areas of Donetsk and Luhansk Oblasts controlled by Russia-led forces. As of mid-September the Ministry of Social Policy had registered 1.4 million internally displaced persons (IDPs).

The HRMMU noted that hostilities continued to affect the lives of 3.9 million civilians residing in the conflict zone. Regular exchanges of fire across the line of contact exposed those residents to the constant threat of death or injury, while their property and critical civilian infrastructure continued to be damaged.

**Killings:** As of mid-June the HRMMU reported that since the start of the conflict, fighting had killed at least 13,000 persons in Ukraine, including civilians, government armed forces, and members of armed groups. The HRMMU reported that 3,331 of these were civilian deaths. This figure included the 298 passengers and crew on board Malaysian Airlines flight MH-17, shot down in 2014 over the Donbas region. In mid-August the HRMMU reported 18 civilian deaths since January 1.

The HRMMU noted the continued use of indirect and explosive weapons by both sides of the conflict remained the primary concern regarding protection of civilians, that significant numbers of civilians continued to reside in villages and towns in close proximity to the contact line, and that both government forces and Russia-led forces were present in areas where civilians resided. According to the HRMMU, on July 20, one woman was killed and three men, three women, and two girls were injured during the government shelling of armed-group-controlled Pervomaisk (Luhansk region). According to the HRMMU, on July 19, a man in Krasnohorivka in the government-controlled part of Donetsk Oblast died in a shelling by Russia-led forces of the “DPR.” The UN Office of the High Commissioner for Human Rights (OHCHR) reported the presence of military personnel and objects within or near populated areas on both sides of the line of contact.

The HRMMU also regularly noted concerns about the dangers to civilians from landmines, booby traps, and unexploded ordnance. According to the Ministry of Defense, 2,700 square miles of government-controlled territory and 3,500 square
miles of territory controlled by Russia-led forces in Donetsk and Luhansk Oblasts needed humanitarian demining. According to the government of Ukraine, as of mid-June, 977 civilians had been killed and 1,530 had been injured by mines and explosive ordinance since the start of the conflict.

According to the HRMMU, between February 15 and August 15, 18 civilians were killed in mine-related incidents and the handling of explosive remnants of war. Of these deaths, nine were in government territory, and nine were in territory controlled by armed groups. On July 25, a woman died after she stepped on a mine near the village of Zaitseve on territory controlled by the government. On February 22, two civilians died and three were wounded when a bus ran over a mine near the checkpoint Olenivka on territory controlled by Russia-led forces.

According to human rights groups, more than 1,000 bodies in government-controlled cemeteries and morgues, both military and civilian, remained unidentified, mostly from 2014.

**Abductions:** As of September more than 700 missing persons were registered with the International Committee of the Red Cross and the Ukrainian Red Cross as unaccounted for, approximately half of whom were civilians. According to the Kharkiv Human Rights Protection Group, 1,165 persons have gone missing in connection with the conflict in eastern Ukraine from April 2014 through June 2019.

There were reports of abductions on both sides of the line of contact. A report by the UN Working Group on Enforced or Involuntary Disappearances (WGEID) following a June 2018 visit stated: “There is almost total impunity for acts of enforced disappearances on both sides of the contact line, mainly due to a lack of interest and political will. In Kyiv as well as in Russia-controlled territory in Donbas, the WGEID perceived little interest in pursuing cases unless the perpetrator is identified as someone supporting the opposite side. Bringing to justice anyone from its own side appears to be perceived as ‘unpatriotic.”’

The HRMMU reported in mid-March that, as of February 15, the family of a man reportedly detained by the SBU in November 2018 had no information about the man’s whereabouts. According to the HRMMU, two men (allegedly SBU officers) wearing camouflage and masks, detained a Russian citizen in Kyiv and took him to an unknown location. After the man’s wife reported his disappearance, police opened a criminal investigation but closed it five days later. In December 2018 the prosecutor’s office instructed police to reopen the investigation. Also in December
2018, the man’s personal information appeared on the Myrotvorets website, which has reported links to the country’s security services and publishes the personally identifying information of purported enemies of the country.

According to the head of the SBU, Russia-led forces held 227 Ukrainian hostages in Donbas as of September. A December 29 prisoner exchange affected this number, but the SBU had not issued a revised estimate as of year’s end. Human rights groups reported that Russia-led forces routinely kidnapped persons for political purposes, to settle vendettas, or for ransom.

Civilians were most often detained by Russia-led forces at entry-exit checkpoints along the line of contact. As of mid-May, the HRMMU documented five cases in which individuals were detained while attempting to cross the line of contact. In such cases relatives could not obtain information about the whereabouts of the detained persons, particularly during the initial stage of detention. There were several cases in which individuals were held incommunicado for more than one month.

The HRMMU repeatedly expressed concern about the use of “preventive arrest” procedures used in the “LPR” and “DPR” since 2018, which it assessed as amounting to incommunicado detention and which “may constitute enforced disappearance” (see section 1.d.).

For example, on February 23, representatives of the “ministry of state security” of the “LPR” reportedly detained a man travelling to visit his friends in Stanytsia Luhanska. After a witness informed the victim’s mother about the incident, she turned to the “ministry of state security” to inquire about her son’s whereabouts; the ministry claimed to have no information about him. On March 19, the mother received information that her son had been detained by the “ministry of state security” under the “preventive arrest procedure,” which allows incommunicado detention for up to 60 days. On April 26, the victim was released after 62 days.

Physical Abuse, Punishment, and Torture: Both government and Russia-led forces reportedly abused and tortured civilians and soldiers in detention facilities, but human rights organizations consistently cited Russia-led forces for large-scale abuses. Observers noted that an atmosphere of impunity and absence of rule of law compounded the situation. Reported abuses included beatings, physical and psychological torture, mock executions, sexual violence, deprivation of food and water, refusal of medical care, and forced labor.
In government-controlled territory, the HRMMU continued to receive allegations that the SBU detained and abused individuals in both official and unofficial places of detention in order to obtain information and pressure suspects to confess or cooperate. The number of reported cases was considerably lower than in previous years. The HRMMU suspected such cases were underreported because victims often remained in detention or were afraid to report abuse due to fear of retaliation or lack of trust in the justice system.

For example, according to the HRMMU, on February 12, the SBI launched an investigation into torture allegations made by an Armenian national regarding abuse at the hands of SBU officers in December 2018. On March 15, two men who identified themselves as SBU officers reportedly forced the man into a car, purportedly to sign documents, and seized his passport, wallet, and phone. They took him to the border with Moldova, forced him to make a video statement that he was leaving the country voluntarily, made him walk over the border, and threatened to hurt his family if he returned. In mid-December 2018 armed SBU officers had reportedly entered the man’s house in Svitlodarsk, searched it without a warrant, seized electronics and documents, threatened him and his family with deportation, placed a bag over his head, and transported him to a basement location. There, the officers reportedly interrogated him, beat him for several 20-to 30-minute periods, and coerced him at gunpoint to make a filmed confession of espionage. He was then taken to an apartment in Kyiv, where he was again severely beaten for two days. The officers then took him to a hospital for treatment for his injuries, registering him under a fake name. Instead of hospitalization, as recommended by doctors, the SBU officers took him to another apartment and held him there for approximately two weeks. At one point he did not receive food for two days. In late December the officers finally released him, telling him to keep silent about his ordeal.

According to the HRMMU, the lack of effective investigation into previously documented cases of torture and physical abuse remained a concern.

There were reports that Russia-led forces committed numerous abuses, including torture, in the territories under their control. According to international organizations and NGOs, abuses included beatings, forced labor, psychological and physical torture, public humiliation, and sexual violence. The HRMMU reported that on March 3, a man argued with representatives of the “ministry of state security” of the “DPR” when crossing the line of contact in Olenivka by car. The incident started when several vehicles were allowed to cut the line. The man objected to this and was taken into a booth and abused verbally. When he resisted,
armed men reportedly beat him until he was unconscious. When he regained consciousness, he realized he was handcuffed on the floor. The militants took him outside, handcuffed him to a fence, and threatened to kill him. He was released after signing documents he was not allowed to read.

As of late August, the Prosecutor General’s Office identified 3,500 individuals (1,700 civilians and 1,800 military personnel) who had been illegally incarcerated and tortured in the “DPR” and “LPR” since the start of Russia’s aggression against Ukraine.

International organizations, including the HRMMU, were refused access to places of deprivation of liberty in territory controlled by Russia-led forces and were therefore not able to assess fully conditions in the facilities.

A 2017 HRMMU special report on sexual and gender-based violence in the conflict, the most recent one available, noted that both sides committed these abuses, and that the majority of cases occurred in the context of detention. In these cases both men and women were subjected to sexual violence. Beatings and electric shock in the genital area, rape, threats of rape, forced nudity, and threats of rape against family members were used as a method of torture and mistreatment to punish, humiliate, or extract confessions. The HRMMU noted that women were vulnerable to sexual abuse at checkpoints along the contact line.

According to the HRMMU’s 2017 report, in the territory controlled by Russia-led forces, sexual violence was also used to compel individuals deprived of liberty to relinquish property or perform other actions demanded by the perpetrators, as an explicit condition for their safety and release. While the majority of these incidents dated back to 2014-2015, the HRMMU continued to receive testimonies indicating that such practice still occurred on both sides of the contact line and in Crimea.

There were reports that in territory controlled by Russia-led forces, conditions in detention centers were harsh and life threatening (see section 1.c.).

In areas controlled by Russia-led forces, the Justice for Peace in Donbas Coalition indicated that sexual violence was more prevalent in “unofficial” detention facilities, where in some cases women and men were not separated. The report stated that at least one out of every four detainees in these irregular prisons (both women and men) was a victim or witness of sexual violence. The reported forms of abuse included rape, threats of rape, threats of castration, intentional damage to
genitalia, threats of sexual violence against family members, sexual harassment, forced nudity, coercion to watch sexual violence against others, forced prostitution, and humiliation.

Both sides employed land mines without fencing, signs, or other measures to prevent civilian casualties (see “Killings” above). Risks were particularly acute for persons living in towns and settlements near the contact line as well as for the approximately 35,000 persons who crossed the contact line daily.

Other Conflict-related Abuse: On June 19, during a televised press conference, the Netherlands’ chief public prosecutor announced the results of the activities of the Joint Investigation Group looking into the 2014 downing of Malaysian Airlines flight MH17 in the Donbas. The Prosecutor General’s Office issued indictments against three former Russian intelligence officers and one Ukrainian national. In 2018 the investigation concluded that the surface-to-air missile system used to shoot down the airliner over Ukraine, killing all 298 persons on board, came from the Russian military.

Russia-led forces in Donetsk Oblast banned Ukrainian government humanitarian aid and restricted aid from international humanitarian organizations. As a result prices for basic groceries were reportedly beyond the means of many persons remaining in Russia-controlled territory. Human rights groups also reported severe shortages of medicine, coal, and medical supplies in Russia-controlled territory. Russia-led forces continued to receive convoys of Russian “humanitarian aid,” which Ukrainian government officials believed contained weapons and supplies for Russia-led forces.

The HRMMU reported the presence of military personnel and objects within or near populated areas on both sides of the line of contact.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution and law provide for freedom of expression, including for members of the press. Authorities did not always respect these rights, however. The government banned or blocked information, media outlets, or individual journalists deemed a threat to national security or who expressed positions that authorities believed undermined the country’s sovereignty and territorial integrity. Other problematic practices continued to affect media freedom, including self-
censorship, so-called jeansa payments (publishing unsubstantiated news articles for a fee), and slanted news coverage by media outlets whose owners had close ties to the government or opposition political parties.

In the Donbas region, Russia-led forces suppressed freedom of speech and the press through harassment, intimidation, abductions, and assaults on journalists and media outlets. They also prevented the transmission of Ukrainian and independent television and radio programming in areas under their control.

Freedom of Expression: With some exceptions, individuals in areas under government control could generally criticize the government publicly and privately and discuss matters of public interest without fear of official reprisal.

The law criminalizes the display of communist and Nazi symbols as well as the manufacture or promotion of the St. George’s ribbon, a symbol associated with Russia-led forces in the Donbas region. On July 16, the country’s constitutional court upheld the ban on displaying communist and Nazi symbols. During the May 9 celebration of World War II Victory Day, police issued 27 administrative offense citations in Odesa, Mykolaiv, Luhansk, Zaporizhzhia, and Donetsk Oblasts and detained several individuals in Kyiv, Kryvy Rih, Lviv, and Odesa for carrying banned Soviet symbols.

On October 10, a court in Kryvy Rih convicted a local resident of wearing a T-shirt with the state symbol of the USSR in a public place. The man reportedly wore the shirt at a local shopping center on June 14. He was given a one-year suspended sentence and another year of probation.

The law prohibits statements that threaten the country’s territorial integrity, promote war, instigate racial or religious conflict, or support Russian aggression against the country, and the government prosecuted individuals under these laws (see “Censorship” and “National Security”).

Press and Media, Including Online Media: The NGO Freedom House rated the country’s press as “partly free.” Independent media and internet news sites were active and expressed a wide range of views. Privately owned media, the most successful of which were owned by influential oligarchs, often presented readers and viewers a “biased pluralism,” representing the views of their owners, favorable coverage of their allies, and criticism of political and business rivals. The 10 most popular television stations were owned by businessmen whose primary business
was not in media. Independent media had difficulty competing with major outlets that operated with oligarchic subsidies.

There were reports of continuing state pressure on the National Public Broadcasting Company (UA:PBC), created as a result of a 2014 law to provide an independent publicly funded alternative to oligarch-controlled television channels. On January 31, the supervisory board of UA:PBC announced the removal of the channel’s director, Zurab Alasania. Observers alleged the decision was made because the channel broadcast anticorruption investigations in the pre-electoral period that had been unflattering to then president Petro Poroshenko. According to press reports, the supervisory board’s initial draft decision cited the channel’s failure to cover events favorable to Poroshenko, but the final decision did not contain this language and instead alleged financial mismanagement. Following public outcry, the board announced Alasania would remain in place until May 6. Alasania challenged the board’s decision in court, and on June 19, a Kyiv court ruled the board’s decision was illegal. Alasania was reinstated in his position on July 1. On August 30, the SBI and SBU jointly raided the premises of UA:PBC, several of its regional affiliates, and the home of Alasania, apparently in connection with the allegations of financial mismanagement. The OSCE high representative on freedom of the media expressed concern about the raids and the potential impact of “any pressure on the independence of public media.”

“Jeansa”--the practice of planting one-sided or favorable news coverage paid for by politicians or oligarchs--continued to be widespread. Monitoring by the IMI of national print and online media for jeansa indicated a wide range of actors ordered political jeansa, including political parties, politicians, oblast governments, and oligarchs. The IMI recorded a 22 percent increase of jeansa in the national online media before the parliamentary elections in 13 popular internet media outlets.

**Violence and Harassment:** Violence against journalists remained a problem. Human rights groups and journalists criticized what they saw as government inaction in solving the crimes as giving rise to a culture of impunity.

According to the IMI, as of September 1, there had been 20 reports of attacks on journalists, including one killing during the year, compared with 22 cases and no killings during the same period in 2018. As in 2018, private, rather than state, actors perpetrated the majority of the attacks. As of September 1, there were 33 incidents involving threats against journalists, as compared with 24 during the same period in 2018. The IMI and editors of major independent news outlets also noted online harassment of journalists by societal actors, reflecting a growing
societal intolerance of reporting deemed insufficiently patriotic, a development they asserted had the tacit support of the government.

There were multiple reports of attacks on journalists by government officials. For example, according to the Committee to Protect Journalists, on March 6, officials in the village of Chabany near Kyiv attacked Radio Liberty investigative reporter Kateryna Kaplyuk and cameraman Borys Trotsenko, leaving Trotsenko with a concussion and breaking his camera. The journalists were attempting to interview a village official for an investigation into allegations that officials were allocating state lands for private use, when a group of people that included two deputy mayors of the village, Yuriy Bondar and Volodymyr Chuprin, began shoving and punching them. They filed a police report, and police began an investigation, but no charges had been brought as of November.

There were reports of attacks on journalists by nongovernment actors. For example, according to the Committee to Protect Journalists, on August 30 in Chernihiv, two unidentified individuals attacked blogger Ihor Stakh. Stakh was later treated for a concussion and required stitches for a cut on his face. The National Union of Journalists made statements indicating its belief that the attack was in retaliation for Stakh’s reporting on local corruption. Stakh reported receiving threats before the attack. Police opened an investigation but as of November had made no arrests.

On July 13, according to press reports, an unknown attacker fired a rocket-propelled grenade at the Kyiv office of pro-Russian television news broadcaster 112 Ukraine, damaging the building but causing no injuries. Police opened an investigation, but no arrests had been made as of October.

There were allegations that the government prosecuted journalists in retaliation for their work (see section 1.e.).

There were reports that government officials sought to pressure journalists through the judicial system, often to reveal their sources in investigations. For example, on February 4, the Pechersk District Court granted the Prosecutor General’s Office access to internal documents and email correspondence of the independent news outlet Novoye Vremya. Prosecutors were seeking to identify a source who spoke to the Novoye Vremya for a 2016 story revealing corruption by a high-ranking prosecutor, alleging that the source violated investigatory secrecy rules.
Journalists received threats in connection with their reporting. For example, according to the Institute for Mass Information, on September 10, journalists of the Chesno civic movement alleged that Member of Parliament Oleksandr Kovalev threatened them in response to news published on their website describing Kovalev’s illegal proxy voting on behalf of other members of parliament. The journalists filed a complaint with law enforcement authorities.

On December 12, police arrested five suspects in the 2016 killing of well-known Belarusian-Russian journalist Pavel Sheremet (see section 1.a.).

Censorship or Content Restrictions: Human rights organizations frequently criticized the government for taking an overly broad approach to banning books, television shows, websites, and other content (see subsections on National Security and Internet Freedom).

The State Committee on Television and Radio Broadcasting (Derzhkomteleradio) maintained a list of banned books seen to be aimed at undermining the country’s independence, spreading propaganda of violence, inciting interethnic, racial, religious hostility, promoting terrorist attacks, or encroaching on human rights and freedoms. As of July the list contained 211 titles.

Both independent and state-owned media periodically engaged in self-censorship when reporting stories that might expose political allies to criticism or might be perceived by the public as insufficiently patriotic or provide information that could be used for Russian propaganda.

Libel/Slander Laws: Libel is a civil offense. While the law limits the monetary damages a plaintiff can claim in a lawsuit, local media observers continued to express concern over high monetary damages awarded for alleged libel. Government entities, and public figures in particular, used the threat of civil suits, sometimes based on alleged damage to a person’s “honor and integrity,” to influence or intimidate the press and investigative journalists.

For example, on August 20, the head of the Presidential Administration, Andriy Bohdan, filed a libel lawsuit against the investigative journalism program Skhemry (Schemes), a joint program by Radio Free Europe/Radio Liberty and UA:PBC. Bohdan clarified on August 23 that he was suing over Schemes’ reports about his repeated travel to visit oligarch Ihor Kolomoiskyy abroad, which he asserted were false.
National Security: In the context of the continuing conventional conflict in the Donbas, as well as continuing Russian disinformation and cyber campaigns, authorities took measures to prohibit, regulate, and occasionally censor information deemed a national security threat, particularly those emanating from Russia and promoting pro-Russian lines.

The government continued the practice of banning specific works by Russian actors, film directors, and singers, as well as imposing sanctions on pro-Russian journalists. According to the State Film Agency, as of mid-September approximately 800 films and television shows had been banned on national security grounds since 2014. In response to Russia’s continued barrage of cyberattacks and disinformation as part of its efforts to destabilize Ukraine, the government maintained its ban on the operations of almost 600 companies and 1,228 persons that allegedly posed a “threat to information and the cyber security of the state.” Among them were two widely used social networks based in Russia and major Russian television channels as well as smaller Russian channels that operated independently of state control.

There were reports that the government used noncompliance with national security-related content bans to pressure outlets perceived as having a pro-Russian editorial policy. For example, on February 7, the National Council on Television and Radio Broadcast imposed a fine on NewsOne TV, a channel owned by associates of Russian-backed Ukrainian politician Viktor Medvedchuk, for alleged “hate speech and propaganda promoting conflict and national hatred.” According to the National Council, monitoring of NewsOne TV broadcasts from late 2018 to early 2019 revealed “calls for aggressive actions, incitement of national, racial, or religious hatred, and justification of aggression against the territorial integrity” of Ukraine. On July 8, NewsOne announced that it had cancelled a planned July 12 joint live television program with the state-owned Russian television channel Rossiya 24, which is banned in the country, because of threats of violence. The proposed program, announced the day before on Russian state-owned television, was to be called We Have to Talk and would have linked up two studios in Kyiv and Moscow for a purportedly “apolitical” discussion between “everyday people” in the two countries the week ahead of parliamentary elections. The program’s announcement sparked public outrage, a protest outside NewsOne’s offices, and widespread condemnation from officials. On July 8, the prosecutor general called the program “attempted treason” and announced that NewsOne’s leadership had been called in for interrogation, while the SBU issued a warning letter to NewsOne. The National Security and Defense Council convened to discuss the program on July 8, after which the council’s head stated: “State bodies, including
the SBU and National Police have received a number of orders, including in
gards to defending the information space. Additional details cannot be revealed
because of secrecy.” On July 10, the prosecutor general announced that a criminal
case had been opened against NewsOne’s owner, Member of Parliament Taras
Kozak, for “financing terrorism.” On July 9, Derzhkomteleradio announced it
would hold an unscheduled inspection of NewsOne, which it conducted on July 24.
On September 10, Derzhkomteleradio filed a lawsuit in a Kyiv district court
seeking the revocation of the license, based upon its “incitement to hatred in
Ukrainian society.”

On September 26, Derzhkomteleradio ruled that five affiliated media companies of
pro-Russian Channel 112 TV violated their license conditions by changing their
program concepts without required approvals. As a result of the decision, Channel
112 TV could not be broadcast by digital terrestrial signal in the country, but it was
still available on satellite and cable networks. The OSCE representative on
freedom of the media expressed concern about the decision, while a coalition of
independent Ukrainian media watchdogs issued a statement of support of
Derzhkomteleradio’s decision.

On August 19, the Supreme Court upheld a 2018 ban by the Lviv Oblast Council
on all Russian-language books, films, and songs, in order to combat “hybrid
warfare” by Russia. The Zhytomyr and Ternopil Oblast Councils mirrored this
measure on October 25 and November 6, respectively, in 2018. There were no
reported attempts at enforcing these bans.

Media professionals continued to experience pressure from the SBU, the military,
and other officials when reporting on sensitive issues, such as military losses. For
example, on November 6, the Joint Forces Operation (JFO) headquarters refused to
accredit photo correspondent Maks Levin because of his reporting from the area of
disengagement near Zolote, which the headquarters claimed violated the rules on
reporting in the area of JFO in unspecified ways.

Authorities continued to deport and bar entry to foreign journalists on national
security grounds. For example, on March 24, the State Border Service denied
entry to Marc Innaro, a Moscow correspondent of the Italian public service
broadcaster RAI and his colleague, a cameraman, claiming he “frequently engaged
in anti-Ukrainian rhetoric in his reports.”

Nongovernmental Impact: There were reports that radical groups committed
attacks on journalists. For example, according to press reports, on July 30,
approximately a dozen members of the radical group Tradition and Order broke down the door of the state-run Ukrinform news agency in Kyiv and disrupted a press conference by parliamentary candidates who were alleging fraud in the July parliamentary election. They attacked and injured three Ukrinform staff members and poured water and threw eggs around the room. Police opened a criminal investigation into the incident, but as of November no arrests had been made.

The ability to exercise freedom of expression reportedly remained extremely limited in territory controlled by the “DPR” and “LPR.” Based on HRMMU media monitoring, critical independent media on the territory controlled by Russia-led forces was nonexistent. According to CyberLab Ukraine, an independent digital forensic analysis organization, the authorities in the “LPR” blocked more than 50 Ukrainian news outlets.

The HRMMU reported that journalists entering Russia-controlled territory of the “DPR” had to inform the “press center” of the “ministry of defense” about their activities on a daily basis, were arbitrarily required to show video footage at checkpoints, and were accompanied by members of armed groups when travelling close to the contact line.

On October 22, press outlets reported that a “court” in the “DPR” convicted journalist Stanislav Aseyev of espionage on behalf of Ukraine and sentenced him to 15 years in prison. Human rights defenders maintained that the charges were baseless and brought in retaliation for his independent reporting on events in territory controlled by Russia-led forces. Aseyev was released December 29 as part of a Ukraine-Russia prisoner and detainee exchange.

**Internet Freedom**

Law enforcement bodies monitored the internet, at times without appropriate legal authority, and took significant steps during the year to block access to websites based on “national security concerns.”

On March 19, then president Poroshenko endorsed new sanctions approved by the National Security and Defense Council that, among other things, extended sanctions on the Russian company Yandex and its services until 2022. Ukrainian internet providers continued to block websites at government demand based on national security concerns. On February 11, the SBU announced that it intended to block 100 websites that promote Russian interests in the country. As of October, 240 sites were blocked in the country. According to monitoring by CyberLab
Ukraine, internet service-provider compliance with the government’s orders to block sites varied greatly. On July 22, the National Security and Defense Council announced it would continue the policy of blocking Russian social networks.

On September 30, a district administrative court in Kyiv dismissed a lawsuit brought by the For Free Net Ukraine Coalition against the Ministry of Information Policy, asking it to disclose the government’s criteria and methodology when creating its lists of internet resources to be banned on national security grounds.

Free speech advocates expressed concern that courts began to block access to websites on grounds other than national security. For example, on July 23, a Kyiv court ruled to block access to 18 websites, including blogging platform enigma.ua, at the request of the Kyiv Oblast prosecutor’s office on vague grounds related to violations of intellectual property rights. The owner of enigma.ua stated that he believed the blocking of his site was in retaliation for its publication of material critical of the country’s security services.

There were reports of the disclosure of personally identifiable information of persons to penalize expression of opinions. Between October 31 and November 5, Andriy Portnov, a former lawmaker and deputy head of former president Viktor Yanukovych’s administration, released personally identifying information of editorial and staff members of the anticorruption television program Schemes, as well as the registration data on 16 vehicles used by staff members of the program, on his Telegram messaging channel. In a November 5 message, Portnov invited anyone who comes across these vehicles to “give a stiff rebuff” to the drivers; he also suggested on October 31 that a driver whose personal data he disclosed was also under surveillance and could be exposed to physical harm. Portnov’s actions were apparently in response to an investigation by Schemes into his relationships with officials currently in the government.

The Myrotvorets (peacemaker) database, which published the personally identifying information of individuals it deemed to be “anti-Ukrainian” online and which reportedly maintained close ties to the country’s security services, published the personal data of journalists and public figures who had been critical of the country’s security services or had made other statements the site considered unpatriotic. On December 10, the database announced it was shutting down its servers to public access, but it noted some officials would continue to have access.

There were reports of cyberattacks on journalists who reported on corruption. For example, according to the Institute for Mass Information, for several weeks in
February and March, journalists with the investigative anticorruption television program *Schemes* reported repeated attempts to hack their social network and messenger accounts.

Human rights groups and journalists who were critical of Russian involvement in the Donbas region and the occupation of Crimea reported their websites were subjected to cyberattacks, such as coordinated denial of service incidents and unauthorized attempts to obtain information from computers, as well as coordinated campaigns of “trolling” and harassment on social media.

In its annual *Freedom on the Net* report published in November, Freedom House concluded that internet freedom had improved very slightly after two years of decline. It noted in particular that “the online information landscape is partly censored, with the government blocking Russian and proxy websites, and the Russia-led forces blocking Ukrainian websites in the areas under their control. Implementation of these blocks, however, was lax on both sides, and the digital environment is otherwise vibrant, despite efforts by political actors to manipulate debates through disinformation and paid content. These efforts intensified ahead of the presidential election, held in March and April. Arrests of users were commonplace, primarily as an extension of continuing hostilities between the government in Kyiv and Russian-led forces, as were attacks against online journalists. Adding to these challenges, persistent cyberattacks continued to constrain internet freedom.”

There were reports that the government prosecuted individuals for their posts on social media. For example, according to press reports, on April 16, the SBU searched the home of a man in Odesa, whom they alleged had written posts supporting Russia-led forces in eastern Ukraine on social media, and seized computer equipment, mobile devices, and material with banned communist symbols. He was charged with “encroachment on territorial integrity.”

**Academic Freedom and Cultural Events**

There were reports the government investigated academic personnel for their research. For example, according to the Kharkiv Human Rights Protection Group, on April 24, the Lviv regional branch of the SBU announced a check into what it called a “provocative survey” by the respected research institute Kyiv International Institute of Sociology. The opinion poll was commissioned by the independent media outlet *Dzherkalo Tyzhnya* and included a question that asked residents of “Galicia,” a historical region that spans parts of current Ukraine and Poland, how
they viewed the fate of their region after the presidential elections. One of the possible answers was “Galicia should join Poland,” which the SBU viewed as a possible “call to violate Ukraine’s territorial integrity.”

The government maintained a list of Russian or pro-Russian musicians, actors, and other cultural figures that it prohibited from entering the country on national security grounds.

**b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

**Freedom of Peaceful Assembly**

The constitution provides for the freedom of peaceful assembly, and the government generally respected this right. There are no laws, however, regulating the process of organizing and conducting events to provide for the right, and authorities have wide discretion under a Soviet-era directive to grant or refuse permission for assemblies on grounds of protecting public order and safety. Organizers are required to inform authorities in advance of demonstrations.

During the year citizens generally exercised the right to assemble peacefully without restriction in areas of the country under government control. There were occasional reports of police using excessive force to disperse a protest. On February 9, police clashed with demonstrators, including members of violent radical group C14 and activists from the “Who Ordered Katya Handziuk” civic initiative, in Kyiv protesting at a rally by the Batkyvshchyna political party held because the one of the party’s members was allegedly complicit in the 2018 high-profile killing of activist Kateryna Handziuk (see section 1.a.). Police beat demonstrators, sprayed tear gas, and detained approximately a dozen persons. At the police station, the detained individuals were met by a crowd of supporters, who allegedly attempted to storm the station and attacked and used tear gas against police. Police reported that three officers were injured and hospitalized. An investigation into the actions of both police and the demonstrators continued as of September.

Large-scale LGBTI events including pride marches in Kyiv, Odesa, and Kharkiv took place in largely peaceful manner, protected by thousands of police officers. Police at times did not adequately protect participants from attack before or after
these events, and they did not adequately protect smaller demonstrations, especially those organized by persons belonging to minority groups or opposition political movements. For example, according to press reports, organizers of a pride festival in the city of Kriviy Rih cancelled a planned march on July 24, citing the inability of police to guarantee the event’s security around the time of parliamentary elections. On December 24, the Rivne City Council voted to ban the holding of pride marches.

Events organized by women’s rights activists or the LGBTI community were regularly disrupted by members of violent radical groups. For example, on May 8, a group of approximately 10 members of C14 disrupted the gender issues festival Find the Balance in Kryvy Rih, occupying the premises shortly before the beginning of the event, putting up homophobic posters, and insulting the organizers. Police investigated the incident under hooliganism-related charges.

In Russia-controlled territory, the HRMMU observed the absence of free and peaceful assembly and noted, “such a restrictive environment, where dissenting opinions may trigger retaliation, has a long-lasting chilling effect on the population.” The HRMMU also noted the only demonstrations permitted in these areas were ones in support of local “authorities,” often apparently organized by Russia-led forces with forced public participation.

**Freedom of Association**

The constitution and law provide for freedom of association, and the government generally respected this right.

In June the Constitutional Court invalidated a much-criticized law requiring assets to be reported for civil society organizations and journalists working on anticorruption matters.

Human rights organizations reported a decrease of attacks on activists following a spike in attacks in 2018 (37 attacks during the year, down from 66 in 2018). Some civil society organizations, however, saw the decrease in reported attacks as underreporting by civic activists opting not to submit complaints because they viewed it as a futile gesture that might invite further persecution. International and domestic human rights NGOs remained concerned about the lack of accountability for attacks on members of civil society organizations, which they believed had created a climate of impunity.
There were reports government targeted activists for raids, arrests, or prosecution in retaliation for their professional activity. For example, according to the Kharkiv Human Rights Protection Group, on October 4, police raided the home of human rights activist Oleh Tsvily, the head of the NGO Alliance for Ukrainian Unity. They handcuffed him near his apartment and allegedly intentionally banged his head against the steps while bringing him up to his apartment. Police raided his apartment, seized his computer and other devices containing information, but did not arrest Tsvily. Tsvily’s lawyer maintained that law enforcement officials had no court warrant for the search. During the raid police claimed they were investigating Tsvily for purportedly selling drugs on the internet. Tsvily maintained the search and attack was in retaliation for his work exposing torture and abuse in the penitentiary system. A former head of the State Penitentiary Service posted a video of Tsvily’s arrest on his Facebook page with a comment calling Tsvily and other human rights activists “animals” and predicting that Tsvily would be sent to prison for selling drugs.

There were reports that unknown actors made death threats against activists because of their work. For example, according to the Kharkiv Human Rights Protection Group, on August 26, unknown persons in Chuhuiv, Kharkiv Region left a coffin, funeral wreath with his name, a note, and an axe wedged into the door of the home of Roman Likhachov, a lawyer and head of the Chuhuiv Human Rights Group. The note read, “if you don’t stop doing stupid things, the next [axe] will be in your head.” Likhachov believed the threats to be linked with his work with a network of anticorruption centers investigating local tax evasion schemes in Chuhuiv involving local authorities and law enforcement as well as the sale of alcohol without a license in a local cafe owned by a city council member.

According to the HRMMU, in the territories controlled by Russia-led forces, domestic and international civil society organizations, including human rights defenders, could not operate freely. Residents informed the HRMMU they were being prosecuted (or feared being prosecuted) by the “ministry of state security” for their pro-Ukrainian views or previous affiliation with Ukrainian NGOs. If human rights groups attempted to work in those areas, they faced significant harassment and intimidation. The HRMMU also noted civil society organizations run by Russia-led forces, which appeared to require certain persons, such as public-sector employees, to join.

c. Freedom of Religion
See the Department of State’s *International Religious Freedom Report* at [https://www.state.gov/religiousfreedomreport/](https://www.state.gov/religiousfreedomreport/).

**d. Freedom of Movement**

The constitution and law provide citizens with freedom of internal movement, foreign travel, emigration, and repatriation. The government, however, restricted these rights, particularly in the eastern part of the country near the zone of conflict.

*In-country Movement*: The government and Russia-led forces strictly controlled movement between government-controlled areas and territories in the Donbas region controlled by Russia-led forces. Crossing the line of contact remained arduous. On July 17, the government adopted new regulations establishing a list of goods prohibited for transfer across the line of contact to replace the list of goods allowed for transfer, thereby providing more flexibility for people to bring items across the line from both sides. Public passenger transportation remained prohibited; private transportation was available at high prices and was generally unaffordable for the majority of people crossing.

Although five crossing points existed, only four were in operation for much of the year. According to the HRMMU, between May and August, an average of 39,000 individuals crossed the line daily. The HRMMU reported that individuals crossing the line of contact, predominantly the elderly and persons with medical issues, had to spend several hours standing in line. The government required those seeking to cross into government-controlled territory to obtain a pass. The pass system imposed significant hardships on persons crossing into government-controlled territory, in particular those seeking to receive pensions and government benefits, not distributed in the territory controlled by Russia-led forces. The government attempted to reform a pass system involving an online application process to control movement into government-controlled territory. All passes issued after March 28 had no expiration date, but the measure did little to improve ease of movement across the contact line since many persons in Russia-controlled territory did not have access to the internet to obtain such passes.

Russia-led forces continued to hinder freedom of movement in the eastern part of the country.

The government and Russian occupation authorities subjected individuals crossing between Russian-occupied Crimea and the mainland to strict passport controls at the administrative boundary between Kherson Oblast and Crimea. Authorities
prohibited rail and commercial bus service across the administrative boundary, requiring persons either to cross on foot or by private vehicle. Civil society, journalists, and independent defense lawyers reported that the government made efforts to ease requirements for entering Crimea, improving previously lengthy processes to obtain required permissions that hindered their ability to document and address abuses taking place there.

e. Internally Displaced Persons

According to the Ministry of Social Policy, as of late September more than 1.4 million persons were registered IDPs due to Russia’s aggression in eastern Ukraine and its occupation of Crimea. Some NGOs and international organizations estimated the number to be lower, since some persons returned to their homes after registering as IDPs, while others registered while still living in the conflict zone. The largest number of IDPs resided in areas immediately adjoined to the conflict zones, in government-controlled areas of Donetsk and Luhansk Oblasts as well as Kharkiv, Dnipropetrovsk, and Zaporizhzhia Oblasts and Kyiv. Many resided in areas close to the line of contact in the hope they would be able to return home.

The government granted social entitlements only to persons who had registered as IDPs. Local departments of the Ministry of Social Policy regularly suspended payment of pensions and benefits to IDPs pending verification of their physical presence in government-controlled territories, ostensibly to combat fraud, requiring recipients to go through a burdensome reinstatement process.

According to the HRMMU, the government applied the IDP verification procedure broadly. The suspensions affected the majority of IDP residents in government-controlled territory as well as most residents of Russia-controlled areas; effects were especially acute for the elderly and disabled, whose limited mobility hindered their ability to verify whether they were included in the lists or to prove their residency. The government often suspended payments without notification, and IDPs reported problems having them reinstated.

Humanitarian aid groups had good access to areas under government control.

IDPs were unable to vote in local elections and for single-mandate district seats in parliamentary elections unless they changed their registration to their new residence.
According to the HRMMU, IDP integration remained impeded by the lack of a government strategy and the absence of allocation of financial resources, leading to IDPs’ economic and social marginalization. UN agencies reported the influx of IDPs led to tensions arising from competition for scarce resources.

NGOs reported employment discrimination against IDPs. IDPs continued to have difficulty obtaining education, medical care, and necessary documents. According to the law, the government should provide IDPs with housing, but authorities did not take effective steps to do so. A shortage of employment opportunities and the generally weak economy particularly affected IDPs, forcing many to live in inadequate housing, such as collective centers and temporary accommodations. Other IDPs stayed with host families, volunteers, and in private accommodations, although affordable private accommodations were often in poor condition. Some IDPs, particularly those in government-controlled areas of Donetsk and Luhansk Oblasts, lacked sufficient sanitation, shelter, and access to potable water.

Romani activists expressed concern that some Roma could not afford to flee conflict areas, while others had no choice but to leave their homes.

Media reports indicated that banks continued to restrict services for Crimean IDPs even after a court ruling that they should be considered residents of the country.

f. Protection of Refugees

Abuse of Migrants, Refugees, and Stateless Persons: Authorities frequently detained asylum seekers for extended periods without court approval.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. International and domestic organizations reported the system for protecting asylum seekers, stateless persons, and other persons of concern did not operate effectively.

Refoulement: There were reports that the government did not provide for protection against the expulsion or return of some asylum seekers 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. There were also allegations that officials deported some individuals to countries where they were at risk of imprisonment without providing
an opportunity for them to apply for asylum. For example, on December 12, Azerbaijani blogger Elvin Isayev was removed from Ukraine to Azerbaijan for allegedly violating migration laws. On September 10, before Isayev arrived in Ukraine, the ECHR invoked Rule 39 halting extradition of Isayev from Russia to Azerbaijan after his Russian citizenship had been revoked.

According to the Kharkiv Human Rights Protection Group, on June 18, the SBU in Kyiv detained Belarussian anarchist Aleksandr Frantskevich when he came to the State Migration Service to extend his permanent residence permit. Frantskevich, who had lived in Kyiv since 2015, was considered by human rights groups to be a former Belarusian political prisoner. SBU officers reportedly forced him into a van, beat and strangled him, and took him to the border with Belarus, where they handed him a document saying that his activities, which were unspecified, were in conflict with the interests of Ukraine’s national security, sovereignty, territorial integrity, and constitutional order, and that he was banned from the country for three years.

**Access to Asylum:** The law provides for asylum or refugee status, and the government has established a legal system to protect refugees. Protection for refugees and asylum seekers was insufficient due to gaps in the law and the system of implementation. According to the State Migration Service, the number of refugees and asylum seekers has decreased. The country is a transit and destination country for asylum seekers and refugees, principally from Afghanistan, the Russian Federation, Bangladesh, Syria, and Iraq.

Human rights groups noted that the refugee law falls short of international standards due to its restrictive definition of 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. 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. Asylum seekers have five days to appeal an order of detention or deportation.

A lack of access to qualified interpreters also hampered the full range of asylum procedures. International observers noted the government did not provide resources for interpreters, which created opportunities for corruption and undermined the fairness of asylum application procedures.
Employment: Refugees frequently have a hard time finding employment due to lack of qualifications and language proficiency. Some worked illegally, increasing the risk of exploitation.

Access to Basic Services: The national plan on the integration of refugees adopted by the government did not allocate resources for its implementation. A UNHCR report indicated all newly recognized refugees received a one-time grant of approximately 30 hryvnias ($1.26). Some reports, however, indicated the government did not always provide payment.

Temporary accommodation centers had a reception capacity of 421. Asylum seekers living outside an official temporary accommodation center often experienced difficulties obtaining residence registration, and authorities regularly fined them more than 500 hryvnias ($21) because they lacked registration. According to the State Migration Service, refugees could receive residence registration at homeless shelters for up to six months.

According to UNHCR, gaps in housing and social support for unaccompanied children left many without access to state-run accommodation centers or children’s shelters. Many children had to rely on informal networks for food, shelter, and other needs and remained vulnerable to abuse, trafficking, and other forms of exploitation. UNHCR noted a lack of educational programs and vocational activities for those in detention for extended periods.

Temporary Protection: The government also provided temporary protection (“complementary protection”) to individuals who may not qualify as refugees; as of August 1, authorities had provided complementary protection to 41 persons.

g. Stateless Persons

UNHCR estimated there were 35,600 stateless persons in the country. Persons who were either stateless or at risk of statelessness included Roma, homeless persons, current and former prisoners, and persons older than 50 who never obtained a Ukrainian personal identification document after the fall of the Soviet Union and were no longer able to obtain one.

The law requires establishing identity through a court procedure, which demanded more time and money than some applicants had. UNHCR reported Roma were at particular risk for statelessness, since many did not have birth certificates or any
other type of documentation to verify their identity. Homeless persons had
difficulty obtaining citizenship because of a requirement to produce a document
testifying to one’s residence.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to choose their government in
free and fair periodic elections held by secret ballot and based on universal and
equal suffrage.

Elections and Political Participation

Recent Elections: The country’s presidential election was held across two rounds,
on March 31 and April 21. A joint international election observation mission
(IEOM) by the European Parliament (EP), the OSCE’s Office of Democratic
Institutions and Human Rights, the OSCE Parliamentary Assembly (OSCE PA),
the Parliamentary Assembly of the Council of Europe, and the NATO
Parliamentary Assembly (NATO PA) assessed that the election “was competitive,
voters had a broad choice and turned out in high numbers. In the pre-electoral
period, the law was often not implemented in good faith by many stakeholders,
which negatively impacted the trust in the election administration, enforcement of
campaign finance rules, and the effectiveness of election dispute resolution.
Fundamental freedoms were generally respected. Candidates could campaign
freely; yet, numerous and credible indications of misuse of state resources and vote
buying undermined the credibility of the process. The media landscape is diverse,
but campaign coverage in the monitored media lacked in-depth analysis and was
often biased. Election Day was assessed positively overall and paves the way to
the second round. Still, some procedural problems were noted during the count,
and conditions for tabulation were at times inadequate.”

The newly elected president disbanded the parliament to call for an early
parliamentary election, which was held on July 21. A joint IEOM by
OSCE/ODIHR, the OSCE PA, the NATO PA, and the EP assessed that:
“fundamental rights and freedoms were overall respected and the campaign was
competitive, despite numerous malpractices, particularly in the majoritarian races.
Generally, the electoral administration was competent and effective despite short
time available to prepare the elections, which were seen as an opportunity to
consolidate reforms and changes in politics that Ukrainian voters are hoping for.
In sharp contrast, the campaign was marked by widespread vote-buying, misuse of
incumbency, and the practice of exploiting all possible legislative loopholes,
skewing equality of opportunity for contestants. Intertwined business and political interests dictate media coverage of elections and allow for the misuse of political finance, including at the local level.”

Voting did not take place in either election in Crimea or in parts of Donbas under the control of Russia-led forces.

**Political Parties and Political Participation:** The Communist Party remains banned. On February 2, the Central Election Commission refused to register the Communist Party presidential candidate, Petro Symonenko, stating that his party violates the law banning communist symbols.

**Participation of Women and Minorities:** No laws limit the participation of women or members of minorities in the political process, and they did participate. Following the July parliamentary election, the proportion of women in the parliament increased from 12 percent to 20 percent.

**Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption. Authorities did not effectively implement the law, and many officials engaged in corrupt practices with impunity. While the number of reports of government corruption was low, corruption remained pervasive at all levels in the executive, legislative, and judicial branches of government.

The High Anticorruption Court (HACC) started its work on September 5. The HACC’s creation completed the country’s system of bodies to fight high-level corruption, complementing two previously created anticorruption agencies, the National Anticorruption Bureau (NABU) and the Special Anticorruption Prosecutor. The new independent anticorruption bodies faced political pressure that undermined public trust, raised concern about the government’s commitment to fighting corruption, and threatened the viability of the institutions.

On February 26, the Constitutional Court declared unconstitutional an article of the criminal code proscribing criminal liability for illegal enrichment. The decision led NABU to close 65 corruption cases it had been developing against high-level officials. According to legal experts and civil society, elimination of illicit enrichment from the criminal code was a serious setback in the fight against high-level corruption. On November 26, President Zelenskyy signed a law reinstating criminal liability for illicit enrichment of government officials.
Corruption: While the government publicized several attempts to combat corruption, it remained a serious problem for citizens and businesses alike.

On March 5, NABU initiated an investigation into Ihor Hladkovskyy, the son of the former first deputy secretary of the National Security and Defense Council of Ukraine, for large-scale embezzlement. Hladkovskyy reportedly procured military equipment from Russia, which was then sold to Ukraine’s state-run defense enterprise, Ukroboronprom, at several times market rate. The scheme netted about 250 million hryvnias ($10.5 million). The investigation continued as of October.

On July 9, the Malynovsky District Court of Odesa acquitted Odesa mayor Hennadiy Trukhanov of embezzlement. The court moved quickly to hold hearings prior to the establishment of the HACC, experts maintained. The case was appealed and will be heard by the HACC.

Financial Disclosure: The law mandates the filing of income and expenditure declarations by public officials, and a special review process allows for public access to declarations and sets penalties for either not filing or filing a false declaration. By law the National Agency for the Prevention of Corruption (NAPC) is responsible for reviewing financial declarations, monitoring the income and expenditures of high-level officials, and checking party finances. Observers increasingly questioned, however, whether the NAPC had the capacity and independence to fulfill this function.

In October the NAPC reported that First Deputy Minister of Culture Svitlana Fomenko declared false information in her 2015 asset declaration. The amount of undeclared income totaled 1.4 million hryvnias ($59,000). Declaration information was transferred to the NABU.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases.

 Authorities in Russia-controlled areas in eastern Ukraine routinely denied access to domestic and international civil society organizations. If human rights groups
attempted to work in those areas, they faced significant harassment and intimidation (see section 2.b., Freedom of Association).

**Government Human Rights Bodies:** The constitution provides for a human rights ombudsman, officially designated as parliamentary commissioner on human rights.

In March 2018 parliament appointed Lyudmila Denisova parliamentary commissioner on human rights. The Office of the Parliamentary Commissioner on Human Rights cooperated with NGOs on various projects to monitor human rights practices in various institutions, including detention facilities, orphanages and boarding schools for children, and geriatric institutions. Denisova took a proactive stance advocating on behalf of political prisoners held by Russia as well as Crimean Tatars, Roma, IDPs, and persons with disabilities.

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

During the year the OHCHR and human rights groups documented fewer incidents of xenophobic societal violence and discrimination, compared with a spike in these incidents in 2018. Civil society groups remained concerned, however, about the lack of accountability for crimes committed by radical groups in cases documented in 2018. During the year members of such groups committed violent attacks on ethnic minorities (especially Roma), LGBTI persons, feminists, and other individuals they considered to be “un-Ukrainian” or “anti-Ukrainian.” The HRMMU noted that the failure of police and prosecutors to prevent these acts of violence, properly classify them as hate crimes, and effectively investigate and prosecute them created an environment of impunity and lack of justice for victims.

There were continued reports that the government provided grant funds to or cooperated with radical groups. For example, according to monitoring by independent investigative media outlet *Bellingcat*, during the year the Ministry of Youth and Sport awarded 845,000 hryvnias ($35,000) to groups--such as National Corps and C14 that have committed violence against minorities--to run “national-patriotic education projects” for children.

**Women**

*Rape and Domestic Violence:* The law prohibits rape of men or women. The penalty for rape is three to 15 years’ imprisonment. Sexual assault and rape continued to be significant problems.
On January 11, amendments to the criminal code increasing liability for sexual, domestic, and gender-based violence came into force. The amendments expanded the definition of rape and introduced stricter punishment for sexual coercion by up to three years of prison and forced abortion or sterilization by up to five years.

Domestic violence against women remained a serious problem. Spousal abuse was common. According to the Ministry of Internal Affairs, 761 cases of domestic violence were registered during the first nine months of the year. Police issued approximately 44,000 domestic violence warnings and protection orders during the first nine months of the year. Punishment included fines, emergency restraining orders of up to 10 days, ordinary restraining orders from one to six months, administrative arrest, and community service. Human rights groups noted that the ability of agencies to detect and report cases of domestic violence was limited. Human rights groups asserted that law enforcement often did not consider domestic violence to be a serious crime but rather a private matter to be settled between spouses, but they also noted that police were starting to take the problem more seriously.

According to press reports, in early March an intoxicated man stabbed his 25-year-old former wife in Podolsk. The woman managed to run to a hospital, despite being pursued by her former husband. Their seven-year-old daughter witnessed the crime. Odesa police found and detained the perpetrator two days later. He was charged with “intentional infliction of bodily harm.”

According to the NGO La Strada, the conflict in the Donbas region led to a surge in violence against women across the country. Human rights groups attributed the increase in violence to posttraumatic stress experienced by IDPs fleeing the conflict and by soldiers returning from combat. IDPs reported instances of rape and sexual abuse; many claimed to have fled areas controlled by Russia-led forces because they feared sexual abuse.

As of late September the government operated 24 shelters for victims of domestic violence and 21 centers for social and psychological aid across the country for victims of domestic violence and child abuse.

Sexual Harassment: While the law prohibits coercing a person to have sexual intercourse, legal experts stated that safeguards against harassment were inadequate. The law puts sexual harassment in the same category as discrimination and sets penalties ranging from a fine to three years in prison. Women’s rights groups reported continuing and widespread sexual harassment, including coerced
sex, in the workplace. Women rarely sought legal recourse because courts declined to hear their cases and rarely convicted perpetrators.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: While the law provides that women enjoy the same rights as men, women experienced discrimination in employment. According to the government commissioner on gender policy, women on average received 30 percent lower salaries than men. The Ministry of Health maintained a list of 50 occupations that remain prohibited for women.

Children

Birth Registration: Either birth in the country or to Ukrainian parents conveys citizenship. A child born to stateless parents residing permanently in the country is a citizen. The law requires that parents register a child within a month of birth, and failure to register sometimes resulted in denial of public services.

Registration of children born in Crimea or Russia-controlled areas in Donbas remained difficult. Authorities required hospital paperwork to register births. Russia-backed “authorities” routinely kept such paperwork if parents registered children in territories under their control, making it difficult for the child to obtain a Ukrainian birth certificate. In addition authorities did not recognize documents issued by Russian occupation authorities in Crimea or “authorities” in territories controlled by Russia-led forces. Persons living in Crimea and parts of Russia-controlled Donbas had to turn to Ukrainian courts with birth or death documents issued by occupational authorities in order to receive Ukrainian documents. The courts were obliged to make rulings in 24 hours; these decisions were then carried out by the registry office. Due to the lack of judges in local courts, Ukrainians living in regions occupied by Russia and Russia-led forces faced serious difficulty obtaining Ukrainian documents.

Child Abuse: Penalties for child abuse range from three years to life, depending on severity. The law criminalizes sexual relations between adults and persons younger than 16; violations are punishable by imprisonment of up to five years. A January 11 amendment to the criminal code qualifies sexual relations with a person younger than 14 as rape.
Human rights groups noted authorities lacked the capability to detect violence against children and refer victims for assistance. Preventive services remained underdeveloped. There were also instances of forced labor involving children (see section 7.c.).

Authorities did not take effective measures to protect children from abuse and violence and to prevent such problems. The ombudsman for human rights noted the imperfection of mechanisms to protect children who survived or witnessed violence, particularly violence committed by their parents. According to the law, parents were the legal representatives of their children, even if they perpetrated violence against them. There is no procedure for appointing a temporary legal representative for a child during the investigation of alleged parental violence.

According to press reports, on May 27, police officers in Zhytomyr Oblast, while visiting the home of local residents, learned that a child was missing. Police uncovered that a few months earlier, the stepfather had hit a child, who fell and died as a result. Both spouses then burnt the body. Authorities detained the parents detained on charges of first-degree murder and removed two other children from the family and placed them in a rehabilitation center.

**Early and Forced 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. Romani rights groups reported early marriages involving girls younger than 18 were common in the Romani community.

**Sexual Exploitation of Children:** The law prohibits the commercial sexual exploitation of children, the sale of children, offering or procuring a child for child prostitution, and practices related to child pornography. The minimum prison sentence for child rape is eight years. Molesting a child younger than 16 is punishable by imprisonment for up to five years. The same offense committed against a child younger than 14 is punishable by imprisonment for five to eight years. The age of consent is 16.

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 in 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, including for commercial sexual exploitation and the production of pornography. For example, on September 4, the Pechersk District Court in Kyiv authorized the arrest of a Kyiv resident who allegedly produced and disseminated pornography of his two children. An investigation was underway as of October.

Displaced Children: The majority of IDP children were from Donetsk and Luhansk Oblasts. According to the Ministry of Social Policy, authorities registered more than 240,000 children as IDPs. Human rights groups believed this number was low.

Institutionalized Children: The child welfare system continued to rely on long-term residential care for children at social risk or without parental care, although the number of residential-care institutions continued to drop. Government policies to address the abandonment of children reduced the number of children deprived of parental care. A government strategy for 2017-2026 calls for the transformation of the institutionalized child-care system into one that provides a family-based or family-like environment for children.

Human rights groups and media outlets reported unsafe, inhuman, and sometimes life-threatening conditions in some institutions. Officials of several state-run institutions and orphanages were allegedly complicit or willfully negligent in the sex and labor trafficking of girls and boys under their care.

On August 15, press outlets reported that 20 children between the ages of 10 and 17 from the Batiovo Orphanage in Zakarpattia Oblast reported physical violence and sexual abuse. Local police started an investigation.


Anti-Semitism

According to census data and international Jewish groups, an estimated 103,600 Jews lived in the country, constituting approximately 0.2 percent of the population. According to the Association of Jewish Organizations and Communities (VAAD), there were approximately 300,000 persons of Jewish ancestry in the country, although the number might be higher. Before the conflict in eastern Ukraine,
according to VAAD, approximately 30,000 Jews lived in the Donbas region. Jewish groups estimated that between 10,000 and 15,000 Jews lived in Crimea before Russia’s attempted annexation.

According to the National Minority Rights Monitoring Group (NMRMG), as in 2018, no cases of suspected anti-Semitic violence were recorded as of October 1. The last recorded anti-Semitic violence against individuals occurred in 2016. The NMRMG recorded approximately 10 cases of anti-Semitic vandalism as of October 1, compared with 11 incidents during the same period in 2018. According to the NMRMG, the drop in violence and anti-Semitic vandalism was due to better police work and prosecution of those committing anti-Semitic acts.

Graffiti swastikas continued to appear in Kyiv, Lviv, Poltava, and other cities. According to press reports, on September 15, perpetrators vandalized a memorial to more than 55,000 Jews murdered in Bohdanivka in Mykolaiv Oblast. Jewish organizations expressed concern about the continued existence of Krakivsky Market and new construction atop a historic Jewish cemetery in Lviv. There were several anti-Semitic incidents targeting the Babyn Yar memorial reported during the year.

In line with the country’s 2015 decommunization and denazification law, authorities continued to rename communist-era streets, bridges, and monuments. Some were renamed in honor of 20th century Ukrainian nationalists, some of whom were associated with anti-Semitism.

**Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [https://www.state.gov/trafficking-in-persons-report/](https://www.state.gov/trafficking-in-persons-report/).

**Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government did not effectively enforce these provisions. The law requires the government to provide access to public venues, health services, information, communications, transportation, and the judicial system and opportunities for involvement in public, educational, cultural, and sporting activities for persons with disabilities. The law also requires employers to take into account the individual needs of employees with disabilities. 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, education, health care, transportation, and financial services remained difficult (see section 7.d.).

Patients in mental-health facilities remained at risk of abuse, and many psychiatric hospitals continued to use outdated methods and treatments. According to February press reports, patients of a psychiatric institution in Bilopillia in Sumy Oblast complained about cruel and humiliating treatment by staff who allegedly beat and verbally abused them and left them naked for several days. The facility’s administration reportedly forced patients to work on the institution’s cattle farm. The local prosecutor’s office opened an investigation.

Law enforcement generally took appropriate measures to punish those responsible for violence and abuses against persons with disabilities.

By law employers must set aside 4 percent of employment opportunities for persons with disabilities. NGOs noted that many of those employed to satisfy the requirement received nominal salaries but did not actually perform work at their companies.

A law adopted in 2017 guaranteed every child with a disability the right to study at regular secondary schools. It called for the creation of inclusive groups in preschool facilities, secondary and vocational schools, and colleges. According to the president’s commissioner for the rights of children, 12,000 children with disabilities went to regular schools within the program of inclusive education.

Persons with disabilities in Russia-controlled areas in the east of the country suffered from a lack of appropriate care.

National/Racial/Ethnic Minorities

Mistreatment of members of minority groups and harassment of foreigners of non-Slavic appearance remained problematic. According to the Ethnic Minorities’ Rights Monitoring Group at the Congress of Ethnic Communities of Ukraine, as of October 1, the number of xenophobic incidents (attacks, vandalism, and “public expressions of xenophobia”) totaled 61, compared with 89 during the same period in 2018. Human rights organizations stated the requirement to prove actual intent, including proof of premeditation, to secure a conviction made it difficult to apply
the laws against offenses motivated by racial, national, or religious hatred. Police and prosecutors continued to prosecute racially motivated crimes under laws against hooliganism or related offenses.

There were reports of societal violence against Roma. For example, according to press reports, on October 24, an unknown assailant in Zaporizhzhia attacked Romani rights activist Anzhelika Belova with a knife. According to press reports, the attacker followed her home from a supermarket into her apartment building, where he stabbed her. Belova survived, and police arrested the alleged perpetrator. An investigation was under way.

There were reports of attacks on Romani settlements. In one such case, there was an arson attack on a Romani camp on the outskirts of Ivano-Frankivsk on March 25. Ten men dressed in black attacked the settlement and hurled Molotov cocktails at the camp. The ensuing fire damaged two homes. When police arrived, Romani residents refused to file a complaint.

There were multiple reports that members of some radical groups disrupted gatherings related to the rights of Roma. In one example, human rights groups reported that on May 27, a man carrying an ax, two knives, and other weapons attempted to disrupt a briefing of human rights activists about violence against members of the Romani community. He broke into the room and started verbally insulting Romani individuals present. When a press center guard intervened, he threatened those present with two knives and pepper spray. Police responded and removed the perpetrator.

Human rights activists were concerned about the lack of accountability in cases of attacks on Roma documented in 2018. For example, on August 14, a Lviv district court found two high school students guilty of hooliganism for participating in an attack on a Romani camp that resulted in the killing of a man in June 2018. The court sentenced them to four-and-a-half years of prison. The court did not consider racial motivations or hate crime provisions.

In April the Kyiv Oblast Prosecutor’s Office appealed a November 2018 decision of the Holosiivsky District Court in Kyiv dropped charges against C14 leader Serhiy Mazur, the alleged perpetrator in another violent attack against a Romani settlement in Kyiv in April 2018. Court hearings have been postponed six times. Human rights NGOs voiced concerns that impunity for past attacks fueled more violence.
Roma continued to face governmental and societal discrimination and significant barriers accessing education, health care, social services, and employment. According to Council of Europe experts, 60 percent of Roma were unemployed, 40 percent had no documents, and only 1 percent had a university degree. According to the Romani women’s foundation, Chirikli, local authorities erected a number of barriers to prevent issuing national identification documents to Roma. Authorities hampered access to education for persons who lacked documents and segregated Romani children into special schools or lower-quality classrooms.

During the year many Roma fled settlements in areas controlled by Russia-led forces and moved elsewhere in the country. According to Chirikli, approximately 10,000 Roma were among the most vulnerable members of the country’s IDP population. Because many Roma lacked documents, obtaining IDP assistance, medical care, and education was especially difficult.

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

There were reports that police used laws on human trafficking or prostitution as a pretext to target LGBTI persons. For example, on April 20, police in Dnipro raided a gay nightclub. According to the LGBTI rights organization Nash Mir, at around 1 a.m., 20 to 25 police officers burst into the nightclub, forced all those present to lie down on the floor for three hours, and seized all mobile phones and the club’s equipment. Officers reportedly behaved in an aggressive and homophobic way, expressed insults, made jokes related to sexual orientation, and forced two foreigners, who were in the club, to sing loudly the anthem of Ukraine. While the purported grounds for the raid were the prevention of human trafficking, the published police report about the raid contained no evidence of human trafficking but claimed that the club’s owners took money from patrons in exchange for “creating the conditions for disorderly sexual intercourse.” Nash Mir called the police actions “obviously homophobic and illegal.”

There was societal violence against LGBTI persons often perpetrated by members of violent radical groups, and authorities often did not adequately investigate these cases or hold perpetrators to account. The HRMMU noted that attacks against members of the LGBTI community and other minorities were rarely classified under criminal provisions pertaining to hate crimes, which carried heavier penalties. Crimes and discrimination against LGBTI persons remained underreported. For example, according to press reports, on June 23, four unknown
men beat two participants in the Kyiv Pride March who were heading home after the event, spraying them with pepper spray, kicking them, and insulting them.

According to the Nash Mir, radical groups consistently tried to disrupt LGBTI events with violence or threats of violence. For example, on April 11, members of radical groups Tradition and Order and Katechon attacked participants of the European Lesbian Conference in Kyiv. Perpetrators broke into the premises and sprayed tear gas, injuring 10 persons. Police intervened and detained the attackers; the attackers were subsequently released, and no charges were filed.

Although leading politicians and ministers condemned attacks on LGBTI gatherings and individuals, officials sometimes made public statements that were homophobic or that called for violence against LGBTI persons. For example, Sumy deputy mayor Maksym Halytsky posted on a social network a picture of a concentration camp with the caption “before long the so-called prides will look like this.” The Prosecutor General’s Office initiated criminal proceedings on charges of “deliberate actions to incite national, racial, or religious hatred, to humiliate national honor and dignity, or to offend the feelings of citizens in the light of their beliefs.”

The labor code prohibits workplace discrimination on the basis of sexual orientation or gender identity. No law, however, prohibits such discrimination in other areas, and discrimination was reportedly widespread in employment, housing, education, and other sectors.

Transgender persons reported difficulties obtaining official documents reflecting their gender identity, which resulted in discrimination in health care, education, and other areas.

During the year the HRMMU reported that in the Russia-controlled parts of Donetsk and Luhansk Oblasts, social stigma and intolerance based on sexual orientation and gender identity have become more acute, reportedly due to the application of laws criminalizing the “propaganda of same-sex relationships.”

**HIV and AIDS Social Stigma**

Stigma and discrimination in health-care centers were barriers to HIV-positive individuals’ receiving medical services. UNICEF reported that children with HIV/AIDS were at high risk of abandonment, social stigma, and discrimination. Authorities prevented many children infected with HIV/AIDS from attending
kindergartens or schools. Persons with HIV/AIDS faced discrimination in housing and employment.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The constitution provides for freedom of association as a fundamental right and establishes the right to participate in independent trade unions. The law provides the right for most workers to form and join independent unions, to bargain collectively, and to conduct legal strikes. There are no laws or legal mechanisms to prevent antiunion discrimination, although the labor code 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 observers describe court enforcement as arbitrary and unpredictable, with damages too low to create incentives for compliance on the part of employers.

The law contains several limits to freedom of association and the right to collective bargaining. A number of laws that apply to worker organizations are excessively complex and contradictory. For example, the status of trade unions under two laws provides they are considered legal entities only after state registration. Under another law, however, a trade union is considered a legal entity upon adoption of its statute. The inherent conflict between these laws creates obstacles for workers seeking to form trade unions. Unions also reported significant bureaucratic hurdles in the registration process, including the payment of notary fees and requirements to visit as many as 10 different offices. Moreover, independent unions have reported multiple incidents of harassment by local law enforcement officials while navigating the registration process, including atypical and irregular requests for documentation and membership information.

The legal procedure to initiate a strike is complex and severely hinders strike action, artificially lowering the numbers of informal industrial actions. The legal process for industrial disputes requires consideration, conciliation, and labor arbitration allowing involved parties to draw out the process for months. Only after completion of this process can workers vote to strike, a decision that courts may still block. The right to strike is further restricted by the requirement that a large percentage of the workforce (two-thirds of general workers’ meeting delegates or 50 percent of workers in an enterprise) must vote in favor of a strike before it may be called. The government is allowed to deny workers the right to
strike on national security grounds or to protect the health or “rights and liberties” of citizens. The law prohibits strikes by broad categories of workers, including personnel in the Office of the Prosecutor General, the judiciary, the armed forces, the security services, law enforcement agencies, the transportation sector, and the public-service sector.

Legal hurdles make it difficult for independent unions that are not affiliated with the Federation of Trade Unions of Ukraine (FPU) to take part in tripartite negotiations, participate in social insurance programs, or represent labor at the national and international levels. The legal hurdles resulting from an obsolete labor code hindered the ability of smaller independent unions to represent their members effectively. Authorities did not enforce labor laws effectively or consistently.

Worker rights advocates continued to express concerns about the independence of unions from government or employer control. Independent trade unions alleged that the country’s largest trade union confederation, the FPU, enjoyed a close relationship with employers and members of some political parties. Authorities further denied unions not affiliated with the FPU a share of disputed trade union assets inherited by the FPU from Soviet-era unions, a dispute dating back more than two decades.

Independent union representatives continued to be the subjects of violence and intimidation and reported that local law enforcement officials frequently ignored or facilitated violations of their rights. Worker advocates reported an increase in retaliation against trade union members involved in anticorruption activities at their workplaces.

**b. Prohibition of Forced or Compulsory Labor**

The law prohibits most forms of forced or compulsory labor. Penalties for violations were sufficiently stringent to deter violations, but resources, inspections, and remediation were inadequate to enforce the law sufficiently.

During the year the IOM responded to numerous instances of compulsory labor, to include pornography, criminal activity, labor exploitation, begging, and sexual and other forms of exploitation. IOM Ukraine reported it assisted six children (four female and two male), three of whom were subjected to forced labor or begging. Annual reports on government action to prevent the use of forced labor in public procurement indicated that the government has not taken action to investigate its
own supply chains for evidence of modern slavery. Traffickers subjected some children to forced labor (see section 7.c.).

According to the IOM, identified victims of trafficking received comprehensive reintegration assistance, including legal aid, medical care, psychological counseling, financial support, vocational training, and other types of assistance based on individual needs. Observers reported, however, that the provision of assistance was problematic due to funding shortfalls and high turnover of trained staff. The government continued to rely on international organizations and NGOs with international donor funding to identify victims and provide the vast majority of victim protection and assistance.

Also see the Department of State’s Trafficking in Persons Report at https://www.state.gov/trafficking-in-persons-report/.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for most employment is 16, but children who are 14 may perform undefined “light work” with a parent’s consent. While the law prohibits the worst forms of child labor, it does not always provide inspectors sufficient authority to conduct inspections.

From January to October, the State Service on Labor conducted 2,516 inspections to investigate compliance with child labor laws. The inspections identified 41 organizations engaged in child labor activities. Of these, 14 were in the service sector, five in the industrial sector, five in the agricultural sector, and 17 in other areas. The inspections uncovered 57 cases of undeclared labor and 15 minors receiving undeclared wages. Increased child labor in amber mining was a growing problem, according to reports by international labor groups.

The most frequent violations of child labor laws concerned work under hazardous conditions, long workdays, failure to maintain accurate work records, and delayed salary payments. The government established institutional mechanisms for the enforcement of laws and regulations on child labor. The limited collection of penalties imposed for child labor violations, however, impeded the enforcement of child labor laws.

Penalties for violations of the child labor laws were insufficient to deter violations.
Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at [https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings](https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings) and the Department of Labor’s *List of Goods Produced by Child Labor or Forced Labor* at [https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods](https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods).

d. Discrimination with Respect to Employment and Occupation

The labor code prohibits workplace discrimination on the basis of race, color, political, religious and other beliefs, sex, gender identity, sexual orientation, ethnic, social, and foreign origin, age, health, disability, HIV/AIDS condition, family and property status, or linguistic or other grounds.

The government did not effectively enforce the law, and employment discrimination reportedly occurred with respect to gender, disability, nationality, race, minority status, sexual orientation or gender identity, and HIV-positive status. The agriculture, construction, mining, heavy industry, and services sectors had the most work-related discrimination. The law provides for civil, administrative, and criminal liability for discrimination in the workplace. Penalties were not sufficient to deter violations.

Women received lower salaries due to limited opportunities for advancement and the types of industries that employed them. According to the State Statistics Office, men earned on average 23 percent more than women. The gap was not caused by direct discrimination in the setting of wages, but by horizontal and vertical stratification of the labor market: Women were more likely to work in lower-paid sectors of the economy and in lower positions. Women held fewer elected or appointed offices at the national and regional levels. In July government research on women and men in the energy sector was presented to identify possible ways to resolve the problem of gender imbalance in the sector. The research reflected data from 2018 and early 2019 and indicated that, even though the share of women in the sector was gradually growing, women still constituted only 25 to 27 percent of the national oil and gas industry workforce.

e. Acceptable Conditions of Work

The country’s annual budget establishes a government-mandated national minimum wage, which is above the poverty level. Some shadow employees received wages below the established minimum.
The labor law provides for a maximum 40-hour workweek, with a minimum 42-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 agreement between employers and local trade union organization on overtime work and limits overtime to four hours during two consecutive days and 120 hours per year.

The law requires employers to provide workplace safety standards. Employers must meet occupational safety and health standards, but at times they ignored these regulations due to the lack of enforcement or strict imposition of penalties. The law provides workers the right to remove themselves from dangerous working conditions without jeopardizing their continued employment. Employers in the metal and mining industries often violated the rule and retaliated against workers by pressuring them to quit.

Wage arrears continued to be a major problem. A lack of legal remedies, bureaucratic wrangling, and corruption in public and private enterprises, blocked efforts to recover overdue wages, leading to significant wage theft. Total wage arrears in the country fell during the year through September 1 to 2.8 billion hryvnias ($118 million) from 3.6 billion hryvnia ($152 million) in September 2018. The majority of wage arrears occurred in Luhansk and Donetsk Oblasts. The Independent Trade Union of Miners of Ukraine reported that arrears in the coal sector had reached almost 1.3 billion hryvnias ($55 million) in September, compared with arrears of 930 million hryvnias ($39 million) in September 2018. Arrears and corruption problems exacerbated industrial relations and led to numerous protests.

On September 11, the government adopted Resolution No. 838 On issues of the Ministry of Economy, Trade, and Agriculture. This resolution changed the labor-related authorities of the Ministry of Social Policy and transferred responsibility for employment, labor, and labor migration to the Ministry of Economic Trade, Development, and Agriculture. Moreover, the State Labor Service (Labor Inspectorate) has also been transferred to the Ministry of Economic Trade, Development, and Agriculture.

The government did not always effectively enforce labor law. In 2017 the government adopted a new procedure for state control and supervision of labor law compliance that introduces new forms and rules for oversight of labor law compliance, extends the powers of labor inspectors, amends the procedure for imposing fines for violation of labor law requirements, and introduces specific
forms for exercise of control by labor inspectors, namely, inspection visits and remote inspections. The labor inspectorate, however, lacked sufficient funding, technical capacity, and professional staffing to conduct independent inspections effectively.

Labor inspectors may assess compliance based on leads or other information regarding possible unreported employment from public sources. This includes information the service learns concerning potential violations from other state agencies. For example, when tax authorities discover a disparity between a company’s workforce and its production volumes as compared with average data for the industry, they may refer the case to labor authorities who will determine compliance with labor laws.

While performing inspection visits to check potential unreported employment, labor inspectors may enter any workplace without prior notice at any hour of day or night. The law also allows labor inspectors to hold an employer liable for certain types of violations (e.g., unreported employment), empowering them to issue an order to cease the restricted activity. Labor inspectors may also visit an employer to monitor labor law compliance and inform the company and its employees about labor rights and best practices.

In May a court overturned the inspection decree because it found that the Cabinet of Ministers had adopted it in violation of the procedure. The government thereafter adopted a new decree, which once again allowed labor inspectors to carry out labor inspections without notice.

On August 30, Regulation No. 823 of the Cabinet of Ministers (dated August 21, 2019) became effective and brought into force the new Procedure for Exercising State Control over Compliance with Labor Legislation. The procedure expands the list of possible grounds for labor inspections conducted by the State Labor Service, its territorial bodies, and municipalities. It also allows the labor inspector not to report on the inspection visit if there is a suspicion of undeclared work. When inspectors find cases of labor violations, they are authorized to hold the perpetrator liable if there is clear evidence of labor inspection violations.

In September 2018 the Cabinet of Ministers approved a regulation that increased regulatory oversight to monitor and counter “shadow” employment in the informal economy, the widespread practice of paying for labor without an existing employment contract. The regulation compels the State Labor Service, the State Tax Service, the State Pension Fund, and the National Police to review their
internal regulations to introduce stricter control measures to combat shadow employment. Agencies are also required to conduct public awareness campaigns to inform employers of the new procedures.

Penalties for violations of workplace safety standards were insufficient to deter violations. The State Labor Inspectorate was responsible for enforcing labor laws. Inspectors were limited in number, funding, and authority to enforce existing regulations. The absence of a coordination mechanism with other government bodies was also significant.

Mineworkers, particularly in the illegal mining sector, faced serious safety and health problems. Operational safety problems and health complaints were common. Lax safety standards and aging equipment caused many injuries on the job.

During the first six months of the year, authorities reported 1,943 individual injuries, including 207 fatalities; 352 injuries to coal miners, including 11 fatalities; 238 injuries in the agro-industrial sector, including 33 fatalities; and 149 injuries in engineering, including nine fatalities.

Despite active fighting close to industrial areas in the government-controlled areas of the Donbas region, enterprises involved in mining, energy, media, retail, clay production, and transportation continued to operate. Fighting resulted in damage to mines and plants through loss of electricity, destroyed transformers, physical damage from shelling, and alleged intentional flooding of mines by combined Russia-led forces. Miners were especially vulnerable, as loss of electrical power could strand them underground. The loss of electrical power also threatened the operability of mine safety equipment that prevented the buildup of explosive gases.

CRIMEA

In February 2014 Russian forces entered Ukraine’s Crimean Peninsula and occupied it militarily. In March 2014 Russia announced the peninsula had become part of the Russian Federation following a sham referendum that violated Ukraine’s constitution. The UN General Assembly’s Resolution 68/262 on the “Territorial Integrity of Ukraine” of March 27, 2014, and Resolution 74/168 on the “Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol (Ukraine)” of December 9, 2019, called on states and international organizations not to recognize any change in Crimea’s status and affirmed the commitment of the United Nations to recognize Crimea as part of
Ukraine. In April 2014 Ukraine’s legislature (Verkhovna Rada) adopted a law attributing responsibility for human rights violations in Crimea to the Russian Federation as the occupying state. The United States does not recognize the attempted “annexation” of Crimea by the Russian Federation. Russian law has been applied in Ukraine’s Crimea since the Russian occupation and purported “annexation” of the peninsula. For detailed information on the laws and practices of the Russian Federation, see the Country Reports on Human Rights for Russia.

EXECUTIVE SUMMARY

A local occupation authority installed by the Russian government and led by Sergey Aksyonov as “prime minister” of the “state council of the republic of Crimea” administers occupied Crimea. The “state council” is responsible for day-to-day administration and other functions of governing. In 2016 Russia’s nationwide parliamentary elections included seats allocated for purportedly annexed Crimea, a move widely condemned by the international community and that contravened the Ukrainian constitution.

Russian government agencies, including the Ministry of Internal Affairs, the Federal Security Service (FSB), the Federal Investigative Committee, and the Office of the Prosecutor General applied and enforced Russian law in Crimea as if it were a part of the Russian Federation. The FSB also conducted security, counterintelligence, and counterterrorism activities and combatted organized crime and corruption. A “national police force” operated under the aegis of the Russian Ministry of Internal Affairs. Russian authorities maintained control over Russian military and security forces deployed in Crimea.

Significant human rights issues included: disappearances; torture, including punitive psychiatric incarceration; mistreatment of persons in detention as punishment or to extort confessions; harsh prison conditions and transfer of prisoners to Russia; arbitrary arrest and detention; political prisoners; pervasive and arbitrary interference with privacy; severe restrictions on free expression, the press, and the internet, including violence against journalists and website blocking; gross and widespread suppression of freedom of assembly and religion; severe restriction of freedom of association, including barring the Crimean Tatar Mejlis; significant restrictions on freedom of movement; restrictions on political participation; systemic corruption; and violence and systemic discrimination against Crimean Tatars and ethnic Ukrainians.
Occupation authorities took few steps to investigate or prosecute officials or individuals who committed human rights abuses, creating an atmosphere of impunity and lawlessness.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were several reports of killings of Crimean Tatars by unknown individuals. At least four missing Crimean Tatars were found dead during the year; there were no reported investigations nor indications that occupation authorities took action to apprehend perpetrators. For example, on April 22, Rashid Yagyaev went missing. On July 9, his body washed up on the shore of the Black Sea near the village of Nikolayevka with a weight tied to his neck. No arrests had been made in the case by year’s end.

Occupation authorities did not adequately investigate killings of Crimean residents from 2014 and 2015. According to the Ukrainian Ministry of Foreign Affairs, 12 Crimean residents who had disappeared during the occupation were later found dead. Occupation authorities did not investigate other suspicious deaths and disappearances, occasionally categorizing them as suicide. Human rights observers reported that families frequently did not challenge findings in such cases due to fear of retaliation.

b. Disappearance

There were reports of abductions and disappearances by occupation authorities. For example, according to press reports, the FSB arrested Crimean Tatar Edem Yayachikov during mass raids on Crimean Tatar homes that took place on March 27 (see section 1.d.); as of November his whereabouts were still unknown. Relatives filed a missing-person’s report, which was reportedly under investigation, and human rights defenders sought to find him in the detention facilities holding others arrested that day, but they were unable to establish his whereabouts.

According to an August special report by the UN secretary-general, citing data from the HRMMU, from 2014 to June 30, some 42 persons were victims of enforced disappearances. Occupation authorities did not adequately investigate the deaths and disappearances. Human rights groups reported that police often refused
to register reports of disappearances and intimidated and threatened with detention those who tried to report disappearances. Ukrainian government and human rights groups believed Russian security forces kidnapped the individuals for opposing Russia’s occupation to instill fear in the population and prevent dissent.

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

There were widespread reports occupation authorities in Crimea tortured and otherwise abused residents who opposed the occupation. Human rights monitors reported that Russian occupying forces subjected Crimean Tatars and ethnic Ukrainians in particular to physical abuse. For example, on April 17, FSB agents detained Crimean Tatar activist Raim Aivazov when he attempted to cross the administrative line from Crimea into government-controlled Ukraine. According to his lawyer, FSB officers beat him, put him in a car, and took him to a nearby forest, carried out a mock execution by shooting several times next to his head. Aivazov was charged with terrorism and remained in pretrial detention in Simferopol as of October. Observers believed the charges to be baseless.

Occupation authorities demonstrated a pattern of using punitive psychiatric incarceration as a means of pressuring detained individuals. For example, according to press reports, on July 25, Arsen Abkhairov, Eskender Abdulganiev and Rustem Emiruseinov, who were on trial for allegedly belonging to the Islamic organization Hizb ut-Tahrir, which is banned in Russia as a terrorist group but legal in Ukraine, were transported to a Simferopol hospital for a forced psychiatric evaluation. Their lawyer viewed the authorities’ move as an attempt to break his clients’ will and intimidate them.

According to the Crimean Human Rights Group, as of early October, approximately 30 Crimean Tatar defendants had been subjected to psychiatric evaluation and confinement against their will without apparent medical need since the beginning of the occupation (see section 1.d.).

Human rights monitors reported that occupation authorities also threatened individuals with violence or imprisonment if they did not testify in court against individuals whom authorities believed were opposed to the occupation.

There were reports of attacks on opponents of the occupation by unknown individuals. For example, on January 2, according to the Kharkiv Human Rights Protection Group, two unknown assailants attacked Crimean Tatar activist Risa
Asanov, known for his support of Crimean Tatar political prisoners, while he was filming for a documentary. He was hit in the head with a baton. When he regained consciousness, the two men told him that this was his “last warning” and “next time you’ll die.” Doctors diagnosed a concussion and other injuries. He reported the attack to police but claimed he received no confirmation of his report.

Prison and Detention Center Conditions

Prison and detention center conditions reportedly remained harsh and life threatening due to overcrowding and poor conditions.

Physical Conditions: The HRMMU reported inhuman conditions in official places of detention in Crimea. According to the August special report by the UN secretary-general, the Simferopol pretrial detention facility was heavily overcrowded; its maximum capacity was 747, but the average number of prisoners has reached more than 1,300 during the past few years. Overcrowding forced prisoners to sleep in shifts in order to share beds. According to the Crimean Human Rights Group, detainees held in the Simferopol pretrial detention center complained about poor sanitary conditions, broken toilets, and insufficient heating. Detainees diagnosed with HIV, as well as tuberculosis, and other communicable diseases were kept in a single cell.

There were reports that detainees were denied medical treatment, even for serious health conditions. According to the August UN secretary-general’s special report, “prison officials are alleged to have either ignored the health needs of detainees or not provided effective medical assistance.” For example, according to Human Rights Watch, Edem Bekirov, a 58-year-old Crimean Tatar with an amputated leg, diabetes, and a serious heart condition, and in detention at the Simferopol pretrial detention facility since December 2018, received improper treatment for diabetes, was denied essential heart surgery, and was not provided essential medical supplies to care for an unhealed wound. On June 11, the European Court of Human Rights ruled that he be urgently hospitalized for examination and treatment, but occupation authorities refused to do so, claiming that they could not verify the facts in the court’s ruling nor the authenticity of the ruling itself. He was transferred to a hospital on August 27, after his condition worsened, and was released to mainland Ukraine on September 7 as one of the subjects of a “prisoner exchange” between Ukraine and Russia.

According to the Crimean Human Rights Group, as of September 1, 61 Crimean prisoners have been transferred to the Russian Federation since the occupation
began in 2014. One factor in the transfers was the lack of specialized penitentiary facilities in Crimea, requiring the transfer of juveniles, persons sentenced to life imprisonment, and prisoners suffering from serious physical and mental illnesses.

According to the August UN secretary-general’s special report, prisoners considered Russian citizens by the Russian Federation were denied Ukrainian consular visits, and some Crimeans were transferred to prison facilities in Russia without Ukrainian passports.

There were reports of prisoner-on-prisoner violence. For example, according to the Crimean Human Rights Group, on May 15, occupation authorities reported a prisoner had been injured in the Simferopol pretrial detention center and later died at a hospital. Authorities claimed the prisoner was attacked by his cellmate.

Prison authorities reportedly retaliated against detainees who refused Russian Federation citizenship by placing them in smaller cells or in solitary confinement.

Independent Monitoring: Occupation authorities did not permit monitoring of prison or detention center conditions by independent nongovernmental observers or international organizations. Occupation authorities permitted the “human rights ombudsman,” Lyudmila Lubina, to visit prisoners, but human rights activists regarded Lubina as representing the interests of occupation authorities and not an independent actor.

d. Arbitrary Arrest or Detention

Arrest Procedures and Treatment of Detainees

See the Country Reports on Human Rights for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Arbitrary Arrest: Arbitrary arrests continued to occur, which observers believed were a means of instilling fear, stifling opposition, and inflicting punishment on those who opposed the occupation. Security forces regularly conducted raids on Crimean Tatar villages, accompanied by detentions, interrogations, and often criminal charges. The Crimean Resource Center recorded 69 detentions and 97 interrogations that were politically motivated as of June.
The HRMMU noted that justifications underpinning the arrests of alleged members of “terrorist” or “extremist” groups often provided little evidence that the suspect posed an actual threat to society by planning or undertaking concrete actions.

The HRMMU noted the prevalence of members of the Crimean Tatar community among those apprehended during police raids. According to the Crimean Tatar Resource Center, of the 69 individuals detained between January and June, 57 were Crimean Tatars. The HRMMU noted raids were often carried out on the pretext of purported need to seize materials linking suspects to groups which are banned in the Russian Federation, but which are lawful in Ukraine.

For example, according to the HRMMU, on March 27, the FSB raided 25 houses of Crimean Tatars in the city of Simferopol as well as villages in the Bilohirsky and Krasnohvardiysky districts. Security forces targeted the houses of activists belonging to the Crimean Solidarity movement, a human rights organization that provides the relatives and lawyers of political prisoners with legal, financial, and moral support, 20 individuals were arrested during the raid, but one man disappeared immediately following arrest (see section 1.b.). According to human rights groups, security forces had no warrant for the raid and denied detained individuals access to lawyers. The following day FSB agents searched every house in the village of Strohanivka seeking, unsuccessfully, four Crimean Tatars who were not at their own homes during the searches the previous day. Occupation officials cordoned off the village and set up checkpoints to examine all vehicles. On March 28, three of the men were detained in Rostov-on-Don in Russia. Of the 24 men arrested over March 27-28, five were charged with organizing the activities of a terrorist organization (Hizb ut-Tahrir, which is legal in Ukraine), which carries a sentence of up to life in prison. The rest were charged with participating in the activities of a terrorist organization, which carries a sentence of up to 20 years in prison. On March 30, all of the men were transferred to Russia for pretrial detention, where they remained as of October.

Jehovah’s Witnesses were also targeted during the year for raids and arbitrary arrests. For example, on March 20 occupation authorities raided the homes of Jehovah’s Witnesses in Yalta and Alupka and detained six members of the group, which is banned in Russia as an extremist organization, for questioning.

Detainees were often denied access to a lawyer during interrogation. For example, on May 30, occupation authorities from the “ministry of interior’s” “center for combating extremism” detained two Crimean Tatar female activists--Mumine Salieva, the wife of a political prisoner and a participant in the Crimean Solidarity
According to the Crimean Human Rights Group, the activists were interrogated for several hours, while authorities refused to inform their lawyers where they were detained or grant them access to their clients. Both women were charged with propaganda for public display of “extremist symbols.” A court fined them 1,000 Russian rubles ($15) and 2,000 Russian rubles ($30) respectively.

### e. Denial of Fair Public Trial

Under the Russian occupation regime, the “judiciary” was neither independent nor impartial. Judges, prosecutors, and defense attorneys were subject to political directives from occupation authorities, and the outcomes of trials appeared predetermined by government interference. The HRMMU noted that lawyers defending individuals accused of extremism or terrorism risked facing similar charges themselves. The HRMMU cited longstanding pressure on human rights lawyer Emil Kurbedinov, who was arrested in December 2018 and sentenced to eight days in prison for a social media post, made before the occupation began, that purportedly contained “extremist symbols.” Following the conviction, the occupation authorities’ “ministry of justice” filed a complaint in January with the Crimean “bar chamber,” seeking his disbarment. As of November he had not been disbarred.

#### Trial Procedures

Defendants in politically motivated cases were increasingly transferred to the Russian Federation for trial. See the *Country Reports on Human Rights* for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Occupation authorities interfered with defendants’ ability to access an attorney. According to the August UN secretary-general’s special report, defendants facing terrorism or extremism-related charges were often pressured into dismissing their privately hired lawyers in exchange for promised leniency.

#### Political Prisoners and Detainees

According to the Crimean Human Rights Group, as of August, 93 Crimeans were being deprived of freedom in occupied Crimea or in Russia on political or religious charges, 66 of whom were Crimean Tatar Muslims prosecuted on terrorism charges.
Charges of extremism, terrorism, or violation of territorial integrity were particularly applied to opponents of the occupation, such as Crimean Tatars, independent journalists, and individuals expressing dissent on social media.

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

See the Country Reports on Human Rights for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Occupation authorities and others engaged in electronic surveillance, entered residences and other premises without warrants, and harassed relatives and neighbors of perceived opposition figures.

Occupation authorities routinely conducted raids on homes to intimidate the local population, particularly Crimean Tatars and ethnic Ukrainians, ostensibly on the grounds of searching for weapons, drugs, or “extremist literature.” According to the Crimean Tatar Resource Center, occupation authorities conducted 73 searches between January and June, 55 of which were in the households of Crimean Tatars.

Human rights groups reported that Russian authorities had widespread authority to tap telephones and read electronic communications and had established a network of informants to report on suspicious activities. Authorities reportedly encouraged state employees to inform on their colleagues who might oppose the occupation. According to human rights advocates, eavesdropping and visits by security personnel created an environment in which persons were afraid to voice any opinion contrary to the occupation authorities, even in private.

On October 11, the SBU reported that the FSB was pressuring Crimeans working at local internet service providers to provide the FSB with information about internet users suspected of having pro-Ukrainian views. The FSB reportedly demanded the service providers’ employees gather and turn over personal data, information about social media use, and well as other private information on certain users.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press
See the *Country Reports on Human Rights* for Russia for a description of the relevant Russian laws and procedures the Russian government applied and enforced in occupied Crimea.

Occupation authorities significantly restricted freedom of expression and subjected dissenting voices including the press to harassment and prosecution.

**Freedom of Expression:** The HRMMU noted occupation authorities placed “excessive limitations on the freedoms of opinion and expression.” Individuals could not publicly criticize the Russian occupation without fear of reprisal. Human rights groups reported the FSB engaged in widespread surveillance of social media, telephones, and electronic communication and routinely summoned individuals for “discussions” for voicing or posting opposition to the occupation.

Occupation authorities often deemed expressions of dissent “extremism” and prosecuted individuals for them. For example, according to press reports, on June 10, the Sevastopol “district court” sentenced the head of the Sevastopol Worker’s Union, Valeriy Bolshakov, to two years and six months of suspended imprisonment for “public calls to extremist activities” for his criticism of occupation authorities on social networks. Bolshakov called to replace the “Putin regime” with a “dictatorship of the proletariat.”

Occupation authorities harassed and fined individuals for the display of Ukrainian or Crimean Tatar symbols, which were banned as “extremist.” For example, according to NGO reporting, on June 26, the Saky “district court” fined local resident Oleg Prykhodko for “public demonstration of paraphernalia or symbols of extremist organizations.” Prykhodko had displayed Ukrainian and Crimean Tatar flags on his car. On October 9, authorities arrested Prykhodko during a raid on his home, where they purportedly “found” explosives in his garage, which human rights defenders maintained were planted there. On October 28, authorities charged Prykhodko with terrorism and possession of explosives.

Occupation authorities deemed expressions of support for Ukrainian sovereignty over the peninsula to be equivalent to undermining Russian territorial integrity. For example, according to the Crimean Human Rights Group, on January 29, occupation authorities charged Crimean Tatar Mejlis member Iskander Bariyev with calling for the violation of the territorial integrity of the Russian Federation, in connection with a December 2018 Facebook post in which he called for the
“liberation” of Crimea from Russian occupation and criticized repression taking place on the peninsula.

There were multiple reports that occupation authorities detained and prosecuted individuals seeking to film raids on homes or court proceedings. For example, according to press reports, on March 27, a Simferopol court sentenced Crimean Tatar activist Iskender Mamutov to five days in prison for “minor hooliganism” because he filmed security services as they raided Crimean Tatar homes.

During the year occupation authorities prosecuted individuals for the content of social media posts written before Russia began its occupation of Crimea. For example, on July 2, police detained a resident of the town of Sudak, Seyar Emirov, for a video posted on a social network in 2013. The video was of a local meeting of Hizb ut-Tahrir, which is legal in Ukraine. The local occupation “court” fined him 1,500 rubles ($23) for “production of extremist material.”

There were reports that authorities prosecuted individuals for their appearance in social media posts that they did not author. For example, according to the Crimean Human Rights Group, on May 31, a court in Simferopol fined Crimean Tatar activist Luftiye Zudiyeva 2,000 rubles ($30) for being tagged in social media posts in 2014 authored by another person, which authorities alleged also contained banned symbols.

Press and Media, Including Online Media: Independent print and broadcast media could not operate freely. Most independent media outlets were forced to close in 2015 after occupation authorities refused to register them. According to the Crimean Human Rights Group, after the occupation began, many local journalists left Crimea or abandoned their profession. With no independent media outlets left in Crimea and professional journalists facing serious risks for reporting from the peninsula, civic activists were a major source of information on developments in Crimea.

Violence and Harassment: There were numerous cases of security forces or police harassing activists and detaining journalists in connection with their civic or professional activities. For example, during the year security forces reportedly harassed, abused, and arrested journalist Yevgeniy Haivoronskiy. Haivoronskiy initially supported the Russian occupation, but in recent years came to oppose it, a position he expressed publicly. On March 6, police raided Haivoronskiy’s home and seized computers and documents. On March 22, the newspaper that published his articles, Primechania, announced it would no longer carry his work due to his
On March 26, Haivoronskiy was arrested several hours after he gave an interview criticizing occupation authorities and calling for control of the peninsula to be returned to Ukraine. Police alleged he had been using drugs, and a judge sentenced him to 12 days in jail and to undergo drug treatment. Haivoronskiy denied he used drugs and maintained the charge was an effort to frame him in retaliation for his political views. On May 7, a court sentenced him to a further 10 days in jail for refusing a medical examination during the March prison stay. On October 22, police detained Haivoronskiy, reportedly beating him and slamming his head into the side of a police car during detention. The same day a court sentenced him to 15 additional days in jail for failing to complete the drug treatment program ordered by the court in March. On December 31, Russian occupation authorities forcibly removed Haivoronskiy from Crimea to mainland Ukraine.

Censorship or Content Restrictions: Following Russia’s occupation of Crimea, journalists resorted to self-censorship to continue reporting and broadcasting. The August UN secretary-general’s special report stated, “In order to avoid repercussions for independent journalistic work, [journalists] frequently self-censored, used pseudonyms and filtered their content prior to publication. Ukrainian journalists, as well as public figures who are perceived as critics of Crimea’s occupation, have faced entry bans issued by FSB and were unable to access Crimea to conduct their professional activities.”

There were reports occupation authorities sought to restrict access to or remove internet content about Crimea they disliked. For example, on February 5, YouTube informed the Crimea-focused website The Center for Journalistic Research, which operated in mainland Ukraine, that it had received a notification from Russian censorship authorities (Roskomnadzor) that material on the Center’s YouTube account violated the law. Occupation authorities specifically deemed a documentary about Crimean Tatar political prisoner Emir-Usain Kuku to be “extremist.” YouTube notified the Center that if it did not delete the material, it could be forced to block it. On February 7, Amnesty International released a statement urging YouTube not to block the video, and YouTube did not do so.

Occupation authorities banned most Ukrainian and Crimean Tatar-language broadcasts, replacing the content with Russian programming. According to Crimean Human Rights Group media monitoring, during the year occupation authorities jammed the signal of Ukrainian radio stations by transmitting Russian radio stations at the same frequencies.
Human rights groups reported occupation authorities continued to forbid songs by Ukrainian singers from playing on Crimean radio stations.

Censorship of independent internet sites was widespread (see Internet Freedom).

According to the Crimean Human Rights Group, 10 Crimean internet service providers blocked 14 Ukrainian information websites and two social networks during the year, including the sites of the Jehovah’s Witnesses and of the Mejlis of the Crimean Tatar People.

**National Security:** Authorities cited laws protecting national security to justify retaliation against opponents of Russia’s occupation.

The Russian Federal Financial Monitoring Service included prominent critics of the occupation on its list of extremists and terrorists. Inclusion on the list prevented individuals from holding bank accounts, using notary services, and conducting other financial transactions. As of October the list included 47 persons from Crimea, including numerous political prisoners and their relatives as well as others reportedly being tried for their pro-Ukrainian political positions, such as Oleh Prykhodko (see Freedom of Expression, above).

Authorities frequently used the threat of “extremism,” “terrorism,” or other purported national security grounds to justify harassment or prosecution of individuals in retaliation for expressing opposition to the occupation. For example, on July 12, according to press reports, a court authorized the in absentia arrest of independent Crimean Tatar journalist Gulsum Khalilova for “participating in an armed formation in the territory of a foreign state” for allegedly joining an armed battalion in Ukraine. Khalilova, who moved to mainland Ukraine, denied having any dealings with armed groups and characterized the case as fabricated in retribution for her independent reporting on the peninsula.

**Internet Freedom**

Russian occupation authorities restricted free expression on the internet by imposing repressive Russian Federation laws on Crimea (see section 2.a. of the Country Reports on Human Rights for Russia). Security services routinely monitored and controlled internet activity to suppress dissenting opinions. According to media accounts, occupation authorities interrogated and harassed residents of Crimea for online postings with pro-Ukrainian opinions (see Censorship or Content Restrictions, above).
More than 30 Ukrainian online outlets were among the hundreds that authorities blocked in Crimea, including several sites that were not on the Russian federal internet block list.

**Academic Freedom and Cultural Events**

Occupation authorities engaged in a widespread campaign to suppress the Crimean Tatar and Ukrainian languages (see section 6, National/Racial/Ethnic Minorities).

**b. Freedoms of Peaceful Assembly and Association**

**Freedom of Peaceful Assembly**

See the *Country Reports on Human Rights* for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

According to the August UN secretary-general’s special report, “public events initiated by perceived supporters of Ukrainian territorial integrity or critics of policies of the Russian Federation in Crimea were reportedly prevented and/or prohibited by occupation authorities.” For example, on August 9, the head of the Zarechenskoye village council denied an application filed by Crimean Tatar activist Kemal Yakubov to hold a public celebration of the Muslim holiday Kurban Bayram. She cited a lack of a support letter from the pro-occupation Administration of Muslims of Crimea as the reason for her denial.

The Crimean Human Rights Group reported Crimeans were regularly charged with administrative offenses for peacefully assembling without permission. For example, on August 21, a court in Sudak convicted environmental activist Igor Savchenko of holding an unauthorized demonstration and fined him 20,000 rubles ($313); Savchenko had organized a demonstration on August 14 against illegal construction on the Meganom Cape.

Occupation authorities brought charges for “unauthorized assemblies” against single-person protests, even though Russian law imposed on Crimea does not require preauthorization for individual protests. For example, according to the Crimean Human Rights Group, on March 29, police in Simferopol detained Crimean Tatar activist Tair Ibragimov, who was standing alone with a poster that read, “Give 166 children their fathers back!!,” in protest against the mass arrests.
of March 27. He was charged with violating regulations on public protest. A court convicted him the same day and fined him 15,000 rubles ($235).

There were reports that authorities used a ban on “unauthorized missionary activity” to restrict public gatherings of members of religious minorities. For example, three administrative cases were initiated against a group of members of the Hare Krishna faith who gathered in a Sevastopol park to sing mantras. On August 6, the Leninskiy “district court” in Sevastopol fined each of them 5,000 rubles ($78) for “unauthorized missionary activity.”

A “regulation” limits the places where public events may be held to 366 listed locations. The HRMMU noted that the “regulation” restricted freedom of assembly to a shrinking number of “specially designated spaces,” a move that appeared “designed to dissuade the exercise of the right of freedom of assembly.”

There were reports of occupation authorities using coercive methods to provide for participation at rallies in support of the “government.” Students, teachers, and civil servants were forced to attend a commemoration event on the day of deportation of the Crimean Tatars organized by occupation authorities in Simferopol on May 18.

There were reports occupation authorities charged and fined individuals for allegedly violating public assembly rules in retaliation for gathering to witness security force raids on homes.

**Freedom of Association**

See the *Country Reports on Human Rights* for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Occupation authorities broadly restricted freedom of association for individuals who opposed the occupation. For example, there were numerous reports of authorities taking steps to harass, intimidate, arrest, and imprison members of the human rights group Crimean Solidarity, an unregistered movement of friends and family of victims of repression by occupation authorities (see section 1.d.). During the year the Crimean Human Rights Group documented multiple cases in which police visited the homes of Crimean Solidarity activists to threaten them or warn them not to engage in “extremist” activities. For example, at least seven Crimean Solidarity activists were given such “preventative warnings” on the eve of the May 17 anniversary of the 1944 deportation of the Crimean Tatar people.
Occupation authorities placed restrictions on the Spiritual Administration of Crimean Muslims, which was closely associated with Crimean Tatars. According to human rights groups, Russian security services routinely monitored prayers at mosques for any mention that Crimea remained part of Ukraine. Russian security forces also monitored mosques for anti-Russian sentiment and as a means of recruiting police informants.

The Mejlis of the Crimean Tatar People remained banned for purported “extremism” despite an order by the International Court of Justice requiring occupation authorities to “refrain from maintaining or imposing limitations on the ability of the Crimean Tatar community to conserve its representative institutions, including the Mejlis.” Following the 2016 ban on the Crimean Tatar Mejlis as an “extremist organization,” occupation authorities banned gatherings by Mejlis members and prosecuted individuals for discussing the Mejlis on social media.

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at https://www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

Occupation authorities did not respect the right to freedom of movement.

In-country Movement: Occupation authorities maintained a state border at the administrative boundary between mainland Ukraine and Crimea. According to the HRMMU, the boundary and the absence of public transportation between Crimea and mainland Ukraine continued to undermine freedom of movement to and from the peninsula, affecting mainly the elderly, individuals with limited mobility, and young children.

There were reports occupation authorities selectively detained and at times abused persons attempting to enter or leave Crimea. According to human rights groups, occupation authorities routinely detained adult men at the administrative boundary for additional questioning, threatened to seize passports and documents, seized telephones and memory cards, and questioned them for hours. For example, on June 11, the FSB detained activist Gulsum Alieva at the administrative borderline when she was entering the peninsula. They brought the activist to the police
station in the nearby town of Armyansk. According to her lawyer, authorities charged Alieva with extremism and released her later the same day.

In other cases, authorities issued entry bans to Crimean Tatars attempting to cross the administrative boundary from mainland Ukraine. For example, according to the Crimean Human Rights Group, on February 5, occupation authorities at the administrative boundary detained Crimean Tatar Rustem Rashyдов, who was seeking to visit his family in Crimea. He was released after being interrogated for 12 hours and given a document stating he was banned from entering the “Russian Federation.”

Occupation authorities launched criminal cases against numerous high-profile Crimean Tatar leaders, including member of the parliament Mustafa Jemilev and Refat Chubarov, the current chairmen of the Crimean Tatar Mejlis; by Crimean Tatar activist Sinaver Kadyrov; and by Ismet Yuksel, the general director of the Crimean News Agency.

According to the HRMMU, Ukrainian legislation restricts access to Crimea to three designated crossing points and imposes penalties, including long-term entry bans, for noncompliance. Crimean residents lacking Ukrainian passports, who only possessed Russian-issued Crimean travel documents not recognized by Ukrainian authorities, often faced difficulties when crossing into mainland Ukraine.

**Citizenship:** Russian occupation authorities required all residents of Crimea to be Russian citizens. Those who refused Russian citizenship could be subjected to arbitrary expulsion. According to the Crimean Human Rights Group, during the five years of Russia’s occupation, more than 1,500 Ukrainians were prosecuted for not having Russian documents, and 450 persons were ordered to be deported.

According to the HRMMU, in 2018 “courts” in Crimea ordered deportation of 231 Ukrainian nationals, many of whom were Crimean residents with Ukrainian citizenship, whose residence rights in Crimea were not recognized.

Residents of Crimea who chose not to adopt Russian citizenship were considered foreigners. In some cases they could obtain a residency permit. Persons holding a residency permit without Russian citizenship were deprived of key rights and could not own agricultural land, vote or run for office, register a religious congregation, or register a vehicle. Authorities denied those who refused Russian citizenship
access to “government” employment, education, and health care, as well as the ability to open bank accounts and buy insurance, among other limitations.

According to the Crimean Human Rights Group, Russian authorities prosecuted private employers who continued to employ Ukrainians. Fines could be imposed on employers for every recorded case of employing a Ukrainian citizen without a labor license. Fines in such cases amounted to several million dollars.

In some cases authorities compelled Crimean residents to surrender their Ukrainian passports, complicating international travel, because many countries did not recognize “passports” issued by Russian occupation authorities.

**Internally Displaced Persons**

Approximately 33,000 residents of Crimea registered as IDPs on the mainland, according to the Ministry of Social Policy. The Mejlis and local NGOs, such as Krym SOS, believed the actual number could be as high as 100,000, as most IDPs remained unregistered. Many individuals fled due to fear that occupation authorities would target them for abuse because of their work as political activists or journalists. Muslims, Greek Catholics, and Evangelical Christians who left Crimea said they feared discrimination due to their religious beliefs.

Crimean Tatars, who made up the largest number of IDPs, said they left because pressure on their community, including an increasing number of arbitrary searches of their homes, surveillance, and discrimination. In addition, many professionals left Crimea because Russian occupation authorities required them to apply for Russian professional licenses and adopt Russian procedures in their work.

**Section 3. Freedom to Participate in the Political Process**

Recent Elections: Russian occupation authorities prevented residents from voting in Ukrainian national and local elections since Crimea’s occupation began in 2014.

**Section 4. Corruption and Lack of Transparency in Government**

Corruption: There were multiple reports during the year of systemic rampant corruption among Crimean “officeholders,” including through embezzlement of Russian state funds allocated to support the occupation. For example, on April 3, de facto Crimean law enforcement authorities detained the mayor of the city of Yevpatoriya, Andrey Filonov. He was charged with abuse of power that entailed
losses for the municipal budget in the amount of 35 million Russian rubles ($5.5 million).

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

Most independent human rights organizations ceased activities in Crimea following Russia’s occupation. Occupation authorities refused to cooperate with independent human rights NGOs, ignored their views, and harassed human rights monitors and threatened them with fines and imprisonment.

Russia continued to deny access to the peninsula to international human rights monitors from the OSCE and the United Nations.

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

Children

Birth Registration: Under both Ukrainian law and laws imposed by Russian occupation authorities, either birthplace or parentage determines citizenship. Russia’s occupation and purported annexation of Crimea complicated the question of citizenship for children born after February 2014, since it was difficult for parents to register a child as a citizen with Ukrainian authorities. Registration in the country requires a hospital certificate, which is retained when a birth certificate is issued. Under the occupation regime, new parents could only obtain a Russian birth certificate and did not have access to a hospital certificate. In 2016 the Ukrainian government instituted a process whereby births in Crimea could be recognized with documents issued by occupation authorities.

Institutionalized Children: There were reports occupation authorities continued to permit kidnapping of orphans in Crimea and transporting them across the border into Russia for adoption. Ukraine’s government did not know the whereabouts of the children.

Anti-Semitism

According to Jewish groups, an estimated 10,000 to 15,000 Jews lived in Crimea, primarily in Simferopol. There were no reports of anti-Semitic acts.

National/Racial/Ethnic Minorities
Since the beginning of the occupation, authorities singled out Crimean Tatars and Ukrainians for discrimination, abuse, deprivation of civil liberties and religious and economic rights, and violence, including killings and abductions (also see sections 1.a.-1.d., 1.f., 2.a., 2.b., and 2.d.). The August UN secretary-general’s special report noted a “narrowing of space for manifestations of Ukrainian and Crimean Tatar identities and enjoyment of the respective cultures in Crimea. The restrictions have reportedly been closely connected to the suppression of political dissent and alternative political opinion.”

There were reports that government officials openly advocated discrimination against Crimean Tatars. Occupation authorities harassed Crimean Tatars for speaking their language in public and forbade speaking it in the workplace. There were reports teachers prohibited schoolchildren from speaking Crimean Tatar to one another. Crimean Tatars were prohibited from celebrating their national holidays and commemorating victims of previous abuses. For example, on June 26, occupation authorities denied a request by the residents of the town of Oktyabrske to hold a car rally for Crimean Tatar Flag Day. Police arrived at the gathering, informed them the event was unauthorized, and video-recorded those present. According to press reports, as the cars proceeded anyway, they were pulled over four times by police for “document checks.”

Occupation authorities also restricted the use of Crimean Tatar flags and symbols (see section 2.a.).

By the end of 2014, Ukrainian as a language of instruction was removed from university-level education in Crimea. According to the HRMMU, in the 2017-2018 academic year no school provided instruction in Ukrainian, and there were eight available Ukrainian language classes in Russian schools that were attended by 318 children. In 2017 the International Court of Justice ruled on provisional measures in proceedings brought by Ukraine against the Russian Federation, concluding unanimously that the Russian Federation must “ensure the availability of education in the Ukrainian language.”

Occupation authorities have not permitted churches linked to ethnic Ukrainians, in particular the Orthodox Church of Ukraine (OCU) and the Ukrainian Greek Catholic Church, to register under Russian law. Occupation authorities harassed and intimidated members of the churches and used court proceedings to force the OCU in particular to leave properties it had rented for years. The largest OCU congregation in Crimea closed on September 23 following a ruling by occupation
authorities that the cathedral located in Simferopol must be “returned to the state.” The church was shut down after repeated refusals by the authorities to allow it to register.

Occupation authorities allegedly selectively seized property belonging to ethnic Ukrainians and Crimean Tatars. According to the August UN secretary-general’s special report, during the year the HRMMU “received information about numerous cases of allocation of land plots to formerly displaced persons in Crimea, including Crimean Tatars, free of charge, as part of plans to legalize the unauthorized appropriation of land or allocation of alternative land plots.”

Russian occupation authorities prohibited Crimean Tatars affiliated with the Mejlis from registering businesses or properties as a matter of policy.

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

Human rights groups and local LGBTI activists reported that most LGBTI individuals fled Crimea after the Russian occupation began. Those who remained lived in fear of abuse due to their sexual orientation or gender identity.

According to the HRMMU, NGOs working on access to health care among vulnerable groups have found it impossible to advocate for better access to healthcare for LGBTI persons due to fear of retaliation by occupation authorities.

Occupation authorities prohibited any LGBTI group from holding public events in Crimea. According to the HRMMU, LGBTI residents of Crimea faced difficulties in finding a safe environment for gatherings because of occupation authorities’ encouragement of an overall hostile attitude towards the manifestation of LGBTI identity. LGBTI individuals faced increasing restrictions on their right to free expression and assembly peacefully, because occupation authorities enforced a Russian law that criminalizes the so-called propaganda of nontraditional sexual relations to minors (see section 6 of the *Country Reports on Human Rights* for Russia). For example, on June 29, the organizers of the theater company Territoria apologized for producing a play that showed two women kissing during a state-sponserd theater festival. High-ranking members of the Russian government called for the company to be prosecuted under the Russian law that prohibits the “propaganda” of “nontraditional sexual relations” to minors.

**Section 7. Worker Rights**
Occupation authorities announced the labor laws of Ukraine would not be in effect after 2016 and that only the laws of the Russian Federation would apply.

Occupation authorities imposed the labor laws and regulations of the Russian Federation on Crimean workers, limited worker rights, and created barriers to freedom of association, collective bargaining, and the ability to strike. Trade unions are formally protected under Russian law but limited in practice. As in both Ukraine and Russia, employers were often able to engage in antiunion discrimination and violate collective bargaining rights. The pro-Russian authorities threatened to nationalize property owned by Ukrainian labor unions in Crimea. Ukrainians who did not accept Russian citizenship faced job discrimination in all sectors of the economy. Only holders of Russian national identification cards were allowed to work in “government” and municipal positions. Labor activists believed that unions were threatened in Crimea to accept “government” policy without question and faced considerable restrictions on advocating for their members.

Although no official data were available, experts estimated there was growing participation in the underground economy in Crimea.
Tab 2
UKRAINE 2018 HUMAN RIGHTS REPORT

Note: Except where otherwise noted, references in this report do not include areas controlled by Russia-led forces in the Donbas region of eastern Ukraine or Russian-occupied Crimea. At the end of this report is a section listing abuses in Russian-occupied Crimea.

EXECUTIVE SUMMARY

Ukraine is a republic with a semi-presidential political system composed of three branches of government: a unicameral legislature (Verkhovna Rada); an executive led by a directly elected president who is head of state and commander in chief, and a prime minister who is chosen through a legislative majority and as head of government leads the Cabinet of Ministers; and a judiciary. The country held presidential and legislative elections in 2014; international and domestic observers considered both elections free and fair.

Civilian authorities generally maintained effective control over security forces in the territory controlled by the government.

Following the Russian Federation’s November 25 attack on and seizure of Ukrainian ships and crewmembers in the Black Sea near the Kerch Strait, the country instituted martial law for a period of 30 days in 10 oblasts bordering areas in which Russian forces are located. Martial law expired December 27 with no reports of rights having been restricted during the time.

Human rights issues included: civilian casualties, enforced disappearances, torture, and other abuses committed in the context of the Russia-induced and -fueled conflict in the Donbas region; abuse of detainees by law enforcement; harsh and life-threatening conditions in prisons and detention centers; arbitrary arrest and detention; censorship; blocking of websites; refoulement; the government’s increasing failure to hold accountable perpetrators of violence against activists, journalists, ethnic minorities, and lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; widespread government corruption; and worst forms of child labor.

The government generally failed to take adequate steps to prosecute or punish most officials who committed abuses, resulting in a climate of impunity. Human rights groups and the United Nations noted significant deficiencies in investigations into alleged human rights abuses committed by government security forces, in
particular into allegations of torture, enforced disappearances, arbitrary detention, and other abuses reportedly committed by the Security Service of Ukraine (SBU). The perpetrators of the 2014 Euromaidan shootings in Kyiv had not been held to account.

Russia-led forces in the Donbas region engaged in: enforced disappearances, torture, and unlawful detention; committed gender-based violence; interfered with freedom of expression, including of the press, peaceful assembly, and association; restricted movement across the line of contact in eastern Ukraine; and unduly restricted humanitarian aid.

Human rights issues in Russian-occupied Crimea included: politically motivated disappearances; torture and abuse of detainees to extract confessions and punish persons resisting the occupation; politically motivated imprisonment; and interference with the freedoms of expression, including of the press, and assembly and association. Crimea occupation authorities intensified violence and harassment of Crimean Tatars and pro-Ukrainian activists in response to peaceful opposition to Russian occupation (see Crimea sub-report).

Investigations into alleged human rights abuses related to Russia’s occupation of Crimea and the continuing aggression in the Donbas region remained incomplete due to lack of government control in those territories and the refusal of Russia and Russia-led forces to investigate abuse allegations.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There was at least one report that the government or its agents committed possible arbitrary or unlawful killings.

Human rights organizations and media outlets reported deaths in prisons or detention centers due to torture or negligence by police or prison officers (see section 1.c., Prison and Detention Center Conditions). For example on September 2, a detainee who was being held alone in a cell was found dead in Lukyanivske pretrial facility in Kyiv. According to the forensic examination, the cause of death was damage to the internal organs. Police opened a murder investigation.
There were civilian casualties in connection with the conflict in Luhansk and Donetsk Oblasts between government and Russia-led forces (see section 1.g.).

There were reports of politically motivated killings by nongovernment actors, and in one case with the alleged involvement of a parliamentary aide. For example, on July 31, an unknown person poured concentrated sulfuric acid on public activist and advisor to the Kherson city mayor, Kateryna Handzyuk, resulting in serious chemical burns to over a third of her body. Handzyuk died of her injuries on November 4. Police at first opened a criminal investigation for “hooliganism.” They later requalified the attack as “causing severe bodily harm,” and then changed it to “attempted murder.” In August authorities arrested five suspects. In November authorities arrested a sixth individual, Ihor Pavlovsky, who at the time of the attack was an assistant to Mykola Palamarchuk, member of parliament for Bloc Petro Poroshenko. Human rights groups believed that the men arrested were credibly connected to the attack but criticized authorities for not identifying the individuals who ordered the attack. On November 6, parliament formed an interim parliamentary commission to investigate the murder of Handzyuk and attacks on other activists. Activists and media questioned the committee’s ability to impartially and effectively investigate or resolve the attacks because of the alleged political connections of some committee members.

On January 2, the body of lawyer Iryna Nozdrovska was found in a river in Kyiv Oblast with stab wounds and other signs of a violent death. Nozdrovska had criticized law enforcement and court authorities while pursuing justice for her sister, who had been hit and killed in 2015 by a car driven by an intoxicated driver, Dmytro Rossoshanskiy, who was the nephew of a powerful local judge. On January 8, authorities arrested Yuriy Rossoshanskiy, the father of Dmytro, and charged him with murdering Nozdrovska. Yuriy and Dmytro Rossoshanskiy were reported to have previously threatened Nozdrovska and her mother in retaliation for their support of the case against Dmytro. Authorities referred the case for trial on August 15. Media and civil society widely criticized a lack of transparency in the investigation and noted that many questions remain unanswered about the case, including the possibility that there were other assailants involved in the killing.

Authorities made no arrests during the year in connection with the 2016 killing of prominent Belarusian-Russian journalist Pavel Sheremet. On August 2, Sheremet’s widow filed a lawsuit against the prosecutor general, alleging inaction by his office on the case. Human rights and press freedom watchdog groups expressed concern about the lack of progress in the government’s investigation, suggesting high-level obstruction or investigatory incompetence as potential
reasons. Independent journalistic investigations of the killing released in May 2017 uncovered significant evidence that investigators had apparently overlooked. President Poroshenko expressed dissatisfaction with the progress of the investigation in February during a press conference.

Law enforcement agencies continued to investigate killings and other crimes committed during the Euromaidan protests in Kyiv in 2013-14. The Office of the United Nations High Commissioner for Human Rights Monitoring Mission in Ukraine (HRMMU) noted some progress in the investigation of the killings of protesters. Human rights groups criticized the low number of convictions despite the existence of considerable evidence. According to the Prosecutor General’s Office, as of late November, 279 persons had been indicted and 52 had been found guilty.

The HRMMU noted there was limited progress in the investigation and legal proceedings connected to a 2014 trade union building fire in Odesa that stemmed from violent clashes between pro-Russian and Ukrainian unity demonstrators. During the clashes and fire, 48 persons died, including six prounity and 42 pro-Russia individuals. On May 30, an indictment against the former heads of the Odesa city police and the city public security department for “abuse of authority or office” was submitted to the Prymorsky district court in Odesa. The trial against the head of the Odesa Oblast police on charges of abuse of authority, forgery, and dereliction of duty in protecting people from danger continued. Observers noted that appeal proceedings challenging the September 2017 acquittal by the Chornomorsk court in Odesa Oblast of 19 defendants in the 2014 trade union building fire case due to lack of evidence appeared to be stalled.

b. Disappearance

There were multiple reports of politically motivated disappearances in connection with the conflict between the government and Russia-led forces in the Donbas region (see section 1.g.).

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

Although the constitution and law prohibit torture and other cruel and unusual punishment, there were reports that law enforcement authorities engaged in such abuse. While courts cannot legally use as evidence in court proceedings confessions and statements made under duress to police by persons in custody,
there were reports that police and other law enforcement officials abused and, at times, tortured persons in custody to obtain confessions.

In the Donbas region, there were reports that government and progovernment forces at times committed abuses, including torture, against individuals detained on national security grounds. There were reports that Russia-led forces in the so-called “people’s republics” of Donetsk and Luhansk systematically committed numerous abuses, including torture, to maintain control or for personal financial gain. According to international organizations and nongovernmental organizations (NGOs), abuses included beatings, forced labor, psychological and physical torture, public humiliation, and sexual violence (see section 1.g.).

Abuse of prisoners and detainees by police remained a widespread problem. In its report on the seventh periodic visit to the country, published on September 6, the Council of Europe’s Committee for the Prevention of Torture (CPT) expressed concern over a considerable number of recent and credible allegations from detained persons regarding excessive use of force by police and physical abuse aimed at obtaining additional information or extracting a confession.

In a report released on June 8 on his visit to the country, the UN special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (UN SRT) stated that, according to victims he had interviewed, during interrogations “police forces reportedly resorted to kicking and beating, used suffocation techniques, most notably by placing plastic bags over the head, suspension and prolonged stress position. Numerous inmates also reported having been electrocuted and, in some cases, subjected to mock executions. Several detainees showed signs of depression and post-traumatic stress disorder and some still displayed visible marks of mistreatment and torture. Others reported having been subjected to techniques of torture specifically designed to leave no marks.” On February 26, in Odesa Oblast, two patrol police detained and allegedly beat motorist Serhiy Grazhdan, claiming that he was driving drunk. According to press reports, police threw Grazhdan to the ground, handcuffed him, and beat him until he lost consciousness. When Grazhdan’s wife attempted to intervene, police threatened her with a gun. Grazhdan was taken to the hospital in critical condition. Police opened two investigations—one into the actions of the police officers and another into allegations that Grazhdan insulted and inflicted minor injuries on one of the arresting officers.

There were reports of sexual violence being committed in the context of the conflict in eastern Ukraine (see section 1.g.).
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. Physical abuse, lack of proper medical care and nutrition, poor sanitation, and lack of adequate light were persistent problems.

Physical Conditions: Overcrowding was a problem in some pretrial detention facilities. While authorities generally held adults and juveniles in separate facilities, there were reports that juveniles and adults were often not separated in some pretrial detention facilities, a concern emphasized in the June 8 UN SRT report.

Physical abuse by guards was a problem. For example on June 8, staff of the Chernivtsi pretrial facility brutally beat detainees, one of whom was hospitalized in the intensive care unit of the local hospital as a result. According to the detainees’ relatives, staff allegedly beat detainees while they were handcuffed, and humiliated them by making them squat and crawl. The administration of the remand facility claimed they were attempting to put down a riot. The local prosecutor’s office conducted an investigation of the incident, which concluded that prison staff had not exceeded their authority.

There were reports of prisoner-on-prisoner violence. The CPT noted that inter-prisoner violence was a problem in all but one of the establishments it visited. For example, on August 18, staff of the Lukyanivske penitentiary facility found a 34-year-old inmate who had been beaten to death by his cellmate.

Conditions in police temporary detention facilities and pretrial detention facilities were harsher than in low- and medium-security prisons. Temporary detention facilities often had insect and rodent infestations and lacked adequate sanitation and medical facilities. The CPT expressed concern that prisoners in pretrial detention were generally not offered any out-of-cell activities other than outdoor exercise for an hour per day in small yards.

The quality of food in prisons was generally poor. According to the June report of the UN SRT, inmates received three meals a day, although in most places the food was described as “inedible,” leading inmates to rely on supplementary food they received through parcels from family. According to CPT, in some pretrial detention centers, detainees did not have consistent access to food and water.
According to UN SRT, most hygienic products including toilet paper, soap, and feminine hygiene products were not provided and detainees relied on supplies provided by family or donated by humanitarian organizations. In some facilities, cells had limited access to daylight and were not properly heated or ventilated.

UN and other international monitors documented systemic problems with the provision of medical care. The CPT observed a lack of medical confidentiality, poor recording of injuries, and deficient access to specialists, including gynecological and psychiatric care. There was a shortage of all kinds of medications with an over-reliance on prisoners and their families to provide most of the medicines. Conditions in prison healthcare facilities were poor and unhygienic. Bureaucratic and financial impediments prevented the prompt transfer of inmates to city hospitals, resulting in their prolonged suffering, and delayed diagnoses and treatment.

As of February more than 9,000 detainees were in Russia-controlled territory. On February 7, under the auspices of the Ombudsman’s Office, 20 prisoners incarcerated in Russia-controlled territory were transferred to penal facilities on government-controlled territory. Since 2015 a total of 198 inmates had been transferred to the penitentiary facilities in government-controlled areas.

The condition of prison facilities and places of unofficial detention in Russia-controlled areas continued to deteriorate. According to the Justice for Peace coalition, there was an extensive network of unofficial places of detention in the Donetsk and Luhansk Oblasts located in basements, sewage wells, garages, and industrial enterprises. In most cases, these places were not suitable for even short-term detention. There were reports of severe shortages of food, water, heat, sanitation, and proper medical care. The HRMMU was denied access to detainees in the Russia-controlled territory of the so-called “Donetsk People’s Republic (DPR)” and “Luhansk People’s Republic (LPR).” The lack of access to detainees raised concerns about the conditions of detention and treatment. The UN SPT was granted access to places of detention in the “DPR” and “LPR,” but this was limited to preselected sites and he was unable to conduct confidential interviews with detainees. The UN SPT indicated that these restrictions did not allow him to fulfill his mandate in this part of Ukraine. Based upon his limited observations of official detention facilities in the “DPR,” he reported that healthcare appeared to be restricted, the quality of the food was reported to be unacceptable, and ventilation and sanitation appeared very poor. The East Human Rights Group continued to report systemic abuses against prisoners in the “LPR,” such as torture, starvation, denial of medical care, and solitary confinement as well as the extensive use of
prisoners as slave labor to produce goods that, when sold, provided personal income to the leaders of the Russia-led forces.

Administration: Although prisoners and detainees may file complaints about conditions in custody with the human rights ombudsman, human rights organizations noted prison officials continued to censor or discourage complaints and penalized and abused inmates who filed them. Human rights groups reported that legal norms did not always provide for confidentiality of complaints. According to representatives of the national preventive mechanism, an organization that conducted monitoring visits of places of detention, authorities did not always conduct proper investigations of complaints.

While officials generally allowed prisoners, except those in disciplinary cells, to receive visitors, prisoner rights groups noted some families had to pay bribes to obtain permission for prison visits to which they were entitled by law.

Independent Monitoring: The government generally permitted independent monitoring of prisons and detention centers by international and local human rights groups, including the CPT, the Ombudsman’s Office, and the UN SRT. During its May-June visit, the UN SRT also had access to a very restricted set of facilities in the “DPR” and the “LPR.”

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, but the government did not always observe these requirements.

The HRMMU and other monitoring groups reported numerous arbitrary detentions in connection with the conflict in eastern Ukraine (see section 1.g.).

Role of the Police and Security Apparatus

The Ministry of Internal Affairs is responsible for maintaining internal security and order. The ministry oversees police and other law enforcement personnel. The SBU is responsible for state security broadly defined, nonmilitary intelligence, and counterintelligence and counterterrorism matters. The Ministry of Internal Affairs reports to the Cabinet of Ministers, and the SBU reports directly to the president. The State Fiscal Service exercises law enforcement powers through the tax police and reports to the Cabinet of Ministers. The State Migration Service under the
Ministry of Internal Affairs implements state policy regarding border security, migration, citizenship, and registration of refugees and other migrants.

Security forces generally prevented or responded to societal violence. At times, however, they used excessive force to disperse protests or, in some cases, failed to protect victims from harassment or violence. For example, on June 8, a group of violent nationalists from the National Druzhina organization--established with support from the National Corps--attacked and destroyed a Romani camp in Kyiv after its residents failed to respond to their ultimatum to leave the area within 24 hours. Police were present but made no arrests, and in a video of the attack posted on social media, police could be seen making casual conversation with the nationalists following the attack.

Civilian authorities generally had control over law enforcement agencies but rarely took action to punish abuses committed by security forces. Impunity for abuses by law enforcement agencies remained a significant problem that was frequently highlighted by the HRMMU in its reports as well as by other human rights groups. The HRMMU noted authorities were unwilling to investigate allegations of torture and other abuses, particularly when the victims had been detained on grounds related to national security or were seen as pro-Russian.

While authorities sometimes brought charges against members of the security services, cases often remained under investigation without being brought to trial while authorities allowed alleged perpetrators to continue their work. According to an April report by the Expert Center for Human Rights, only 3 percent of criminal cases against law enforcement authorities for physical abuse of detainees were transferred to court. In addition, human rights groups criticized the lack of progress in investigations of alleged crimes in areas retaken by the government from Russia-led forces, resulting in continuing impunity for these crimes. In particular, investigations of alleged crimes committed by Russia-led forces in Slovyansk and Kramatorsk in 2014 appeared stalled. Human rights groups believed that many local law enforcement personnel collaborated with Russia-led forces when they controlled the cities.

Under the law, members of the parliament have authority to conduct investigations and public hearings into law enforcement problems. The human rights ombudsman may also initiate investigations into abuses by security forces.

The Ministry of Internal Affairs indicated it provides 80 hours of compulsory human rights training to security forces, focusing on the principles of the European
Convention on Human Rights and Fundamental Freedoms. Law enforcement training institutions also include courses on human rights, rule of law, constitutional rights, tolerance and nondiscrimination, prevention of domestic violence, and freedom from cruel, inhuman, or degrading punishment.

**Arrest Procedures and Treatment of Detainees**

By law, authorities may detain a suspect for three days without a warrant, after which a judge must issue a warrant authorizing continued detention. Authorities in some cases detained persons for longer than three days without a warrant.

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 ones. Persons have the right to consult a lawyer upon their detention. According to the law, prosecutors may detain suspects accused of terrorist activities for up to 30 days without charges or a bench warrant. Under the law, citizens have the right to be informed of the charges brought against them. Authorities must promptly inform detainees of their rights and immediately notify family members of an arrest. Police often did not follow these procedures. Police at times failed to keep records or register detained suspects, and courts often extended detention to allow police more time to obtain confessions. In its September report, the CPT expressed concern about a widespread practice of unrecorded detention, in particular, the unrecorded presence in police stations of persons “invited” for “informal talks” with police, and noted that they encountered several allegations of physical mistreatment that took place during a period of unrecorded detention. Authorities occasionally held suspects incomunicado, in some cases for several weeks.

According to the Association of Ukrainian Human Rights Monitors on Law Enforcement, detainees were not always allowed prompt access to an attorney of their choice. Under the law the government must provide attorneys for indigent defendants. Compliance was inconsistent because of a shortage of defense attorneys or because attorneys, citing low government compensation, refused to defend indigent clients.

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.

**Arbitrary Arrest:** The HRMMU and other human rights monitors reported a continued pattern of arbitrary detention by authorities. For example, according to
the HRMMU, on March 12, the SBU searched the apartment of an opposition journalist in Kharkiv. SBU staff presented a search warrant but did not allow the suspect to contact a lawyer. After the SBU seized a plastic bottle with ammunition rounds which they claimed they found in the journalist’s apartment, they took him to the regional SBU department, interrogated him for 12 hours, and pressured him to cooperate with SBU. They released him later without pressing official charges.

There were multiple reports of arbitrary detention in connection with the conflict in eastern Ukraine. As of mid-August the HRMMU documented 28 cases in which government military or SBU personnel detained presumed members of armed groups and held them in unofficial detention facilities before their arrests were properly registered. According to the HRMMU, on June 16, armed men wearing military uniforms and masks stormed a house where a Russian citizen was staying. They blindfolded him and brought him to an unofficial detention facility located in Pokrovsk at a transportation company facility where he allegedly spent two days handcuffed to an iron bed. On June 18, SBU officers offered him two options, either to be placed in custody or “to disappear.” He was brought to a court hearing and then sent to pretrial detention.

There were reports that members of nationalist hate groups, such as C14 and National Corps, at times committed arbitrary detentions with the apparent acquiescence of law enforcement. For example according to the HRMMU, on March 14, members of C14 unlawfully detained a man in Kyiv Oblast who was suspected of being a member of an armed group in the “LPR.” After interrogating him while he was face down and handcuffed, C14 handed him over to the SBU.

Arbitrary arrest was reportedly widespread in both the “DPR” and the “LPR.” The HRMMU raised particular concern over the concept of “preventive arrest” introduced in February by Russia-led forces in the “LPR.” Under a preventive arrest, individuals may be detained for up to 30 days, with the possibility of extending detention to 60 days, based on allegations that a person was involved in crimes against the security of the “LPR.” During preventive arrests, detainees were held incommunicado and denied access to lawyers and relatives.

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, courts were inefficient and remained vulnerable to political pressure and corruption. Confidence in the judiciary remained low.
Despite efforts to reform the judiciary and the Prosecutor General’s Office, corruption among judges and prosecutors remained endemic. Civil society groups continued to complain about weak separation of powers between the executive and judicial branches of government. Some judges claimed that high-ranking politicians pressured them to decide cases in their favor, regardless of the merits. Some judges and prosecutors reportedly took bribes in exchange for legal determinations. Other factors impeded the right to a fair trial, such as lengthy court proceedings, particularly in administrative courts, inadequate funding, and the inability of courts to enforce rulings.

The National Bar Association reported numerous cases of intimidation and attacks against lawyers, especially those representing defendants considered “pro-Russian” or “pro-Russia-led forces.” For example on July 27, representatives of nationalist hate group C14 attacked lawyer Valentyn Rybin, who was representing a citizen charged with separatism at the Kyiv City Appeals Court. Police opened an investigation into the incident.

**Trial Procedures**

A single judge decides most cases, although two judges and three public assessors who have some legal training hear trials on charges carrying the maximum sentence of life imprisonment. The law provides for cross-examination of witnesses by both prosecutors and defense attorneys and for plea bargaining.

The law presumes defendants are innocent, and they cannot be legally compelled to testify or confess, although high conviction rates called into question the legal presumption of innocence. Defendants have the right to be informed promptly and in detail of the charges against them, with interpretation as needed; to a public trial without undue delay; to be present at their trial, to communicate privately with an attorney of their choice (or one provided at public expense); and to have adequate time and facilities to prepare a defense. The law also allows defendants to confront witnesses against them, to present witnesses and evidence, and the right to appeal.

Trials are open to the public, but some judges prohibited media from observing proceedings. While trials must start no later than three weeks after charges are filed, prosecutors seldom met this requirement. Human rights groups reported officials occasionally monitored meetings between defense attorneys and their clients.
Russia-led forces terminated Ukrainian court system functions on territories under their control in 2014. The so-called “DPR” and “LPR” did not have an independent judiciary, and the right to a fair trial was systematically restricted. The HRMMU reported that in many cases individuals were not provided with any judicial review of their detention, and were detained indefinitely without any charges or trial. In cases of suspected espionage or when individuals were suspected of having links to the Ukrainian government, closed-door trials by military tribunals were held. There were nearly no opportunities to appeal the verdicts of these tribunals. According to the HRMMU, “accounts by conflict-related detainees suggest that their degree of culpability in the imputed ‘crime’ was already considered established at the time of their ‘arrest,’ amounting to a presumption of guilt. Subsequent ‘investigations’ and ‘trials’ seemed to serve merely to create a veneer of legality to the ‘prosecution’ of individuals believed to be associated with Ukrainian military or security forces.” The HRMMU reported that de facto authorities generally impede private lawyers from accessing clients and that court-appointed defense lawyers generally made no efforts to provide an effective defense, and participated in efforts to coerce guilty pleas.

**Political Prisoners and Detainees**

There were reports of a small number of individuals that some human rights groups considered to be political prisoners.

As of October the trial of Zhytomyr journalist Vasyl Muravytsky, was ongoing. Muravytsky was charged with state treason, infringement of territorial integrity, incitement of hatred, and support for terrorist organizations based on statements deemed pro-Russian. He could face up to 15 years of prison. Some domestic and international journalist unions called for his release, claiming the charges were politically motivated.

On February 20, the Dolyna court returned an indictment against Ruslan Kotsaba, a blogger from Ivano-Frankivsk, to the prosecutor’s office for lack of evidence that a crime had been committed. Kotsaba was not incarcerated at the time and had been released in 2016 following his 2015 arrest on charges of impeding the work of the armed forces by calling on Ukrainians to ignore the draft. During the period of his arrest, human rights groups had deemed him a political prisoner.

According to the SBU, Russia-led forces kept an estimated 113 hostages in Donbas.
Civil Judicial Procedures and Remedies

The constitution and law 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 they believe may violate basic rights and freedoms. Individuals may appeal to the human rights ombudsman at any time and to the ECHR after exhausting domestic legal remedies.

Property Restitution

The country endorsed the 2009 Terezin Declaration but has not passed any laws dealing with the restitution of private or communal property, although the latter has been dealt with partly through regulations and decrees. In recent years most successful cases of restitution have taken place as a result of tacit and behind-the-scenes lobbying on behalf of the Jewish groups.

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

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

By law, the SBU may not conduct surveillance or searches without a court-issued warrant. The SBU and law enforcement agencies, however, sometimes conducted searches without a proper warrant. In an emergency authorities may initiate a search without prior court approval, but they must seek court approval immediately after the investigation begins. Citizens have the right to examine any dossier in the possession of the SBU that concerns them; they have the right to recover losses resulting from an investigation. There was no implementing legislation, and authorities generally did not respect these rights, and many citizens were not aware of their rights or that authorities had violated their privacy.

There were some reports that the government had accessed private communications and monitored private movements without appropriate legal authority. For example on April 26, a judge of the Uzhhorod city court complained of illegal surveillance. Representatives of the National Guard who were entrusted with guarding the court premises had allegedly installed a listening device in his office. Police opened an investigation into the complaint.
There were reports that the government improperly sought access to information about journalists’ sources and investigations (see section 2.a.).

g. Abuses in Internal Conflicts

The Russian government controlled the level of violence in eastern Ukraine, intensifying the conflict when it suited its political interests. Russian forces continued to arm, train, lead, and fight alongside some Ukrainians. Russia-led forces throughout the conflict methodically obstructed and threatened international monitors, who did not have the access necessary to record systematically ceasefire violations or abuses committed by Russia-led forces.

International organizations and NGOs, including Amnesty International, Human Rights Watch, and the HRMMU issued periodic reports documenting abuses committed in the Donbas region. As of September 2, the Organization for Security and Cooperation in Europe (OSCE) fielded 1,247 persons supporting a special monitoring mission (SMM), which issued daily reports on the situation and conditions in most major cities.

As of mid-June the HRMMU reported that fighting had killed at least 10,500 persons in Ukraine, including civilians, government armed forces, and members of armed groups. This figure included the 298 passengers and crew on board Malaysian Airlines flight MH-17, which was shot down in 2014 over the Donbas region. In addition, since the start of the conflict, more than three million residents have left areas of Donetsk and Luhansk Oblasts controlled by Russia-led forces. As of October 1, the Ministry of Social Policy had registered 1.5 million internally displaced persons (IDPs).

The media and human rights groups continued to report widespread abuses in areas held by Russia-led forces.

Killings: As of November 1, the OSCE reported 212 civilian casualties (43 deaths and 173 injuries) since January 1, compared with 476 total casualties (86 deaths and 390 injuries) for all of 2017.

In its September report, the HRMMU noted that the continued use of indirect and explosive weapons by both sides of the conflict remained the primary concern regarding protection of civilians, that significant numbers of civilians continued to reside in villages and towns in close proximity to the contact line, and that both
government forces and Russia-led forces were present in areas where civilians resided. For example according to HRMMU, four civilians were killed and two others were injured by shelling by government forces in Dokuchayevsk, in the “DPR,” between April 22 and April 28. According to press reports, on May 17, a 13-year-old boy and his father were killed in their yard in the village of Troitske in government-controlled territory during shelling by Russia-led forces.

The HRMMU also regularly noted concerns about the dangers to civilians from landmines, booby traps, and unexploded ordnance. According to the Ministry of Defense, 7,000 square kilometers (2700 square miles) of government-controlled territory and 9,000 square kilometers (3500 square miles) of territory controlled by Russia-led forces in Donetsk and Luhansk Oblasts needed humanitarian demining. According to the Ministry of Defense, as of mid-July, mines and explosive ordnance had killed more than 2,550 civilians, including 242 children, since the start of the conflict.

According to the HRMMU, on April 7, four members of one family died in Pishchane in the government-controlled area of Luhansk region when their vehicle ran over an antitank mine. On September 30, according to the OSCE SMM, three children were killed and one injured when they inadvertently triggered a landmine on the outskirts of Horlivka in Donetsk Oblast, in an area under the control of Russia-led forces. Three boys between the ages of 12 and 14 died at the scene and a 10-year-old boy was taken to a local hospital with multiple injuries.

As of September 1, the International Committee of the Red Cross (ICRC) reported that over 1,500 individuals had gone missing in the conflict zone since mid-April 2014. According to the National Police, 1,861 persons went missing in the conflict area since April 2014. On July 12, parliament adopted a bill, “On the Legal Status of Missing Persons,” to address the situation of individuals unaccounted for as a result of armed conflict, hostilities, public disturbances, and natural or manmade disasters. The law calls for the creation of a unified registry of missing persons and a commission to coordinate the activities of government agencies involved in tracing and identifying missing persons and providing support for their families. Russia-led forces had no such system and no effective means of investigating missing persons’ cases. According to human rights groups, over 1,000 bodies in government-controlled cemeteries and morgues, both military and civilian, remained unidentified as a result of fighting, mostly from 2014.

Abductions: There were reports of abductions on both sides of the line of contact. A preliminary report by the UN Working Group on Enforced or Involuntary
Disappearances (WGEID) following a June visit noted: “There is almost total impunity for acts of enforced disappearances on both sides of the contact line, mainly due to a lack of interest and political will. In Kyiv as well as in Russia-controlled territory in Donbas, the WGEID perceived little interest in pursuing cases unless the perpetrator is identified as someone supporting the opposite side. Bringing to justice anyone from its own side appears to be perceived as ‘unpatriotic.’

The HRMMU’s March report reported four cases on government-controlled territory in which individuals were allegedly abducted by a group of unidentified, masked individuals, either in civilian clothes or camouflage without insignia or emblems, in a public space, during daytime. According to the HRMMU: “The victims reported being blindfolded or hooded, handcuffed and transported to an unknown location (building, basement, garage) where they were allegedly subjected to beatings, violent threats (including of rape), mock execution, or rape, while being coerced into confessing to cooperating with the Federal Security Service of the Russian Federation (FSB) or armed groups. This lasted from a few hours to a few days or weeks, during which the victim remained blindfolded or the perpetrators covered their faces. The victim would then either be transferred to the SBU or “released” on a public street where they would be immediately arrested by the SBU. At that point the detention would reportedly be properly registered, relatives were notified of the detention, and the detainee was notified of suspicion and interrogated.”

According to the head of the SBU, Russia-led forces held 113 Ukrainian hostages in Donbas. Human rights groups reported that Russia-led forces routinely kidnapped persons for political purposes, to settle vendettas, or for ransom. According to the HRMMU, on January 15, the “ministry of state security” (“MGB”) of the “DPR” announced that it had detained 246 individuals on “suspicion of espionage and state treason” in 2017. No data was available from the “LPR.”

Civilians were most often detained by Russia-led forces at entry-exit checkpoints along the line of contact. As of mid-May, the HRMMU documented five cases in which individuals were detained while attempting to cross the line of contact. In such cases, relatives could not obtain information about the whereabouts of the detained persons, particularly during the initial stage of detention. There were several cases in which individuals were held incommunicado for more than a month.
For example on March 28, a man was detained by the “MGB” while crossing Stanytsia Luhanska checkpoint into the “LPR.” His mother sought information from the “MGB” and “general prosecutor” for weeks but was informed only on April 19 that her son had been detained under “preventive arrest” procedures (see section 1.d.). During the first two days of his arrest, he was allegedly severely beaten, forced to stand on his toes while his wrists were handcuffed to a ceiling, and subjected to electric shocks. The abuse stopped when he “confessed” to a crime. Russia-led authorities released him after 64 days of detention.

On August 17, a Russian state-run television channel broadcast an interview in which abducted journalist Stanislav Aseyev (pen name Vasin) was forced to confess falsely to spying for Ukraine. In June 2017 Russia-led forces kidnapped Aseyev in Donetsk and accused him of espionage.

Physical Abuse, Punishment, and Torture: Both government and Russia-led forces reportedly abused and tortured civilians and soldiers in detention facilities, but human rights organizations consistently cited Russia-led forces for large-scale systematic abuses. Observers noted that an atmosphere of impunity and absence of rule of law compounded the situation. Reported abuses included beatings, physical and psychological torture, mock executions, sexual violence, deprivation of food and water, refusal of medical care, and forced labor.

In government-controlled territory, the HRMMU recorded several cases of torture, including mock executions and use of electric shocks. The HRMMU stated it suspected such cases were underreported because victims often remained in detention or were afraid to report abuse due to fear of retaliation or lack of trust in the justice system.

As of mid-August the HRMMU documented nine cases in the Donbas area where government military or SBU personnel captured alleged members of armed groups and held them in unofficial detention facilities before their arrests were properly registered. Four detained individuals involved in such cases reported being tortured, mistreated, subjected to sexual violence, and threatened with physical violence.

For example according to the HRMMU, on June 20, a resident of Khartsyzk was held for nearly 35 hours in the government-controlled Bakhmut and Kramatorsk police departments without being officially arrested or charged and without access to a lawyer. During this time, people in military uniforms reportedly punched him, beat him with objects, and threatened him with a knife, demanding a confession.
He was interrogated and pressured to agree to a plea bargain and was charged with participation in an armed group.

According to the HRMMU, the lack of effective investigation into previously documented cases of torture and physical abuse remained a critical human rights concern. For example, the HRMMU’s September report described one case in which a detainee submitted several complaints alleging that in 2015 government forces held him for eight days at the Krasnoarmiysk Automobile Transportation Company without registering him and subjected him to mistreatment. The Military Prosecutor’s Office at the Donetsk garrison initiated criminal proceedings on the complaints but closed the investigation twice. While the courts ordered the investigation reopened both times, there was no progress and, following the release of the detainee in December 2017, the investigation was reportedly closed again.

There were reports that Russia-led forces systematically committed numerous abuses, including torture, in the territories under their control. According to international organizations and NGOs, abuses included beatings, forced labor, psychological and physical torture, public humiliation, and sexual violence. During the year new accounts of abuse emerged from detainees released in a December 2017 prisoner exchange. For example, Leonid, a resident of Debaltseve, was held captive for 509 days after being detained in 2015. He was detained while attempting to move to the territory controlled by the government. Agents of the “DPR Ministry of State Security” beat him, then put a plastic bag on his head, handcuffed him, and took him to a former factory building in Donetsk. The Russia-led forces equipped a prison with a torture ward in the basement of the former factor where Leonid was also tortured. Leonid was also interrogated and tortured in the premises of the “Ministry of State Security” (MGB) in Donetsk. During interrogation, perpetrators used electric shock, beat him, humiliated him, attempted to rape him, and threatened to torture his relatives. According to the SBU, the agency has documented 500 cases of torture of Ukrainian citizens by Russia-led forces. During the year the HRMMU documented multiple reports of individuals arbitrarily arrested by “MGB” personnel, tortured, and held incommunicado in a former cultural center turned into detention facility called Izoliatsiya. During their detention, the individuals were allegedly subjected to electric shock and other forms of abuse. The HRMMU believed that at least 40 individuals, including civilians, were held in Izoliatsiya during the first half of the year.

With the exception of one very restricted visit by the UN SRT (see section 1.c.), international organizations, including the HRMMU, were refused access to places
of deprivation of liberty in territory controlled by Russia-led forces and were therefore not able to fully assess the conditions in the facilities.

The UNRMMU continued to document reports of sexual and gender-based violence by both sides during the year. A December 2017 report by the Justice for Peace in Donbas Coalition (JFPDC) reflecting interviews with hundreds of former detainees from detention centers documented abuses by both sides over the course of the conflict, but noted that sexual violence was more widely used by Russia-led forces than by government forces or progovernment battalions. On the government side, the report documented incidents of rape, threats of rape, and sexual harassment and humiliation.

In areas controlled by Russia-led forces, the JFPDC indicated that that sexual violence was more systematic and especially widespread in illegal “unofficial” detention facilities, where in some cases women and men were not separated. The report noted that at least one out of every four detainees of these illegal prisons (both women and men) was a victim or witness of gender-based violence. The documented forms of abuse included rape, threats of rape, threats of castration, intentional damage to genitalia, threats of sexual violence against family members, sexual harassment, forced nudity, coercion to watch sexual violence against others, forced prostitution, and humiliation.

Both sides employed land mines without fencing, signs, or other measures to prevent civilian casualties. As of September the HRMMU reported that mines, booby traps, and explosive remnants of war accounted for 58 civilian casualties (six killed and 52 injured). Risks were particularly acute for persons living in towns and settlements near the contact line as well as for the approximately 35,000 persons who crossed the contact line daily.

**Other Conflict-related Abuse:** On May 24, an international team of investigators from Netherlands, Australia, Belgium, Malaysia, and Ukraine presented the results of their investigation into the 2014 downing of Malaysian Airlines flight 17 in Donbas. The investigation concluded that the surface-to-air missile system used to shoot down the airliner over Ukraine, killing all 298 persons on board, came from the Russian military. The report largely confirmed the already widely documented role of the Russian government in the deployment of the missile system and its subsequent cover-up. In the report, Dutch prosecutors traced Russia’s role in deploying the missile system into Ukraine and its attempt to hide its role after the disaster.
Russia-led forces in Donetsk Oblast banned Ukrainian government humanitarian aid and restricted aid from international humanitarian organizations. As a result, prices for basic groceries were reportedly outside the means of many persons remaining in Russia-controlled territory. Human rights groups also reported severe shortages of medicine, coal, and medical supplies in Russia-controlled territory. Russia-led forces continued to receive convoys of Russian “humanitarian aid,” which Ukrainian government officials believed contained weapons and supplies for Russia-led forces.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution and law provide for freedom of expression, including for members of the press. Authorities did not always respect these rights, however. The government introduced measures that banned or blocked information, media outlets, or individual journalists deemed a threat to national security or who expressed positions that authorities believed undermined the country’s sovereignty and territorial integrity. Other problematic practices continued to affect media freedom, including self-censorship, so-called jeansa payments (publishing unsubstantiated news articles for a fee), and slanted news coverage by media outlets whose owners had close ties to the government or opposition political parties.

In the Donbas region, Russia-led forces suppressed freedom of speech and the press through harassment, intimidation, abductions, and assaults on journalists and media outlets. They also prevented the transmission of Ukrainian and independent television and radio programming in areas under their control.

Freedom of Expression: With some exceptions, individuals in areas under government control could generally criticize the government publicly and privately and discuss matters of public interest without fear of official reprisal. The law criminalizes the display of communist and Nazi symbols as well as the manufacture or promotion of the “St. George’s ribbon,” a symbol associated with Russia-led forces in the Donbas region. During the May 9 celebration of World War II Victory Day, several persons were detained in Kyiv, Lviv, Poltava, Melitopol, and Odesa for carrying banned Soviet symbols.
The law prohibits statements that threaten the country’s territorial integrity, promote war, instigate racial or religious conflict, or support Russian aggression against the country, and the government prosecuted individuals under these laws.

Press and Media Freedom: The NGO Freedom House rated the country’s press as “partly free.” Independent media and internet news sites were active and expressed a wide range of views. Privately owned media, the most successful of which were owned by wealthy and influential oligarchs, often presented readers and viewers a “biased pluralism,” representing the views of their owners, favorable coverage of their allies, and criticism of political and business rivals. The 10 most popular television stations were owned by businessmen whose primary business was not in media. Independent media had difficulty competing with major outlets that operated with oligarchic subsidies.

As of October 1, the Institute of Mass Information (IMI) recorded 140 cases of alleged violations of freedom of press during the year, compared with 152 cases over the same period in 2017.

Jeansa--the practice of planting one-sided or favorable news coverage paid for by politicians or oligarchs--continued to be widespread. IMI’s monitoring of national print and online media for jeansa indicated that a wide range of actors ordered political jeansa, including political parties, politicians, oblast governments, and oligarchs. According to IMI press monitoring, during the month of September, the country’s internet media contained the highest level of jeansa observed in the previous five years, a level twice as high as the same period in 2017, with 52 percent of journalists reporting that their outlet regularly published jeansa.

Violence and Harassment: Violence against journalists remained a problem. Human rights groups and journalists criticized what they saw as government inaction in solving the crimes as giving rise to a growing culture of impunity.

According to IMI, as of September 1, there had been 22 reports of attacks on journalists during the year, compared with 19 cases during the same period in 2017. As in 2017, private, rather than state, actors perpetrated the majority of the attacks. As of September 1, there were 24 incidents involving threats against journalists, as compared with 22 during the same period in 2017. IMI and editors of major independent news outlets also noted online harassment of journalists by societal actors, reflecting a growing societal intolerance of reporting deemed insufficiently patriotic, a development they asserted had the tacit support of the government.
On September 8, two men, one of them identified as Volodymyr Voychenko, a member of the Novoodesa district council in Mykolaiv Oblast, attacked and beat the editor in chief of the local Mykolaiv newspaper My City, Mykola Popov. According to Popov, Voychenko and an accomplice approached him at a restaurant to complain about his writing and then beat him. The journalist linked the attack to his critical publications about local authorities. Police opened an investigation into both Popov and his attackers, who had filed a complaint claiming that Popov had attacked them.

There were also reports that police beat journalists covering demonstrations (see section 2.b).

There were reports of police using violence and intimidation against journalists. For example in February 21, several female journalists seeking to attend the treason trial of former president Yanukovych reported that police officers forced them to undress and undergo invasive security checks in order to be granted entry to a courtroom where Poroshenko was testifying via video link. Specifically, the female journalists were asked to remove all clothing above the waist so that police could confirm that they did not have political slogans written on their bodies. Police later indicated that they had been looking for members of the protest group Femen, who often conducted partially nude protests. The presidential administration subsequently apologized for the intrusive checks, but the National Police spokesperson defended the police actions as “necessary.”

There were reports of attacks on the offices of independent media outlets, generally by unidentified assailants. For example, on February 23, an unknown assailant burned the offices of the investigative news website Chetverta Vlada (fourth Power) in Rivne. Police opened an investigation into the attack. Five days prior, unknown persons had robbed the offices hosting the website’s server and seized key equipment, which incapacitated the site. Two perpetrators were identified and police issued a wanted notice.

There were reports that government officials sought to pressure journalists through the judicial system. On August 27, Pechersk District Court in Kyiv granted the Prosecutor General’s Office access to 17 months of text messages, calls, and locations from the cell phone of journalist Natalia Sedletska, who was the editor in chief of the anticorruption investigative television program Schemes. The court’s decision was made in the context of a case against Artem Sytynk, the head of the National Anticorruption Bureau (NABU) for allegedly disclosing state secrets to
Journalists in which Sedletska and a number of other journalists were called as witnesses. Sedletska had previously refused to provide information to the Prosecutor General’s Office voluntarily on the grounds her communications with confidential sources are protected under the law. Human rights defenders considered the court’s decision a violation of press freedom and an attempt to harass and intimidate Sedletska. On September 18, an appeals court ruled to restrict the original request to geolocation data from around the offices of the NABU in Kyiv, but upheld the original timeframe. On September 18, the ECHR ordered the government to ensure that authorities do not access any data from Sedletska’s cell phone. According to press reports, Sedletska was one of at least three journalists whose communications data was subject to court rulings that it should be provided to the Prosecutor General’s Office.

There were no developments during the year in the 2016 killing of well-known Belarusian-Russian journalist Pavel Sheremet, who hosted a morning show on Vesti radio and worked for the Ukrainska Pravda online news outlet (see section 1.a.).

In June 2017 authorities completed the investigation of the 2015 killing of Oles Buzyna, allegedly by members of a right-wing political group, and referred the case to court for trial. Court hearings against two suspects were underway as of September.

Censorship or Content Restrictions: Human Rights organizations frequently criticized the government for taking an overly broad approach to banning books, television shows, and other content (see sections on National Security and Internet Freedom).

The State Committee on Television and Radio Broadcasting (Derzhkomteleradio) maintained a list of banned books that were seen to be aimed at undermining the country’s independence, spreading propaganda of violence, inciting interethnic, racial, religious hostility, promoting terrorist attacks, or encroaching on human rights and freedoms. As of July the list contained 180 books. In January, Derzhkomteleradio banned the Russian-language translation of Stalingrad, an award-winning book by British historian Anthony Beevor. Authorities held that the book’s allegation that Ukrainian militias during World War II carried out an execution of 90 Jewish orphans in Bila Tserkva constituted “propaganda” encroaching on the country’s sovereignty and security.
Both independent and state-owned media periodically engaged in self-censorship when reporting stories that might expose political allies to criticism or that might be perceived by the public as insufficiently patriotic or provide information that could be used for Russian propaganda.

Libel/Slander Laws: Libel is a civil offense. While the law limits the monetary damages a plaintiff can claim in a lawsuit, local media observers continued to express concern over high monetary damages awarded for alleged libel. Government entities, and public figures in particular, used the threat of civil suits, sometimes based on alleged damage to a person’s “honor and integrity,” to influence or intimidate the press and investigative journalists.

For example, on June 13, Ukroboronprom (an association of state-run companies producing defense articles) filed a lawsuit against Publishing House Media DK, the media group that owns Novoye Vremya. Novoye Vremya had published articles on corruption connected to state purchases of defense articles from Ukroboronprom. The lawsuit called for the protection of Ukroboronprom’s honor and dignity and demanded that Novoye Vremya publish a retraction of the story on corruption schemes. The case had not yet been heard in court by year’s end.

National Security: Authorities took measures to prohibit, regulate, and occasionally censor information deemed a national security threat, particularly those emanating from Russia and promoting pro-Russian lines, in the context of the ongoing conventional conflict in the Donbas, as well as the ongoing Russian disinformation and cyber campaigns.

The government continued the practice of banning specific works by Russian actors, film directors, and singers, as well as imposing sanctions on pro-Russian journalists. According to the State Film Agency, as of mid-September more than 660 films and television shows had been banned on national security grounds since 2014. In response to Russia’s continued barrage of cyberattacks and disinformation as part of its efforts to destabilize Ukraine, the government maintained its May 2017 ban on the operations of 468 companies and 1,228 persons that allegedly posed a “threat to information and the cyber security of the state.” Among them were the country’s two most widely used social networks, which were based in Russia, and major Russian television channels.

There were reports that the government used noncompliance with these content bans to pressure outlets it perceived as having a pro-Russian editorial policy. For example, on January 25, the television channel INTER, which some observers
perceived to have a pro-Russian bias, received notice from the SBU that it would be subjected to additional “inspections” on the grounds the channel had aired films that were banned because they starred pro-Russian actors that posed a “threat to national security.”

On October 4, parliament approved a resolution to impose sanctions on television channels 112 Ukraine and NewsOne due to their alleged pro-Russian activities and beneficial owners. The resolution called for blocking of assets, suspension of licenses, a ban on the use of radio frequencies, and a termination of the provisions of telecommunication services and usage of general telecommunications networks. As of December sanctions had not yet come into force.

On September 18, the Lviv Oblast council banned all Russian-language books, films, and songs, in order to combat “hybrid warfare” by Russia. The Zhytomyr and Ternopil Oblast Councils mirrored this measure on October 25 and November 6 respectively. Observers expressed doubts that this type of ban could be enforced.

Media professionals continued to experience pressure from the SBU, the military, and other officials when reporting on sensitive issues, such as military losses. For example, the editor in chief of the weekly magazine Novoye Vremya reported threats to the magazine’s editorial board by the chair of the parliamentary committee on national security and former head of the Ukroboronprom Serhiy Pashynsky, and the deputy chair of the National Security and Defense Council Oleg Hladkovsky. The magazine reported that the two officials were the main beneficiaries of corruption schemes connected to state purchases of defense articles. On April 12, attorneys for the two members of parliament visited the magazine’s office and demanded that Novoye Vremya publish a retraction of the story on national security grounds. The magazine refused to do so.

There were reports that the government used national security grounds to arrest and prosecute journalists it believed had a pro-Russian editorial bias. On May 15, the SBU searched RIA Novosti Ukraine’s office. Editor in Chief Kirill Vyshinskiy was arrested and charged with high treason. According to the SBU, in the spring of 2014, Vyshinskiy went to Crimea, where he allegedly took part in a propaganda campaign supporting the peninsula’s purported annexation by Russia, for which the SBU alleged he was given an award by the Russian government. The Committee to Protect Journalists, Reporters without Borders, and the OSCE representative on freedom of the media expressed concern at the time of his arrest. Pretrial investigation continued as of late September.
Authorities continued to deport and bar entry to foreign journalists on national security grounds. On July 10, border guards barred John Warren Graeme Broderip, a UK national and the host of the Russian channel NTV, from entering the country and imposed a three-year entry ban on him for violating the rules of entering occupied Crimea in 2015.

Nongovernmental Impact: There were reports that nationalist hate groups committed attacks on journalists. For example according to IMI, on July 19, members of nationalist hate group C14 in Kyiv attacked a journalist covering a trial of C14 members who had been charged with attacking a Romani camp.

Russia-led forces in the east harassed, arbitrarily detained, and mistreated journalists (see section 1.g.). According to the HRMMU, “the space for freedom of opinion and expression remained highly restricted.” The HRMMU documented the case of two men detained and charged with espionage for their pro-Ukrainian positions expressed in social media. The HRMMU also noted that “local media currently operated mainly as a tool for promoting those in control.” According to CyberLab Ukraine, the authorities in the “Luhansk People’s Republic” blocked more than 50 Ukrainian news outlets.

The HRMMU reported that journalists entering Russia-controlled territory of the “DPR” had to inform the “press center” of the “ministry of defense” about their activities on a daily basis, were arbitrarily required to show video footage at checkpoints, and were accompanied by members of armed groups when travelling close to the contact line.

On August 22, the Russian state-run television channel Rossiya 24 broadcast an “interview” with Stanislav Aseyev, in which he falsely confessed to spying for Ukraine. “DPR authorities” arrested Aseyev in June (see section 1.g.).

**Internet Freedom**

According to the International Telecommunication Union (ITU), 53 percent of the population used Internet in 2017. Law enforcement bodies monitored the internet, at times without appropriate legal authority, and took significant steps during the year to block access to websites.

On May 14, the president endorsed new sanctions approved by the National Security and Defense Council that, among other things, obliged Ukrainian internet providers to block 192 sites, in addition to those previously blocked.
Human rights groups and journalists who were critical of Russian involvement in the Donbas region and the occupation of Crimea reported their websites were subjected to cyberattacks, such as coordinated denial of service incidents and unauthorized attempts to obtain information from computers, as well as coordinated campaigns of “trolling” and harassment on social media.

In its annual *Freedom on the Net* report published in November, Freedom House concluded that internet freedom had deteriorated for the second year in a row. It noted in particular that “authorities have become less tolerant of online expression perceived as critical of Ukraine’s position in the conflict, and the government has been especially active this year in sanctioning social media users for ‘separatist’ and ‘extremist’ activities, with many users detained, fined, and even imprisoned for such activities. Meanwhile, Russia-led forces in the east have stepped up efforts to block content online perceived to be in support of Ukrainian government or cultural identity.”

There were reports that the government prosecuted individuals for their posts on social media. According to the media monitoring group Detector Media, in 2017 authorities opened criminal investigations into 40 users or administrators of social media platforms for posting content that “undermined the constitutional order” of the country or otherwise threatened national security, 37 of which were referred to court. For example, according to Freedom House, in February the SBU searched the home of a Chernihiv resident for allegedly posting anti-Ukrainian content on Russian social media platforms. Authorities seized his computer and telephone, and later charged him for “undermining the constitutional order.” According to the SBU, the man shared content on several groups and pages with more than 20,000 followers.

On November 28, representatives of at least four Ukrainian human rights, media, and anticorruption organizations were notified by Google that their private and corporate Google accounts were attacked by offenders likely backed by the Russian government. Ukrainian users received similar messages throughout 2015-2016. Independent analysis indicated that a hacker group named Fancy Bear associated with the Russian Government was behind the attacks.

**Academic Freedom and Cultural Events**

There were no reports of government restrictions on academic freedom or cultural events. The government maintained a list of Russian or pro-Russian musicians,
actors, and other cultural figures that it prohibited from entering the country on national security grounds.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

Freedom of Peaceful Assembly

The constitution provides for the freedom of peaceful assembly, and the government generally respected this right. There are no laws, however, regulating the process of organizing and conducting events to provide for the right, and authorities have wide discretion under a Soviet-era directive to grant or refuse permission for assemblies on grounds of protecting public order and safety. Organizers are required to inform authorities in advance of plans for protests or demonstrations.

During the year citizens generally exercised the right to assemble peacefully without restriction in areas of the country under government control. There were reports, however, that police at times used excessive force when dispersing protests. For example, on March 3, police destroyed a protest tent camp that had been set up near the parliament in October 2017. Police allegedly beat protesters and used tear gas against journalists. Nineteen persons sustained injuries (10 had head injuries and nine other types of physical injuries), including journalists from Radio Liberty, Hromadske TV, and the Insider news outlet. The journalists reported deliberate attacks by police despite the fact that they had clearly identified themselves as members of the press. According to the chief of the Kyiv police, investigators and police were lawfully investigating criminal acts in connection with protester attempts to seize the International Center for Culture and Arts in Kyiv in December 2017 and clashes at the parliament on February 27. Police initiated two criminal investigations on possible use of excessive force by officers and interference by police in the work of journalists who were attempting to record the event. The investigation continued as of December.

While the main 2018 Pride March in Kyiv was protected by thousands of police, police at times did not adequately protect smaller demonstrations, especially those organized by persons belonging to minority groups or opposition political movements. Events organized by women’s rights activists or the LGBTI community were regularly disrupted by members of nationalist hate groups. On
March 8, members of right-wing groups attacked participants in public events in Uzhhorod, Lviv, and Kyiv aimed at raising awareness of women’s rights and gender-based and domestic violence. Police launched investigations of the incidents. Police briefly detained attackers but no charges were filed.

In Russia-controlled territory, the HRMMU noted an absence of demonstrations because “people are concerned that they may be ‘arrested’ if they organize protests or assemblies against the policies” of Russia-led forces. The HRMMU also noted the only demonstrations permitted in these areas were ones in support of local “authorities,” often apparently organized by Russia-led forces, with forced public participation.

**Freedom of Association**

The constitution and law provide for freedom of association, and the government generally respected this right.

Human rights groups and international organizations continued to criticize sharply a law signed by the president in March 2017 that introduced vague and burdensome asset-reporting requirements for civil society organizations and journalists working on anticorruption matters. The law was widely seen as an intimidation and a revenge measure against the country’s anticorruption watchdogs, which had successfully pushed for increased financial transparency for government officials. Heads and members of the boards of anticorruption NGOs had to submit their asset declarations by April 1. Observers continued to express concern that these asset declarations have the potential to endanger the staff of NGOs working on human rights and anticorruption, particularly if they work on issues related to Russian-occupied Crimea or areas of the Donbas controlled by Russia-led forces.

Human rights organizations reported a growing number of unsolved attacks on members of civil society organizations, which they believed created a climate of impunity. A September 26 joint statement by several dozen Ukrainian civic organizations stated that there had been more than 50 such attacks in the previous 12 months and accused the government of failing to investigate these crimes properly.

There were reports of incidents in which observers alleged that the government targeted activists for prosecution in retaliation for their professional activity. For example, several major human rights groups expressed concern about the
government’s prosecution of Vitaliy Shabunin, head of the anticorruption NGO AntAC, which they alleged was selective and politically motivated. On January 15, authorities charged Shabunin with allegedly inflicting bodily harm on a journalist, a charge that carries a heavier penalty than the crime of inflicting intentional moderate bodily harm with which he had previously been charged in 2017. Both charges stemmed from an incident in June 2017 in which Shabunin allegedly punched Vsevolod Filimonenko, a supposed journalist who had reportedly harassed one of Shabunin’s colleagues. Human rights groups noted that video footage of the events suggested that Filimonenko may have been sent by the country’s security services to provoke a conflict with Shabunin and that the resources and vigor the government applied to prosecuting Shabunin far exceeded their usual approach to prosecuting attacks on journalists, including attacks where the resultant injuries were much more grave.

According to the HRMMU, in the territories controlled by Russia-led forces, domestic and international civil society organizations, including human rights defenders, could not operate freely. Residents informed the HRMMU they were being prosecuted (or feared being prosecuted) by the “ministry of state security” for their pro-Ukrainian views or previous affiliation with Ukrainian NGOs. If human rights groups attempted to work in those areas, they faced significant harassment and intimidation. The HRMMU also noted an increase in civil society organizations run by Russia-led forces, which appeared to require certain persons, such as public-sector employees, to join.

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

d. Freedom of Movement

The constitution and law provide citizens with freedom of internal movement, foreign travel, emigration, and repatriation. The government, however, restricted these rights, particularly in the eastern part of the country near the zone of conflict.

The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. International and domestic organizations reported the system for protecting asylum seekers, stateless persons, and other persons of concern did not operate effectively.
Abuse of Migrants, Refugees, and Stateless Persons: Authorities frequently detained asylum seekers for extended periods without court approval.

In-country Movement: The government and Russia-led forces strictly controlled movement between government-controlled areas and territories in the Donbas region controlled by Russia-led forces. Crossing the contact line remained arduous. Public passenger transportation remained prohibited.

While five crossing points existed, only four were in operation for much of the year. According to the HRMMU, between May and August, an average of 39,000 individuals crossed the line daily. The HRMMU reported that individuals crossing the contact line, predominantly the elderly and people with medical issues, had to spend several hours standing in line. According to the State Emergency Service of Ukraine in Luhansk Oblast, up to 100 persons experienced health incidents each day at the Stanytsia-Luhanska checkpoint between May and August.

The government used a pass system involving an online application process to control movement into government-controlled territory. Human rights groups expressed concern that many persons in Russia-controlled territory did not have access to the internet to obtain such passes and that the pass system imposed significant hardships on persons crossing into government-controlled territory, in particular those who sought to receive pensions and government benefits, which were not distributed in the territory controlled by Russia-led forces. As of April 2017, crossing permits no longer expire and residents of territory adjacent to the line of contact on the government-controlled side did not need a permit to cross.

The HRMMU repeatedly voiced concern over reports of corruption by checkpoint personnel on both sides, including demands for bribes or goods in exchange for easing passage across the line of contact. Russia-led forces continued to hinder freedom of movement in the eastern part of the country.

The government and Russian occupation authorities subjected individuals crossing between Russian-occupied Crimea and the mainland to strict passport controls at the administrative boundary between Kherson Oblast and Crimea. Authorities prohibited rail and commercial bus service across the administrative boundary, requiring persons either to cross on foot or by private vehicle. Long lines and insufficient access to toilets, shelter, and potable water remained prevalent. Civil society, journalists, and independent defense lawyers continued to maintain that the government placed significant barriers to their entry to Crimea, including
lengthy processes to obtain required permissions, thereby complicating their ability to document and address abuses taking place there.

Internally Displaced Persons (IDPs)

According to the Ministry of Social Policy, as of late September more than 1.5 million persons were registered IDPs due to Russia’s aggression in eastern Ukraine and the occupation of Crimea. Some NGOs and international organizations estimated the number to be lower, since some persons returned to their homes after registering as IDPs, while others registered while still living in the conflict zone. The largest number of IDPs resided in areas immediately adjoining the conflict zones, in government-controlled areas of Donetsk and Luhansk Oblasts as well as in Kharkiv, Dnipropetrovsk, and Zaporizhzhya Oblasts. Many resided in areas close to the line of contact in the hope they would be able to return home.

The government granted social entitlements only to those individuals who had registered as IDPs. By law, IDPs are eligible to receive payments of 880 hryvnias ($33) per month for children and persons with disabilities and 440 hryvnias ($16) per month for those able to work. Families may receive no more than 2,400 hryvnias ($89) per month. According to the law, the government should provide IDPs with housing, but authorities did not take effective steps to do so. On October 10, the president signed a law providing for the priority provision of social housing for IDPs with disabilities. Humanitarian aid groups had good access to areas under government control.

Housing, employment, and payment of social benefits and pensions remained the greatest concerns among IDPs. Local departments of the Ministry of Social Policy regularly suspended payment of pensions and benefits pending verification of their recipients’ physical presence in government-controlled territories, ostensibly to combat fraud, requiring recipients to go through a burdensome reinstatement process.

According to the HRMMU, the government applied the IDP verification procedure broadly. The suspensions affected the majority of IDP residents in government-controlled territory, as well as most residents of Russia-controlled areas; effects were especially acute for the elderly and disabled, whose limited mobility hindered their ability to verify whether they were included in the lists or to prove their residency. The government often suspended payments without notification, and IDPs reported problems having them reinstated. On September 4, the Supreme
Court ruled that the verification requirement did not constitute lawful grounds for termination of pension payments.

According to research conducted by the International Organization for Migration (IOM), 59 percent of surveyed IDP households relied on government support as one of their main sources of income. More than 15 percent of IDP respondents indicated their social payments had been suspended.

IDPs were unable to vote in local elections unless they changed their registration to their new place of residence.

According to the HRMMU, IDP integration remained impeded by the lack of a government strategy and the consequent absence of allocation of financial resources, leading to IDPs’ economic and social marginalization. Local civil society organizations and international humanitarian organizations provided the bulk of assistance for IDPs on a temporary basis. NGOs reported their ability to support IDPs was limited and nearing exhaustion. UN agencies reported the influx of IDPs led to tensions arising from competition for scarce resources. Critics accused internally displaced men who moved to western areas of the country of evading military service, while competition rose for housing, employment, and educational opportunities in Kyiv and Lviv.

A shortage of employment opportunities and the generally weak economy particularly affected IDPs, forcing many to live in inadequate housing, such as collective centers and other temporary accommodations. Other IDPs stayed with host families, volunteers, and in private accommodations, although affordable private accommodations were often in poor condition.

NGOs reported employment discrimination against IDPs. Some IDPs, particularly those in government-controlled areas of Donetsk and Luhansk Oblasts, lacked sufficient sanitation, shelter, and access to potable water. IDPs continued to have difficulty obtaining education, medical care, and necessary documents. Romani activists expressed concern that some Roma in eastern areas could not afford to flee conflict areas, while others had no choice but to leave their homes.

In 2015 the Kyiv Administrative Court of Appeal overturned a National Bank decision that Crimean IDPs were nonresidents, which had restricted access to banking and financial services for those fleeing the Russian occupation. Nonetheless, media reports indicated that banks continued to restrict banking services for Crimean IDPs even after the court decision.
Protection of Refugees

Refoulement: The government often did not provide for protection against the expulsion or return of asylum seekers 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. For example on September 12, the Prosecutor General’s Office authorized the extradition of a Russian citizen, Timur Tumgoyev, to the Russian Federation, which subsequently prosecuted him on terrorism charges. According to press reports, Tumgoyev had been in the country since 2016, had apparently fought in a progovernment battalion in the Donbas, and had requested asylum. The UN Human Rights Committee had previously called on the country’s authorities to halt Tumgoyev’s extradition pending consideration of his assertion that he would face torture if forcibly returned. On September 19, the Prosecutor General’s Office opened an investigation into whether there had been criminal negligence on the part of the state agencies involved in Tumgoyev’s extradition. On October 6, the Russian press reported that Tumgoyev had been severely beaten in detention in Russia.

There were also allegations that officials deported some individuals to countries where they were at risk of imprisonment without providing an opportunity for them to apply for asylum. For example on July 12, the SBU in Mykolaiv detained Turkish opposition journalist Yusuf Inan, who had a permanent residence permit in Ukraine. On July 13, a Mykolaiv court ruled to extradite him to Turkey, where he was wanted on charges of being a member of the Gulen movement. According to press reports, authorities immediately transported Inan to Turkey, denying him the ability to appeal the court decision or apply for asylum.

Access to Asylum: The law provides for asylum or refugee status, and the government has established a legal system to protect refugees. Protection for refugees and asylum seekers was insufficient due to gaps in the law and the system of implementation. As of July 1, only seven persons had received refugee status since the start of the year. The country is a transit and destination country for asylum seekers and refugees, principally from Afghanistan, the Russian Federation, Bangladesh, Syria, and Iraq.

Human rights groups noted that the refugee law falls short of international standards due to its restrictive definition of 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. 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. Asylum seekers have five days to appeal an order of detention or deportation.

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

**Employment:** Most asylum seekers were unable to obtain a work permit as required by law. Some asylum seekers worked illegally, increasing their risk of exploitation.

**Access to Basic Services:** The national plan on the integration of refugees adopted by the government did not allocate resources for its implementation. A UNHCR report indicated all newly recognized refugees received a one-time grant of approximately 30 hryvnias ($1.10). Some reports, however, indicated the government did not always provide payment.

Temporary accommodation centers had a reception capacity of 421. Asylum seekers living outside an official temporary accommodation center often experienced difficulties obtaining residence registration, and authorities regularly fined them more than 500 hryvnias ($19) because they lacked registration. According to the State Migration Service, refugees and those seeking complementary protection could receive residence registration at homeless shelters for up to six months.

According to UNHCR, gaps in housing and social support for unaccompanied children left many without access to state-run accommodation centers or children’s shelters. Many children had to rely on informal networks for food, shelter, and other needs and remained vulnerable to abuse, trafficking, and other forms of exploitation. UNHCR noted a lack of educational programs and vocational activities for those in detention for extended periods.

**Temporary Protection:** The government also provided temporary protection (“complementary protection”) to individuals who may not qualify as refugees; as
of July 1, authorities had provided complementary protection to 37 persons during the year, bringing the overall total to 739.

Stateless Persons

UNHCR estimated there were 35,463 stateless persons in the country at year’s end. Persons who were either stateless or at risk of statelessness included Roma, homeless persons, current and former prisoners, and persons over 50 who never obtained a Ukrainian personal identification document after the fall of the Soviet Union and were no longer able to obtain one.

The law requires establishing identity through a court procedure, which demanded more time and money than some applicants had. UNHCR reported Roma were at particular risk for statelessness, since many did not have birth certificates or any other type of documentation to verify their identity. Homeless persons had difficulty obtaining citizenship because of a requirement to produce a document testifying to one’s residence.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: In 2014 citizens elected Petro Poroshenko president in an election considered free and fair by international and domestic observers. The country held early legislative elections in 2014 that observers also considered free and fair.

Political Parties and Political Participation: The Communist Party remains banned.

Participation of Women and Minorities: No laws limit the participation of women or members of minorities in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption. Authorities did not effectively implement the law, and many officials engaged in corrupt practices with impunity.
While the number of reports of government corruption was low, corruption remained pervasive at all levels in the executive, legislative, and judicial branches of government.

On June 26, the president signed the Law on the High Anticorruption Court (HACC); on August 2, he signed an amendment to the law that clarified the HACC appeals processes. Observers noted that the HACC’s creation completed the country’s system of bodies to fight high-level corruption. Its success will depend on the integrity of the selection procedures for its judges as well as on the effectiveness and independence of the other two previously created anticorruption agencies, the National Anticorruption Bureau (NABU) and the Special Anticorruption Prosecutor (SAP). The process for selecting HACC judges began in August. In November anticorruption watchdogs expressed concern about apparent limitations on the work of an international expert panel that the law mandates participate in the HACC judge selection process to ensure the integrity of candidates.

The new independent anticorruption bodies faced political pressure that undermined public trust, raised concern about the government’s commitment to fighting corruption, and threatened the viability of the institutions. Anticorruption watchdogs noted that several appointments to NABU’s audit board during the year were seen as personally loyal to the president and posing a threat to NABU’s independence. Observers alleged that the release of leaked conversations by the head of SAP in early 2018 indicated he had engaged in witness tampering and obstruction of justice. He refused to resign, was not disciplined by the Prosecutor General or prosecutorial body, and allegedly proceeded to undermine NABU investigations, weakening efforts to hold high-ranking officials to account.

Corruption: While the government publicized several attempts to combat corruption, it remained a serious problem for citizens and businesses alike.

On February 13, NABU arrested Odesa Mayor Hennadiy Trukhanov and three city council deputies, who were charged with embezzlement and causing financial damage to the state. He was released on bail on February 15. According to NABU, Trukhanov and his associates profited from a fraud scheme in which the Odesa city government bought a building from a fictitious private company for 185 million hryvnias ($6.9 million) in 2016. That company, allegedly beneficially owned by Trukhanov and associates, had allegedly bought the building just months earlier from the Odesa city government for just 11.5 million hryvnias ($430,000) at
an auction and had made millions of dollars in illicit profit from the resale. A court began reviewing the case on November 14.

Financial Disclosure: The law mandates the filing of income and expenditure declarations by public officials, and a special review process allows for public access to declarations and sets penalties for either not filing or filing a false declaration. By law, the National Agency for the Prevention of Corruption (NAPC) is responsible for reviewing financial declarations, monitoring the income and expenditures of high-level officials, and checking party finances. Observers increasingly questioned, however, whether the NAPC had the capacity and independence to fulfill this function, noting that in practice NABU had proven to be more effective for oversight of declarations, even though this was not its core mandate. In July, Transparency International Ukraine noted that the NAPC had fully reviewed only 300 declarations out of 2.5 million that had been submitted and had identified multiple serious holes in its verification procedures. On September 25, the NAPC launched “automated” verification of declarations, which would purportedly allow easier identification of declarations at “high risk” of fraud. Observers noted serious flaws in this automated procedure and doubted it would result in improved verification. Observers noted that the NAPC’s December announcement that it would open criminal cases regarding party financing against the lead opposition party Batkivshchyna and several minor parties after years of general inactivity raised concerns that it might be used for political purposes ahead of the 2019 election cycle.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. During the year burdensome new reporting requirements on NGOs working on anticorruption matters came into effect. The requirements were adopted in 2017 in apparent retaliation for the NGOs’ activities (see section 2.b., Freedom of Association).

Authorities in Russia-controlled areas in eastern Ukraine routinely denied access to domestic and international civil society organizations. If human rights groups attempted to work in those areas, they faced significant harassment and intimidation (see section 2.b., Freedom of Association).
Government Human Rights Bodies: The constitution provides for a human rights ombudsman, officially designated as legislative commissioner on human rights. The Human Rights Ombudsman’s Office frequently collaborated with NGOs through civic advisory councils on various projects for monitoring human rights practices in prisons and other government institutions.

The Ombudsman’s Office collaborated with leading domestic human rights groups and acted as an advocate on behalf of Crimean Tatars, IDPs, Roma, persons with disabilities, LGBTI individuals, and prison inmates.

On March 15, the parliament appointed Lyudmila Denisova parliamentary commissioner for human rights. The office of the Human Rights Ombudsperson cooperated with NGOs on various projects to monitor human rights practices in various institutions, including detention facilities, orphanages and boarding schools for children, and geriatric institutions. Denisova took a proactive stance advocating on behalf of political prisoners held by Russia, Crimean Tatars, Roma, IDPs, and persons with disabilities.

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

During the year, human rights groups expressed growing concern about an increasingly organized set of nationalist hate groups committing violent attacks on ethnic minorities (especially Roma), LGBTI persons, feminists, and other individuals they considered to be “un-Ukrainian” or “anti-Ukrainian.” The HRMMU noted that the failure of police and prosecutors to prevent these acts of violence, properly classify them as hate crimes, and effectively investigate and prosecute them created an environment of impunity and lack of justice for victims. A June 13 joint open letter to Ukrainian authorities from Human Rights Watch, Freedom House, Amnesty International, and Frontline Defenders also expressed concerns about the spike in attacks and impunity, and noted “the inadequate response from the authorities sends a message that such acts are tolerated.”

Investigative journalists exposed several instances during the year in which the government provided grant funds to or cooperated with hate groups. On June 8, the Ministry of Youth and Sport announced that it would award C14, a nationalist hate group, 440,000 hryvnia ($17,000) to hold a youth summer camp. The ministry later justified the decision by stating that it provided the funds only for specific project activities that were not violent. Media outlets reported that C14 and other hate groups had entered into formal agreements with municipal authorities in Kyiv and other cities to form “municipal guard” patrol units to
provide public security. In a December 2017 media interview, the head of C14 described cooperation with the SBU and police (see section 1.d.).

**Women**

*Rape and Domestic Violence:* The law prohibits rape of men or women. The penalty for rape is three to 15 years imprisonment. Sexual assault and rape continued to be significant problems.

On January 4, the president signed a new law, *On Preventing and Combating Domestic Violence*, which came into force on January 7. It introduced a new legal concept of domestic violence and called for the creation of a unified state register to monitor cases of domestic violence. Under the law, an offender is liable for compulsory community service, or a two to eight year prison term.

Domestic violence against women remained a serious problem. Spousal abuse was common. According to the Ministry of Internal Affairs, 651 cases of domestic violence were registered during the first nine months of the year. Police issued approximately 68,000 domestic violence warnings and protection orders during the first nine months of the year. Punishment included fines, emergency restraining orders of up to 10 days, ordinary restraining orders from one to six months, administrative arrest, and community service. Human rights groups noted that the ability of agencies to detect and report cases of domestic violence was limited. Human rights groups asserted that law enforcement often did not consider domestic violence to be a serious crime but rather a private matter to be settled between spouses, but also noted that police were starting to take the problem more seriously.

On November 5, police in Vinnytsia Oblast arrested 54-year old Petro Putsak for starving his 78-year old mother. Neighbors reported that he locked his mother in the house, deprived her of medical help and would occasionally beat her when demanding money. The woman was taken to the intensive care unit of a local hospital. Police were in the process of investigating the case.

According to the NGO La Strada, the conflict in the Donbas region led to a surge in violence against women across the country. Human rights groups attributed the increase in violence to posttraumatic stress experienced by IDPs fleeing the conflict and by soldiers returning from combat. IDPs reported instances of rape and sexual abuse; many claimed to have fled areas controlled by Russia-led forces because they feared sexual abuse.
Although the law requires the government to operate a shelter in every major city, it did not do so. Social services centers monitored families in matters related to domestic violence and child abuse.

**Sexual Harassment:** While the law prohibits coercing a “materially dependent person” to have sexual intercourse, legal experts stated that safeguards against harassment were inadequate. The law puts sexual harassment in the same category as discrimination and sets penalties from a fine of up to three years in prison. Women’s rights groups reported continuing and widespread sexual harassment, including coerced sex, in the workplace. Women rarely sought legal recourse because courts declined to hear their cases and rarely convicted perpetrators.

**Coercion in Population Control:** There were no reports of coerced abortion or involuntary sterilization.

**Discrimination:** The law provides that women enjoy the same rights as men. Nevertheless, women experienced discrimination in employment. According to the government commissioner on gender policy, women received 30 percent lower salaries than men. In December 2017 the Ministry of Health removed 450 occupations from a list of occupations prohibited for women; 50 occupations remained on the list, however. In April the government approved the *State Social Program for Equal Rights and Opportunities for Women and Men*, which aimed to ensure access of men and women to employment, achieve balanced participation of women and men in political and public decision-making, to bridge the gap in salary payments, and to adopt appropriate regulations to achieve gender mainstreaming in all policies.

In September the parliament approved the Law on Ensuring Equal Rights and Opportunities for Women and Men Serving in the Ukrainian Armed Forces and Other Military Institutions, which provided for gender equality related to military service. The bill was aimed at ensuring gender equality and combating gender-based discrimination in the security and defense sectors, including the recognition and compensation of women’s service in combat roles and the ability for women to receive an education at military academies (see also section 7.d.).

**Children**

**Birth Registration:** Either birth in the country or to Ukrainian parents conveys citizenship. A child born to stateless parents residing permanently in the country is
a citizen. The law requires that parents register a child within a month of birth, and failure to register sometimes resulted in denial of public services.

Registration of children born in Crimea or Russia-controlled areas in Donbas remained difficult. Authorities required hospital paperwork to register births. Russia-backed “authorities” routinely kept such paperwork if parents registered children in territories under their control, making it difficult for the child to obtain a Ukrainian birth certificate. In addition, authorities did not recognize documents issued by Russian occupation authorities in Crimea or “authorities” in territories controlled by Russia-led forces. Persons living in Crimea and parts of Russia-controlled Donbas had to turn to Ukrainian courts with birth or death documents issued by occupational authorities in order to receive Ukrainian documents. The courts were obliged to make rulings in 24 hours; these decisions were then carried out by the registry office. Due to the lack of judges in local courts, Ukrainians living in regions occupied by Russia and Russian-led forces faced serious difficulty in obtaining Ukrainian documents.

**Child Abuse:** Penalties for child abuse range from three years to life depending on severity. The law “On Children Protection from Sexual Abuse and Sexual Exploitation,” which amended the Criminal Code of Ukraine to criminalize sexual relations between adults and persons who have not reached the age of 16, came into force on April 18. The law calls for imprisonment of up to five years for those who engage in sexual relations with a child younger than 16.

Human rights groups noted authorities lacked the capability to detect violence against children and refer victims for assistance. Preventive services remained underdeveloped. There were also instances of forced labor involving children (see section 7.c.).

Authorities did not take effective measures at the national level to protect children from abuse and violence and to prevent such problems. The ombudsman for human rights noted the imperfection of mechanisms to protect children who survived or witnessed violence, in particular violence committed by their parents. According to the law, parents were the legal representatives of their children, even if they perpetrated violence against them. There is no procedure for appointing a temporary legal representative for a child during the investigation of alleged parental violence.

In early November a two-year old boy was taken to the intensive care unit in Kyiv. According to the police, his stepfather brutally beat him. Police began
investigating the incident and the child was removed from the family pending conclusion of the investigation.

**Early and Forced 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. Romani rights groups reported that early marriages involving girls under the age of 18 were common in the Romani community.

**Sexual Exploitation of Children:** The law prohibits the commercial sexual exploitation of children, the sale of children, offering or procuring a child for child prostitution, and practices related to child pornography. The minimum prison sentence for child rape is 10 years. Molesting a child younger than 16 is punishable by imprisonment for up to five years. The same offense committed against a child younger than 14 is punishable by imprisonment for five to eight years. The age of consent is 16.

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 in the country. The IOM reported that children from socially disadvantaged families and those in state custody continued to be at high risk of trafficking, including for commercial sexual exploitation and the production of pornography. For example on June 13 in Kryvyi Rih, police arrested a couple who repeatedly raped their daughter. They allegedly recorded the child’s abuse and sold videos of it over the internet. According to police, the father had abused the four-year-old child since she was two. The girl’s 30-year-old mother did nothing to stop her husband from abusing and molesting the child. The child was placed in a local rehabilitation center. An investigation was underway as of year’s end.

**Displaced Children:** The majority of IDP children were from Donetsk and Luhansk Oblasts. According to the Ministry of Social Policy, authorities registered more than 240,000 children as IDPs. Human rights groups believed this number was low.

**Institutionalized Children:** The child welfare system continued to rely on long-term residential care for children at social risk or without parental care, although the number of residential-care institutions continued to drop. Government policies to address the abandonment of children reduced the number of children deprived of
parental care. In August 2017 the government approved a national strategy for
2017-2026 intended to transform the institutionalized childcare system into one
that provides a family-based or family-like environment for children.

Human rights groups and media outlets reported unsafe, inhuman, and sometimes
life-threatening conditions in some institutions. Officials of several state-run
institutions and orphanages were allegedly complicit or willfully negligent in the
sex and labor trafficking of girls and boys under their care.

On August 6, Odesa Oblast police launched an investigation into alleged cases of
child abuse in a local orphanage. The investigation began after a five-year old girl
reported numerous cases of humiliation and violence from orphanage staff. The
police initiated investigation.

International Child Abductions: The country is a party to the 1980 Hague
Convention on the Civil Aspects of International Child Abduction. See the
Department of State’s Annual Report on International Parental Child Abduction at
https://travel.state.gov/content/travel/en/International-Parental-Child-
Abduction/for-providers/legal-reports-and-data.html.

Anti-Semitism

According to census data and international Jewish groups, an estimated 103,600
Jews lived in the country, constituting approximately 0.2 percent of the population.
According to the Association of Jewish Organizations and Communities (VAAD),
there were approximately 300,000 persons of Jewish ancestry in the country,
although the number might be higher. Before the Russian aggression in eastern
Ukraine, according to VAAD, approximately 30,000 Jews lived in the Donbas
region. Jewish groups estimated that between 10,000 and 15,000 Jews lived in
Crimea before Russia’s attempted annexation.

According to the National Minority Rights Monitoring Group (NMRMG), like in
2017 no cases of suspected anti-Semitic violence were recorded as of November
30. The last recorded anti-Semitic violence against individuals occurred in 2016.
The NMRMG recorded approximately 11 cases of anti-Semitic vandalism as of
November 30, compared with 24 incidents in 2017. According to NMRMG, the
drop in violence and anti-Semitic vandalism was due to better police work and
prosecution of those committing anti-Semitic acts.
Graffiti swastikas continued to appear in Kyiv, Lviv, Poltava, and other cities. On April 27-28, unidentified individuals smashed windows and scattered prayer books at the ohel (a structure built over the grave of a righteous Jew) at the grave of renowned 17th century Rabbi Shmuel Eidels in Ostroh, Rivne Oblast. Police opened an investigation. Jewish organizations expressed concern about the continued existence of Krakivsky Market and new construction atop a historic Jewish cemetery in Lviv. There were reportedly several anti-Semitic incidents targeting the Babyn Yar memorial during the year.

In other manifestations of anti-Semitism during the year, nationalists in Odesa chanted anti-Semitic slogans during a March of Ukrainian Order on May 3. Tetyana Soykina, head of the local chapter of the Right Sector, a far-right party, said, “We will restore order in Ukraine, Ukraine will belong to Ukrainians, not Jews and oligarchs,” using a pejorative term for Jews. The Ukrainian Jewish Committee condemned an April 28 march sponsored by nationalist organizations honoring the local volunteers who were in the Nazi Waffen SS during the Holocaust. The march featured Nazi symbols and salutes. On April 13, police detained two individuals who were removing gold from mass graves of Jews from the Holocaust in the town of Nemyriv in Vinnytsia Oblast.

In mid-May the Ukrainian consul in Hamburg published anti-Semitic statements in his Facebook account; on May 30, the Ministry of Foreign Affairs fired him for the posts. On June 25, Anatoliy Matios, the country’s chief military prosecutor, espoused anti-Semitic conspiracy theories in a media interview, suggesting that Jews want to drown ethnic Slavs in blood and finance world conflicts. Authorities took no action against Matios for the remarks.

In line with the country’s 2015 decommunization and denazification law, authorities continued to rename Communist-era streets, bridges, and monuments in honor of 20th century Ukrainian nationalists, some of whom were associated with anti-Semitism.

**Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

**Persons with Disabilities**
The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government did not effectively enforce these provisions. The law requires the government to provide access to public venues, health services, information, communications, transportation, and the judicial system and opportunities for involvement in public, educational, cultural, and sporting activities for persons with disabilities. The law also requires employers to take into account the individual needs of employees with disabilities. 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, education, health care, transportation, and financial services remained difficult (see section 7.d.).

Patients in mental health facilities remained at risk of abuse, and many psychiatric hospitals continued to use outdated methods and medicines. In February several patients of a psychiatric institution in Veselynivka, Zaporizhzhya Oblast complained of unbearable conditions and treatment by the staff who allegedly beat and verbally abused them and locked them in a closet. The director of the institution was suspended from his duties. The local prosecutor’s office opened an investigation.

In general, law enforcement took appropriate measures to punish those responsible for violence and abuses against persons with disabilities.

By law, employers must set aside 4 percent of employment opportunities for persons with disabilities. NGOs noted that many of those employed to satisfy the requirement received nominal salaries but did not actually perform work at their companies.

Based on a law adopted in 2017, starting September 1, every child with a disability had the right to study at regular secondary schools. On September 6, parliament approved amendments to a separate law regarding access of persons with disabilities to education. It called for the creation of inclusive groups in preschool facilities, secondary and vocational schools, and colleges. According to the President’s Commissioner for the rights of children, 12,000 children with disabilities went to regular schools within the program of inclusive education.

Persons with disabilities in Russia-controlled areas in the east of the country suffered from a lack of appropriate care.
National/Racial/Ethnic Minorities

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

Human rights organizations stated that the requirement to prove actual intent, including proof of premeditation, to secure a conviction made it difficult to apply the laws against offenses motivated by racial, national, or religious hatred. Authorities opened two criminal proceedings under the laws on racial, national, or religious offenses during the year. Police and prosecutors continued to prosecute racially motivated crimes under laws against hooliganism or related offenses.

There were numerous reports of societal violence against Roma during the year, often perpetrated by known members of violent nationalist hate groups. In some instances, police declined to intervene to stop violence. On July 18, three UN special rapporteurs released a statement calling on the government to take immediate action to stop “what amounts to a systematic persecution” of the country’s Romani minority.

For example on June 24, a group of masked men armed with batons and other weapons attacked a Romani camp on the outskirts of Lviv. A 24-year-old man died of stab wounds; four others, including a 10-year-old boy, were injured. Police detained eight individuals after the attack. They were members of the neo-Nazi group Tvereza i Zla Molod (Sober and Angry Youth). Seven of them were charged with hooliganism and one, twenty-year-old Andriy Tychko, was charged with premeditated murder. An investigation continued at year’s end. During the year there were attacks on Romani settlements in Kyiv, Lviv, Ternopil, Berehove, Uzhhorod, Mukacheve, and Zolotonosha.

Roma continued to face governmental and societal discrimination and significant barriers accessing education, health care, social services, and employment. According to the Romani women’s foundation, Chirikli, local authorities erected a number of barriers to prevent issuing national identification documents to Roma. Authorities hampered access to education for persons who lacked documents and segregated Romani children into special schools or lower-quality classrooms.
During the year many Roma fled settlements in areas controlled by Russia-led forces and moved elsewhere in the country. According to Chirikli approximately 10,000 Roma were among the most vulnerable members of the country’s IDP population. Because many Roma lacked documents, obtaining IDP assistance, medical care, and education was especially difficult.

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

The labor code prohibits workplace discrimination on the basis of sexual orientation or gender identity. No law, however, prohibits such discrimination in other areas, and discrimination was reportedly widespread in employment, housing, education, and other sectors.

There was frequent violence against LGBTI persons, and authorities often did not adequately investigate these cases or hold perpetrators to account. An increase in attacks was due to increasingly active nationalist hate groups (see national minorities above). The HRMMU noted that attacks against members of the LGBTI community and other minorities were rarely classified under criminal provisions pertaining to hate crimes, which carried heavier penalties. Crimes and discrimination against LGBTI persons remained underreported.

For example on June 30, about 10 unidentified young persons attacked Boris Zolotchenko, the head of the organizing committee of the Kryvbas Equality march. Witnesses called police, who refused to come to the crime scene. An investigation into a prior attack on Zolotchenko that took place in January in which five unknown men beat him was closed due to “lack of suspects.”

According to the LGBTI rights group Nash Mir, nationalist hate groups consistently tried to disrupt LGBTI events with violence or threats of violence. For example, on May 10, members of a nationalist hate group disrupted a public discussion in Kyiv on LGBTI rights in Russia. More than 20 men arrived at the venue and threatened participants with violence unless they left. The venue owner joined in the calls and told the organizers to cancel the event and vacate the premises. Police officers present on the site refused to intervene.

Although leading politicians and ministers condemned attacks on LGBTI gatherings and individuals, officials sometimes failed to protect LGBTI persons. Transgender persons continued to face discrimination and violence. On August 19, an unknown person made homophobic remarks and beat transgender activist
Anastasia Kristel Domani. Police opened an investigation for minor assault charges, but as of late November had made no arrests.

Transgender persons reported difficulties obtaining official documents reflecting their gender identity, which resulted in discrimination in health care, education, and other areas.

According to Nash Mir, the situation of LGBTI persons in Russia-controlled parts of the Donetsk and Luhansk Oblasts. Most LGBTI persons either fled or hid their sexual orientation or gender identity.

**HIV and AIDS Social Stigma**

Stigma and discrimination in health-care centers were barriers to HIV-positive individuals’ receiving medical services. UNICEF reported that children with HIV/AIDS were at high risk of abandonment, social stigma, and discrimination. Authorities prevented many children infected with HIV/AIDS from attending kindergartens or schools. Persons with HIV/AIDS faced discrimination in housing and employment.

**Section 7. Worker Rights**

**a. Freedom of Association and the Right to Collective Bargaining**

The constitution provides for freedom of association as a fundamental right and establishes the right to participate in independent trade unions. The law provides the right for most workers to form and join independent unions, to bargain collectively, and to conduct legal strikes. There are no laws or legal mechanisms to prevent antiunion discrimination, although the labor code 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 observers describe court enforcement as arbitrary and unpredictable, with damages too low to create incentives for compliance on the part of employers.

The law contains several limits to freedom of association and the right to collective bargaining. A number of laws that apply to worker organizations are excessively complex and contradictory. For example the status of trade unions under two laws provides they are considered legal entities only after state registration. Under another law, however, a trade union is considered a legal entity upon adoption of
its statute. The inherent conflict between these laws creates obstacles for workers seeking to form trade unions. Unions also reported significant bureaucratic hurdles in the registration process, including the payment of notary fees and requirements to visit as many as 10 different offices. Moreover, independent unions have reported multiple incidents of harassment by local law enforcement officials while navigating the registration process, including atypical and irregular requests for documentation and membership information.

The legal procedure to initiate a strike is complex and severely hinders strike action, artificially lowering the numbers of informal industrial actions. The legal process for industrial disputes requires consideration, conciliation, and labor arbitration allowing involved parties to draw out the process for months. Only after completion of this process can workers vote to strike, a decision that courts may still block. The right to strike is further restricted by the requirement that a large percentage of the workforce (two-thirds of general workers’ meeting delegates or 50 percent of workers in an enterprise) must vote in favor of a strike before it may be called. The government is allowed to deny workers the right to strike on national security grounds or to protect the health or “rights and liberties” of citizens. The law prohibits strikes by broad categories of workers, including personnel in the Office of the Prosecutor General, the judiciary, the armed forces, the security services, law enforcement agencies, the transportation sector, and the public service sector.

Legal hurdles made it difficult for independent unions that were not affiliated with the Federation of Trade Unions of Ukraine (FPU) to take part in tripartite negotiations, participate in social insurance programs, or represent labor at the national and international levels. The legal hurdles resulting from an obsolete labor code hindered the ability of smaller independent unions to represent their members effectively. Authorities did not enforce labor laws effectively or consistently. Trade unions expressed concern that the labor inspectorate lacked funding, technical capacity, and sufficient professional staffing to conduct independent inspections effectively (see section 7.e.).

Worker rights advocates continued to note concerns for the independence of unions from government or employer control. Independent trade unions alleged that the country’s largest trade union confederation, the FPU, enjoyed a close relationship with employers and members of some political parties. Authorities further denied unions not affiliated with the FPU a share of disputed trade union assets inherited by the FPU from Soviet-era unions, a dispute dating back more than two decades.
Independent union representatives continued to be the subjects of violence and intimidation, and reported that local law enforcement officials frequently ignored or facilitated violations of their rights. Worker advocates reported an increase in retaliation against trade union members involved in anticorruption activities at their workplaces.

In April unidentified assailants assaulted a doctor, who was also a trade union activist and whistleblower, in Kyiv. The assault was the second in a series of attacks that followed the doctor’s official and public statements regarding widespread corruption in the healthcare sector.

Trade unions also reported unidentified assailants assaulted a railway inspector who was a union activist in Kryvyi Rih in April. The Independent Railworker’s Union reported that it believed the attack was related to anticorruption activity by the local union chapter.

b. Prohibition of Forced or Compulsory Labor

The law prohibits most forms of forced or compulsory labor. Penalties for violations were sufficiently stringent to deter violations, but resources, inspections, and remediation were inadequate to provide for enforcement.

During the year the IOM responded to numerous instances of compulsory labor, to include pornography, criminal activity, labor exploitation, begging, and sexual and other forms of exploitation. There were also reports of trafficking of women, men, and children for labor in construction, agriculture, manufacturing, services, the lumber industry, nursing, and street begging. Annual reports on government action to prevent the use of forced labor in public procurement indicated that the government has not taken action to investigate its own supply chains for evidence of modern slavery. Traffickers subjected some children to forced labor (see section 7.c.).

According to the IOM, identified victims of trafficking received comprehensive reintegration assistance, including legal aid, medical care, psychological counseling, financial support, vocational training, and other types of assistance based on individual needs.

Also see the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/. 
c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for most employment is 16, but children who are 14 may perform undefined "light work" with a parent’s consent. While the law prohibits the worst forms of child labor, it does not always provide inspectors sufficient authority to conduct inspections.

From January to August, the State Service on Labor conducted 2,614 inspections to investigate compliance with child labor laws. The inspections identified 72 organizations engaged in child labor activities. Of these, 24 were in the service sector, seven in the industrial sector, six in the agricultural sector, and 35 in other areas. The inspections uncovered 40 cases of undeclared labor, one child working in hazardous conditions, and six minors receiving undeclared wages. Increased child labor in amber mining was a growing problem, according to reports by international labor groups.

The most frequent violations of child labor laws concerned work under hazardous conditions, long workdays, failure to maintain accurate work records, and delayed salary payments. Child labor in illegal mining of coal and amber in the territories controlled by Russia-led forces grew during the year. The government established institutional mechanisms for the enforcement of laws and regulations on child labor. The exceptionally low number of worksite inspections conducted at the national level, however, impeded the enforcement of child labor laws.

Penalties for violations of the child labor laws ranged from small fines for illegitimate employment to prison sentences for sexual exploitation of a child; as in previous years, some observers believed these punishments were insufficient to deter violations.

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

d. Discrimination with Respect to Employment and Occupation

The labor code prohibits workplace discrimination on the basis of race, color, political, religious and other beliefs, sex, gender identity, sexual orientation, ethnic, social, and foreign origin, age, health, disability, HIV/AIDS condition, family and property status, or linguistic or other grounds.
The government did not always enforce the law, and employment discrimination reportedly occurred with respect to gender, disability, nationality, race, minority status, sexual orientation or gender identity, and HIV-positive status. The agriculture, construction, mining, heavy industry, and services sectors had the most work-related discrimination. The law provides for civil, administrative, and criminal liability for discrimination in the workplace. Penalties include a fine of up to 50 tax-free minimum incomes, correctional labor for a term of up to two years, restraint of liberty for up to five years, and restriction on engaging in certain activities for a period of up to three years. When accompanied by violence, employment discrimination violations are punishable by correctional labor for a term of up to two years or imprisonment for a term of up to five years if such actions were committed by an organized group of persons or if they caused death or other grave consequences.

Women received lower salaries due to limited opportunities for advancement and the types of industries that employed them. According to the State Statistics Office, men earned on average 26 percent more than women. The gap was not caused by direct discrimination in the setting of wages, but by horizontal and vertical stratification of the labor market: Women were more likely to work in lower-paid sectors of the economy and in lower positions. Women held fewer elected or appointed offices at the national and regional levels (40 percent).

e. Acceptable Conditions of Work

The country’s annual budget establishes a government-mandated national minimum wage. The minimum wage increased to 3,723 hryvnias per month ($133) during the year from 3,200 hryvnias per month ($125) in 2017. The monthly minimum wage is above the poverty income level, which stood at 1,777 hryvnias ($65.80) in July and will rise to 1,853 hryvnias ($66.20) on December 1. Some shadow employees received wages below the established minimum.

The labor law provides for a maximum 40-hour workweek, with a minimum 42-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 agreement between employers and local trade union organization on overtime work and limits overtime to four hours during two consecutive days and 120 hours per year.

The law requires employers to provide workplace safety standards. Employers must meet occupational safety and health standards but at times ignored these
regulations due to the lack of enforcement or strict imposition of penalties. The
law provides workers the right to remove themselves from dangerous working
conditions without jeopardizing their continued employment. According to one
NGO, employers in the metal and mining industries often violated the rule and
retaliated against workers by pressuring them to quit.

Wage arrears continued to be a major problem during the year. A lack of legal
remedies, bureaucratic wrangling, and corruption in public and private enterprises,
blocked efforts to recover overdue wages, leading to significant wage theft. Total
wage arrears in the country rose during the year through September 1 to 3.6 billion
hryvnias ($97.6 million). The majority of wage arrears occurred in the Luhansk
and Donetsk Oblasts. The Independent Trade Union of Miners of Ukraine reported
that arrears in the coal sector had reached almost 930 million hryvnias ($33.2
million) in September. Arrears and corruption problems exacerbated industrial
relations and led to numerous protests.

The government did not always effectively enforce labor law. In 2017 the
government adopted a new procedure for state control and supervision of labor law
compliance that introduces new forms and rules for oversight of labor law
compliance, extends the powers of labor inspectors, amends the procedure for
imposing fines for violation of labor law requirements, and introduces specific
forms for exercise of control by labor inspectors, namely, inspection visits and
remote inspections.

Labor inspectors may assess compliance based on leads or other information
regarding possible unreported employment from public sources. This includes
information the service learns concerning potential violations from other state
agencies. For example, when tax authorities discover a disparity between a
company’s workforce and its production volumes as compared to average data for
the industry, they may refer the case to labor authorities who will determine
compliance with labor laws.

While performing inspection visits to check potential unreported employment,
labor inspectors may enter any workplace without prior notice at any hour of day
or night. The law also allows labor inspectors to hold an employer liable for
certain types of violations (e.g., unreported employment), empowering them to
issue an order to cease the restricted activity. Labor inspectors may also visit an
employer in order to monitor labor law compliance and inform the company and its
employees about labor rights and best practices.
The law provides procedures for imposing fines for violation of labor and employment laws. Municipal authorities may impose fines for labor law violations. In addition, the authority imposing a fine need not be affiliated with Labor Service. For example, a report from an onsite tax audit that reveals labor law violations may result in a fine.

In September the Cabinet of Ministers approved regulation #649, increasing regulatory oversight to monitor and counter “shadow” employment in the informal economy, the widespread practice of paying for labor without an existing employment contract. The regulation compels the State Labor Service, the State Fiscal Service, the State Pension Fund, and the National Police to review their internal regulations to introduce stricter control measures to combat shadow employment. Agencies are also required to conduct public awareness campaigns to inform employers of the new procedures.

Penalties for violations workplace safety standards ranged from 510 to 1,700 hryvnias ($19 to $63), which were insufficient to deter violations. The State Labor Inspectorate was responsible for enforcing labor laws. Inspectors were limited in number, funding, and authority to enforce existing regulations. The absence of a coordination mechanism with other government bodies was also significant. Penalties established for undeclared work, wage arrears, and work-hour violations included fines of 50 to 100 tax-free minimum incomes that could reach 111,690 hryvnias ($4,000). Additional penalties included limitations on the right to occupy positions of responsibility or to engage in some activities for three to five years, correctional labor for up to two years, or arrest for up to six months if the actions committed affected a minor or a pregnant woman.

Labor inspections occurred at a company’s request or upon the formal request of the investigator in the framework of criminal proceedings against a company.

Mineworkers, particularly in the illegal mining sector, faced serious safety and health problems. Operational safety problems and health complaints were common. Lax safety standards and aging equipment caused many injuries on the job. Over the first eight months of the year, authorities reported 2,725 individual injuries, including 254 fatalities; 474 injuries to coal miners, including 14 fatalities; 333 injuries in the agro-industrial sector, including 39 fatalities; and 225 injuries in engineering, including 14 fatalities.

Despite Russian aggression close to industrial areas in the government-controlled areas of the Donbas region, enterprises involved in mining, energy, media, retail,
clay production, and transportation continued to operate. Fighting resulted in damage to mines and plants through loss of electricity, destroyed transformers, physical damage from shelling, and alleged intentional flooding of mines by combined Russia-led forces. Miners were especially vulnerable, as loss of electrical power could strand them underground. The loss of electrical power also threatened the operability of mine safety equipment that prevented the buildup of explosive gases.

CRIMEA

In February 2014 Russian forces entered Ukraine’s Crimean Peninsula and occupied it militarily. In March 2014 Russia announced the peninsula had become part of the Russian Federation following a sham referendum that violated Ukraine’s constitution. The UN General Assembly’s Resolution 68/262 on the “Territorial Integrity of Ukraine” of March 27, 2014, and Resolution 73/263 on the “Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol (Ukraine)” of December 22, 2018, called on states and international organizations not to recognize any change in Crimea’s status and affirmed the commitment of the United Nations to recognize Crimea as part of Ukraine. In April 2014 Ukraine’s legislature (Verkhovna Rada) adopted a law attributing responsibility for human rights violations in Crimea to the Russian Federation as the occupying state. The United States does not recognize the attempted “annexation” of Crimea by the Russian Federation. Russian law has been applied in Ukraine’s Crimea since the Russian occupation and purported “annexation” of the peninsula. For detailed information on the laws and practices of the Russian Federation, see the Country Reports on Human Rights for Russia.

EXECUTIVE SUMMARY

A local authority installed by the Russian government and led by Sergey Aksyonov as “prime minister” of the “state council of the republic of Crimea” administers occupied Crimea. The “state council” is responsible for day-to-day administration and other functions of governing. In 2016 Russia’s nationwide parliamentary elections included seats allocated for purportedly annexed Crimea, a move widely condemned by the international community and that contravened the Ukrainian constitution.

Russian authorities maintained control over Russian military and security forces deployed in Crimea. Russian security services continued to consolidate control over Crimea and restrict human rights. Occupation authorities imposed and
disproportionately applied repressive Russian Federation laws on the Ukrainian territory of Crimea.

Human rights issues included: disappearances; torture, including punitive psychiatric incarceration; mistreatment of persons in detention as punishment or to extort confessions; harsh prison conditions and removing prisoners to Russia; arbitrary arrest and detention; political prisoners; pervasive interference with privacy; severe restrictions on freedom of expression and the media, including closing outlets and violence against journalists; restrictions on the internet, including blocking websites; gross and widespread suppression of freedom of assembly; severe restriction of freedom of association, including barring the Crimean Tatar Mejlis; restriction of freedom of movement and on participation in the political process; systemic corruption; and systemic discrimination against Crimean Tatars and ethnic Ukrainians.

Russian-installed authorities took few steps to investigate or prosecute officials or individuals who committed human rights abuses, creating an atmosphere of impunity and lawlessness. Occupation and local “self-defense” forces often did not wear insignia and committed abuses with impunity.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

Russian occupation authorities did not adequately investigate cases of abductions and killings of Crimean residents from 2014 and 2015. According to the Ukrainian Ministry of Foreign Affairs, 12 Crimean residents who had disappeared during the occupation were later found dead. Occupation authorities did not investigate other suspicious deaths and disappearances, occasionally categorizing them as suicide. Human rights observers reported that families frequently did not challenge findings in such cases due to fear of retaliation.

b. Disappearance

There were reports of abductions and disappearances by occupation authorities. For example, according to the UN Human Rights Monitoring Mission in Ukraine (HRMMU), a Kharkiv resident disappeared at the Russian Federation-controlled side of the administrative boundary on April 11. The Federal Security Service (FSB) initially detained the victim without charge. Documents reviewed by the
HRMMU indicated further formalized detention of the victim for 12 days, allegedly for committing an administrative offense. On the day when he was supposed to be released, he disappeared again. Despite efforts of relatives and human rights defenders to inquire about the whereabouts of the victim, the law enforcement and penitentiary institutions in Crimea failed to provide any information.

According to September data by the HRMMU, from 2014 to June 30, 2018, 42 persons were victims of enforced disappearances. The victims (38 men and four women) include 27 ethnic Ukrainians, nine Crimean Tatars, four Tajiks, one person of mixed Tatar-Russian origins, and one Uzbek. Twenty-seven were released after being illegally detained for periods lasting from a few hours to two weeks; 12 were missing and feared dead by their relatives; two were held in custody; and one was found dead. According to the HRMMU, in none of these cases have the perpetrators been brought to justice. Russian occupation authorities did not adequately investigate the deaths and disappearances. Human rights groups reported that police often refused to register reports of disappearances and intimidated and threatened with detention those who tried to report a disappearance. Ukrainian government and human rights groups believed Russian security forces kidnapped the individuals for opposing Russia’s occupation to instill fear in the population and prevent dissent.

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

There were widespread reports Russian authorities in Crimea tortured and otherwise abused residents who opposed the occupation. Human rights monitors reported that Russian occupying forces subjected Crimean Tatars and ethnic Ukrainians in particular to physical abuse. For example, on June 28, members of the Russian Federal Security Service (FSB) searched Crimean Tatar activist Akhtem Mustafayev’s house and detained him. FSB officers put a plastic bag over his head and brought him to the basement of an unknown building. Unknown men beat him, forced him to his knees with his hands cuffed behind his back, and threatened that no one would ever find him. He was reportedly tortured for four hours and immediately fled for mainland Ukraine after being released.

Occupation authorities demonstrated a pattern of using punitive psychiatric incarceration as a means of pressuring detained individuals. On June 28, occupation authorities committed Crimean Tatar journalist Nariman Memedinov to a psychiatric hospital for a mental health evaluation that human rights advocates
believed to be a punitive measure in retaliation for his vocal opposition to the occupation. Memedinov had previously been arrested on March 22 on terrorism charges that were widely considered to be politically motivated. The charges were based on videos he posted on YouTube in 2013 in which authorities alleged he recruited people to join Hizb ut-Tahrir, a group that is banned in Russia but legal in Ukraine. According to the Crimean Human Rights Group, as of early October, 17 Crimean Tatar defendants had been subjected to psychiatric evaluation and confinement against their will without apparent medical need since the beginning of the occupation (see section 1.d.).

Human rights monitors reported that occupation authorities also threatened individuals with violence or imprisonment if they did not testify in court against individuals authorities believed were opposed to the occupation.

**Prison and Detention Center Conditions**

Prison and detention center conditions reportedly remained harsh and life threatening due to overcrowding and poor conditions.

**Physical Conditions:** The HRMMU reported that detainees were often held in conditions amounting to cruel, inhuman, or degrading treatment, and that health care in prisons deteriorated after the occupation began.

According to the Crimean Human Rights group, 31 Crimean prisoners had been transferred to the Russian Federation since occupation began in 2014. One factor in the transfers was the lack of specialized penitentiary facilities in Crimea, requiring the transfer of juveniles, persons sentenced to life imprisonment, and prisoners suffering from serious physical and mental illnesses.

According to the Crimean Human Rights Group, at least four persons, including two Crimean Tatars, died under suspicious circumstances in the Simferopol pretrial detention center in April. On April 6, Server Bilialov and Oleg Goncharov were allegedly found hanged. On April 12, Dmitriy Shaposhnik was found hanged in a punishment cell. On April 13, Islam Iskerov was found with his throat slit in an isolation cell. The Federal Penitentiary Service Department of Russia officially confirmed three of the deaths; occupation authorities, however, did not open an investigation.

There were reports of physical abuse by prison guards. For example, on July 20, more than 70 convicts at the Kerch Penal Colony Number Two filed a complaint
with prison authorities alleging systematic severe beatings and other forms of abuse at the facility. The occupation authorities’ appointed “human rights ombudsman,” Lyudmila Lubina, who was generally not considered to provide independent oversight of government actions, called the treatment of prisoners at the colony “barbaric.”

In June Crimean Tatar detainee Izmail Ramazanov filed a complaint with the European Court of Human Rights alleging inhuman conditions at the Simferopol pretrial detention center, citing overcrowding, cells covered in mold, the housing of prisoners with tuberculosis with healthy prisoners, and poor ventilation and sanitation. The HRMMU reported that detainees in the facility had to sleep in shifts due to overcrowding.

Prison authorities reportedly retaliated against detainees who refused Russian Federation citizenship by placing them in smaller cells or in solitary confinement.

**Independent Monitoring:** Occupation authorities did not permit monitoring of prison or detention center conditions by independent nongovernmental observers or international organizations. Occupation authorities permitted the “human rights ombudsman,” Lyudmila Lubina, to visit prisoners, but human rights activists regarded Lubina as representing the interests of occupation authorities and not an independent actor.

d. **Arbitrary Arrest or Detention**

**Role of the Police and Security Apparatus**

Russian government agencies, including the Ministry of Internal Affairs, the FSB, the Federal Investigative Committee, and the Office of the Prosecutor General applied and enforced Russian law in Crimea. The FSB also conducted security, counterintelligence, and counterterrorism activities and combatted organized crime and corruption. A “national police force” operated under the aegis of the Russian Ministry of Internal Affairs.

In addition to abuses committed by Russian forces, “self-defense forces”—largely consisting of former Ukrainian Ministry of Internal Affairs officers allegedly linked to local organized crime—reportedly continued to operate and commit abuses. These forces often acted with impunity in intimidating perceived occupation opponents and were involved in extrajudicial detentions and arbitrary confiscation of property. The HRMMU cited the FSB as the most common
perpetrator of abuses in recent years, while Crimean “self-defense forces” committed most abuses in the earlier years of the occupation.

According to human rights groups, there was total impunity for human rights abuses committed by both Russian occupation authorities and Crimean “self-defense forces.”

** Arrest Procedures and Treatment of Detainees **

See the *Country Reports on Human Rights* for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

**Arbitrary Arrest:** Arbitrary arrests continued to occur as a means of instilling fear, stifling opposition, and inflicting punishment on those who opposed the occupation. According to the HRMMU, in many cases victims were neither charged nor tried but were detained as a form of extrajudicial punishment or harassment. Detention under such circumstances usually lasted from several hours to several days, in which victims were often held incommunicado and sometimes subjected to abuse during interrogations. The HRMMU noted the prevalence of members of the Crimean Tatar community among those apprehended during police raids. Detainees were typically taken to a police station, photographed, fingerprinted, and made to provide DNA samples before being released. For example on January 25, authorities raided Crimean Tatar homes in several cities. During the raids, they arrested two Crimean Tatar activists, Enver Krosh and Ebazer Islyamov, and charged them with “propagating extremist symbols and organizations,” charges rights groups described as baseless.

There were reports that authorities arbitrarily arrested the family members of known dissidents to exert pressure on them. For example, on July 19, representatives of the FSB searched the house of the Aliev family. Their target was the daughter of Muslim Aliev, a political prisoner. The FSB brought her to the Investigative Committee in Alushta for interrogation and released her after a couple of hours.

On November 25, Russian authorities fired on and seized three Ukrainian naval ships and 24 crew attempting legally to transit the Kerch Strait. The crewmembers were brought to Kerch Prison, Crimea and then Lefortovo detention center in Moscow, where they subsequently asserted their rights to detainee status under the
Geneva Convention of 1949. Russia treated them instead as criminals; a Simferopol “court” sentenced them to two months’ detention.

e. Denial of Fair Public Trial

Under the Russian occupation regime, the “judiciary” was neither independent nor impartial. Judges, prosecutors, and defense attorneys were subject to political directives from occupation authorities, and the outcomes of trials appeared predetermined by government interference. The HRMMU documented 39 cases between September 2017 and June where due process and fair trial guarantees were disregarded by Crimea occupation authorities, including judges, prosecutors, investigators, police, and FSB officers.

Trial Procedures

See the *Country Reports on Human Rights* for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Occupation authorities interfered with defendants’ ability to access an attorney. For example on May 4, FSB officers detained five crewmen of a Ukrainian fishing boat near the coast of Crimea for a month and a half under inhuman conditions at the FSB border control facility in Balaklava. During their detention, the men did not have access to a Ukrainian consul or lawyers. FSB officers psychologically pressured and intimidated the men during interrogations. The crew did not have access to lawyers. The vessel’s captain, Viktor Novitsky, was charged with “illegal extraction of marine biological resources in the exclusive economic zone of the Russian federation.” No charges were filed against the other members of the crew. On September 30, they were released and left Crimea.

According to the HRMMU defendants facing terrorism or extremism-related charges were often pressured into dismissing their privately hired lawyers in exchange for promised leniency. For example the HRMMU’s September report on Crimea described three Crimean Tatar defendants who cancelled a contract with their lawyers after being prompted to do so by FSB officers and warned, through their family members, that having “pro-Ukrainian” lawyers would damage their defense.

Occupation authorities retroactively applied Russian Federation laws to actions that took place before the occupation began. The HRMMU documented at least 10
such cases since September 2017, including sentences imposed for years-old social media posts and for taking part in protest actions that occurred before the occupation began.

**Political Prisoners and Detainees**

Human Rights advocates estimated there were more than 60 political prisoners in occupied Crimea; the Crimean Tatar Mejlis organization claimed that by the end of the year Russia held 96 Ukrainian citizen political prisoners, of whom 63 were Crimean Tatar. Charges of extremism, terrorism, or violation of territorial integrity were particularly applied to opponents of the occupation, such as Crimean Tatars, independent journalists, and individuals expressing dissent on social media. The HRMMU noted that justifications underpinning the arrests of alleged members of “terrorist” or “extremist” groups often provided little evidence that the suspect posed an actual threat to society by planning or undertaking concrete actions.

Russian occupation authorities also transferred Crimean cases to Russia’s legal system and changed the venue of prosecution for some detainees.

On July 5, an occupation “court” in Crimea sentenced Ukrainian activist Volodymyr Balukh to five years in a penal colony and imposed a fine of 10,000 rubles ($170). The five-year sentence was the combination of a previous three year, five month sentence imposed on him in January for supposed “weapons possession,” plus additional time for allegedly “disrupting the activities of a detention center.” The January conviction resulted from a retrial after his October 2017 conviction on the same charges was overturned. Both charges were seen as retaliation for Balukh’s pro-Ukrainian views, which he displayed by hanging a plaque and Ukrainian flag in the courtyard of his house. The FSB initially detained Balukh in 2016, claiming it found ammunition and explosives in the attic of his house. Human rights defenders asserted that the material was planted. Balukh had been repeatedly threatened by authorities to remove pro-Ukrainian symbols or face prosecution. On March 19, Balukh went on a hunger strike, during which prison authorities denied him a medical examination, despite indications that his health was deteriorating. He ended his hunger strike on October 9, after being notified that he was to be transferred to the Russian Federation to serve his sentence.

On July 13, the “supreme court” of Crimea convicted Ukrainian citizen Yevhen Panov of plotting sabotage against Crimea’s military facilities and critical infrastructure. He was sentenced to eight years in a high-security penal colony. Occupation authorities arrested Panov in August 2016. According to human rights
groups, the case against Panov bore signs of political motivation, including indications that Panov had been subjected to electric shocks and other forms of torture in an attempt to coerce his confession and a lack of other evidence against him.

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

See the Country Reports on Human Rights for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Occupation authorities and others engaged in electronic surveillance, entered residences and other premises without warrants, and harassed relatives and neighbors of perceived opposition figures.

Russian occupation authorities routinely conducted raids on homes to intimidate the local population, particularly Crimean Tatars and ethnic Ukrainians, ostensibly on the grounds of searching for weapons, drugs, or “extremist literature.” The HRMMU documented 38 such searches between January and June; 30 of these concerned properties of Crimean Tatars.

Human rights groups reported that Russian authorities had widespread authority to tap telephones and read electronic communications and had established a network of informants to report on suspicious activities. According to Mejlis members, Russian authorities had invited hundreds of Crimean Tatars to “interviews” where authorities played back the interviewees’ telephone conversations and read their email aloud. Authorities reportedly encouraged state employees to inform on their colleagues who might oppose the occupation. According to human rights advocates, eavesdropping and visits by security personnel created an environment in which persons were afraid to voice any opinion contrary to the occupation authorities, even in private.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

See the Country Reports on Human Rights for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.
Occupation authorities significantly restricted freedom of expression and subjected dissenting voices including the press to harassment and prosecution. They refused to register independent print and broadcast media outlets, forcing them to cease operations. Threats and harassment against international and Ukrainian journalists were common.

**Freedom of Expression:** The HRMMU noted that occupation authorities placed “excessive limitations on the freedoms of opinion and expression.” Individuals could not publicly criticize the Russian occupation without fear of reprisal. Human rights groups reported the FSB engaged in widespread surveillance of social media, telephones, and electronic communication and routinely summoned individuals for “discussions” for voicing or posting opposition to the occupation.

During the year human rights monitors observed an increase in prosecutions and convictions for opinions expressed in social media posts, at times for posts that were written before Russia began its occupation of Crimea. For example, on May 4, a court in Sevastopol sentenced Ihor Movenko to two years in a minimum security prison for commenting on a social network that “Crimea is Ukraine.”

There were reports that authorities detained individuals for “abusing” the Russian flag or other symbols of the Russian occupation. For example on July 26, the FSB raided the homes of four Crimean Tatar teenagers in Belogorsk District after the youth allegedly removed the Russian flag from the city hall in the village of Kurskoye and threw it into a pit latrine. During the raids two residents of the homes were detained for interrogation and then released.

**Press and Media Freedom:** Independent print and broadcast media could not operate freely. Occupation authorities refused to register most independent media outlets, forcing them to close in 2015. According to the Crimean Human Rights Group, after the occupation of Crimea began, many local journalists left Crimea or abandoned their profession. With no independent media outlets left in Crimea and professional journalists facing serious risks for reporting from the peninsula, public activists began reporting on developments in Crimea. The HRMMU noted in a September report on Crimea that there was “continued interference in journalistic activity and a lack of independent reporting.”

The small monthly Ukrainian language newsletter *Krymsky Teren*, published by the Ukrainian Cultural Center, suspended publication on June 30 after members of the center and their publishing house were warned not to engage in “extremist
activities” and threatened. In early December the newsletter resumed publication. On August 29, FSB agents searched the apartment of the editor of Krymsky Teren, Olha Pavlenko, whom they claimed had ties to a Ukrainian nationalist organization. After the search authorities interrogated Pavlenko and confiscated and copied her cell phone and computer. On September 2, she left for mainland Ukraine, citing fears for her safety.

Violence and Harassment: There were numerous cases of Russian security forces or police harassing independent media and detaining journalists in connection with their professional activities. For example, the HRMMU’s September report described an interview with an undercover reporter monitoring trials of Crimean Tatars accused of terrorism, who was questioned by police about his journalistic activity. He was “warned” about the consequences of “wandering around” court hearings and released after writing an explanatory note.

There were reports that authorities failed to investigate violence against journalists. For example, on February 1, journalist Evgeniy Gaivoronskiy reported that an unknown assailant had pushed him to the ground and kicked him multiple times in the center of Yalta. Gaivoronskiy had been receiving threats for several months before the attack. According to press reports, Gaivoronskiy had a history of employment at pro-Russian publications, but he had recently come into conflict with a local real estate developer, Dmitriy Tiukayev, because of his critical reporting on Tiukayev’s building projects. Gaivoronskiy reported the attack to police but said they refused to open an investigation.

Censorship or Content Restrictions: Following Russia’s occupation of Crimea, journalists overwhelmingly resorted to self-censorship to continue reporting and broadcasting.

There were reports that media outlets were pressured to remove stories that angered powerful political figures. According to press reports on September 23, local Feodosiya newspaper Gorod-24 published a report about a luxury construction project that fit the description of a home being built for Dmitry Kiselyov, head of the government-owned media agency. According to the article’s author, authorities forced the newspaper’s editor to purchase all printed copies of the paper at her own expense and then arranged her firing. Kiselyov filed a complaint with police, claiming the journalist was engaging in an extortion attempt.
Russian occupation authorities banned most Ukrainian and Crimean Tatar-language broadcasts, replacing the content with Russian programming. According to Crimean Human Rights Group media monitoring, during the year occupation authorities began to jam the signal of four previously accessible Ukrainian radio stations by transmitting Russian radio stations at the same frequencies.

Human rights groups reported Russian authorities forbade songs by Ukrainian singers from playing on Crimean radio stations.

Censorship of independent internet sites became more widespread (see Internet Freedom).

**National Security:** Authorities cited laws protecting national security to justify retaliation against opponents of Russia’s occupation.

The Russian Federal Financial Monitoring Service (RosFinMonitoring) included prominent critics of the occupation on its list of extremists and terrorists. This prevented these individuals from holding bank accounts, using notary services, and conducting other financial transactions. On September 6, RosFinMonitoring added the names of five critics of the occupation to the list, including Larisa Kitaiska, a local businesswoman convicted of extremism for making comments critical of the occupation that authorities deemed “Russophobic.”

Authorities frequently used the threat of “extremism” or “terrorism” as grounds to justify raids, arrests, and prosecutions of individuals in retaliation for their opposition to the occupation. For example on May 21, Russian security forces raided the houses of Crimean Solidarity activists and bloggers Server Mustafayev and Edem Smailov in Bakhchisaray District and detained them. As of late September, both remained in detention and had been charged with participating in the activities of the Islamic group Hizb ut-Tahrir, which is banned in Russia but legal in Ukraine. Human rights monitors believed that the case against them was politically motivated.

**Internet Freedom**

According to media accounts, occupation authorities interrogated residents of Crimea for posting pro-Ukrainian opinions on Facebook or in blogs.

More than 30 Ukrainian online outlets were among the hundreds that Russian federal authorities blocked in Crimea, including several sites that were not on Russian federal internet block list.

**Academic Freedom and Cultural Events**

Russian authorities in Crimea engaged in a widespread campaign to suppress the Crimean Tatar and Ukrainian languages. While Crimean Tatar and Ukrainian are official languages in occupied Crimea, authorities continued to reduce instruction in schools and offered the languages only as optional instruction at the end of the school day. The Mejlis reported authorities continued to pressure Crimean Tatars to use the Cyrillic, rather than the Latin, alphabet.

Despite an April 2017 order by the International Court of Justice to ensure access to education in Ukrainian, there was only one Ukrainian school with Ukrainian as a language of instruction and 13 classes offered Ukrainian as a subject in the curriculum. According to occupation authorities, there were 16 Crimean Tatar schools in the peninsula in the 2017-2018 academic year as compared with 52 in the 2014-2015 academic year. The Crimean Tatar Resource Center reported, however, that this number was substantially inflated.

**b. Freedoms of Peaceful Assembly and Association**

**Freedom of Peaceful Assembly**

See the *Country Reports on Human Rights* for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Individuals opposing the occupation reported widespread harassment and intimidation by occupation authorities to suppress their ability to assemble peacefully. For example, the press reported on October 11 that authorities in Armyansk had issued a warning to a local resident, Yekaterina Pivovar, not to violate laws governing public protests. Pivovar had allegedly been planning to organize a group of local mothers to assemble outside city hall to demand a meeting with local officials. The mothers were concerned about the impact of
toxic sulfur dioxide gas being released since late August from a nearby titanium plant on the health of their children.

A 2017 regulation limits the places in Crimea where public events may be held to 366 listed locations. The HRMMU noted that the “regulation” restricted freedom of assembly to a shrinking number of “specially designated spaces,” an unnecessary move that appeared “designed to dissuade the exercise of the right of freedom of assembly.”

Authorities fined individuals for conducting single-person pickets, the only type of protest that is supposed to be permitted without official permission under the legal system that Russia has imposed on occupied Crimea. According to the HRMMU, between December 2017 and March, occupation “courts” fined 80 Muslim men, who had conducted single-person pickets in October 2017 to protest the arrests of other Muslim men, mostly Crimean Tatars, for alleged membership in terrorist or extremist organizations.

There were reports of occupation authorities using coercive methods to provide for participation at rallies in support of the “government.” Students, teachers and civil servants were forced to attend a commemoration event on the day of deportation of the Crimean Tatars organized by Crimean-occupation authorities in Simferopol on May 18.

There were reports that occupation authorities charged and fined individuals for allegedly violating public assembly rules in retaliation for gathering to witness security force raids on homes.

Freedom of Association

See the Country Reports on Human Rights for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Occupation authorities broadly restricted freedom of association for individuals that opposed the occupation. For example, there were numerous reports of authorities taking steps to harass, intimidate, arrest, and imprison members of the human rights group Crimean Solidarity, an unregistered movement of friends and family of victims of repression by occupation authorities. Two of the group’s leaders, Emir-Usain Kuku and Server Mustafayev, remained in pretrial detention as of November on charges of allegedly belonging to the Islamic organization Hizb
ut-Tahrir. Human rights monitors believed the cases against both men to be politically motivated and without basis. On January 27, law enforcement officers in Sudak disrupted a Crimean Solidarity civic group meeting attended by 150 persons. Law enforcement officers allegedly searched for drugs and weapons and questioned and photographed participants at the gathering. On October 27, in Simferopol, officials from the “prosecutor general’s office” accompanied by a contingent of armed men in masks and uniformed police raided another Crimean Solidarity meeting. The officials issued formal warnings to three members of the group, whom authorities claimed were poised to violate “counterterrorism and counterextremism” legislation by purportedly planning to hold a series of single-person pickets. On October 28, occupation authorities blocked the group’s website.

The Mejlis of the Crimean Tatar people remained banned for purported “extremism” despite an order by the International Court of Justice requiring that Russian authorities “refrain from maintaining or imposing limitations on the ability of the Crimean Tatar community to conserve its representative institutions, including the Mejlis.” On October 29, occupation authorities announced plans to “nationalize” the Mejlis building in Simferopol, which they had seized in 2014, by transferring it to a Muslim organization that supported the occupation. Following the 2016 ban on the Crimean Tatar Mejlis as an “extremist organization,” occupation authorities banned gatherings by Mejlis members and prosecuted individuals for discussing the Mejlis on social media (see section 6).

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

Russian occupation authorities did not respect rights related to freedom of movement and travel.

In-country Movement: Occupation authorities maintained a state border at the administrative boundary between mainland Ukraine and Crimea. According to the HRMMU, this border and the absence of public transportation between Crimea and mainland Ukraine continued to undermine freedom of movement to and from the peninsula, affecting mainly the elderly, people with limited mobility, and young children.
There were reports occupation authorities selectively detained and at times abused persons attempting to enter or leave Crimea. According to human rights groups, Russian authorities routinely detained adult men at the administrative boundary for additional questioning, threatened to seize passports and documents, seized telephones and memory cards, and questioned them for hours. For example, according to the HRMMU, on March 8, the FSB detained a Crimean Tatar man for 12 hours and subjected him to physical violence in order to force him to testify against Crimean Tatar acquaintances suspected of being members of “radical” Muslim groups.

Occupation authorities prohibited entry into Crimea by Mustafa Jemilev and Refat Chubarov, members of the Verkhovna Rada, and the former and current chairmen of the Crimean Tatar Mejlis, respectively; by Crimean Tatar activist Sinaver Kadyrov; and by Ismet Yuksel, general director of the Crimean News Agency, on the pretext that they would incite radicalism.

According to the HRMMU, Ukrainian legislation restricts access to Crimea to three designated crossing points and imposes sanctions, including long-term entry bans, in case of noncompliance. Crimean residents lacking Ukrainian passports, who only possess Russian-issued Crimean travel documents not recognized by Ukrainian authorities, often faced difficulties when crossing into mainland Ukraine.

**Citizenship:** Russian occupation authorities required all residents of Crimea to be Russian citizens. Those who refused Russian citizenship could be subjected to arbitrary expulsion. Multiple citizens of Ukraine were deported from Crimea for violating the Russian Federation’s immigration rules. According to the Crimean Human Rights Group, during the first four years of Russia’s occupation, over 2,000 Ukrainians were prosecuted for not having Russian documents and 336 persons have been deported.

On February 13, the Yevpatoria city court ruled against 23 citizens of Ukraine. They were fined 5,000 Russian rubles ($76) each and administratively expelled to mainland Ukraine for working without a labor license.

Residents of Crimea who chose not to adopt Russian citizenship were considered foreigners. In some cases, they could obtain a residency permit. Persons holding a residency permit without Russian citizenship, however, were deprived of key rights and could not own agricultural land, vote or run for office, register a
religious congregation, or reregister a private vehicle. Authorities denied those who refused Russian citizenship access to government employment, education, and health care, as well as the ability to open bank accounts and buy insurance, among other limitations.

According to the Crimean Human Rights Group, Russian authorities prosecuted private employers who continued to employ Ukrainians. Fines could be imposed on employers for every recorded case of employing a Ukrainian citizen without a labor license. Fines in such cases amounted to several million dollars.

In some cases, authorities compelled Crimean residents to surrender their Ukrainian passports, complicating international travel, because many countries did not recognize passports issued by Russian occupation authorities.

**Internally Displaced Persons (IDPs)**

Approximately 27,600 residents of Crimea registered as IDPs on the mainland, according to the Ministry of Social Policy. The Mejlis and local NGOs, such as Krym SOS, believed the actual number could be as high as 100,000, as most IDPs remained unregistered. Many individuals fled due to fear that occupation authorities would target them for abuse because of their work as political activists or journalists. Muslims, Greek Catholics, and Evangelical Christians who left Crimea said they feared discrimination due to their religious beliefs.

Crimean Tatars, who made up the largest number of IDPs, said they were concerned about pressure on their community, including an increasing number of arbitrary searches of their homes, surveillance, and discrimination. In addition, many professionals left Crimea because Russian occupation authorities required them to apply for Russian professional licenses and adopt Russian procedures in their work.

**Section 3. Freedom to Participate in the Political Process**

**Recent Elections:** Russian occupation authorities prevented residents from voting in Ukrainian national and local elections since Crimea’s occupation began in 2014.

On March 18, the Russian Federation held presidential election and included the territory of occupied Crimea. The Crimea Human Rights Group recorded incidents in which occupation authorities coerced residents into voting in the elections, including through threats of dismissals and wage cuts.
HRMMU reported pressure on public sector employees to vote in order to ensure high turnout. Some voters stated their employers required them to photograph themselves at the polling station as evidence of their participation. For example the Crimean Human Rights Group reported that in the Krasnoperekopsk district three days before the election, teachers were instructed to report to the principal that they and their family members voted. On voting day, teachers received phone calls from the principal threatening termination of employment if they did not vote.

Section 4. Corruption and Lack of Transparency in Government

Corruption: There were multiple reports during the year of systemic rampant corruption among Crimean “officeholders,” including through embezzlement of Russian state funds allocated to support the occupation. For example on October 17, Russian police in Moscow arrested Vitaliy Nakhlpunin, the “deputy prime minister” of Crimea, and charged him with taking unspecified bribes, reported by media to be related to the construction of the Kerch bridge and other road construction projects.

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

Most independent human rights organizations ceased activities in Crimea following Russia’s occupation. Occupation authorities refused to cooperate with independent human rights NGOs, ignored their views, and harassed human rights monitors and threatened them with fines and imprisonment.

Russia continued to deny access to the peninsula to international human rights monitors from the Organization for Security and Cooperation in Europe (OSCE) and the United Nations.

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

Children

Birth Registration: Under both Ukrainian law and laws imposed by Russian occupation authorities, either birthplace or parentage determines citizenship. Russia’s occupation and purported annexation of Crimea complicated the question of citizenship for children born after February 2014, since it was difficult for parents to register a child as a citizen with Ukrainian authorities. Registration in
Ukraine required a hospital certificate, which is retained when a birth certificate is issued. Under the occupation regime, new parents could only obtain a Russian birth certificate and did not have access to a hospital certificate. In 2016 the Ukrainian government instituted a process whereby births in Crimea could be recognized with documents issued by occupation authorities.

Institutionalized Children: There were reports Russian authorities continued to permit kidnapping of orphans in Crimea and transporting them across the border into Russia for adoption. Ukraine’s government did not know the whereabouts of the children.

Anti-Semitism

According to Jewish groups, an estimated 10-15,000 Jews lived in Crimea, primarily in Simferopol. There were no reports of anti-Semitic acts.

National/Racial/Ethnic Minorities

Since the beginning of Russia’s occupation, authorities singled out Crimean Tatars and Ukrainians for discrimination, abuse, deprivation of civil liberties and religious and economic rights, and violence, including killings and abductions (also see sections 1.a.-1.d., 1.f., 2.a., 2.b., and 2.d.).

There were reports that government officials openly advocated discrimination and violence against Crimean Tatars. Occupation authorities harassed Crimean Tatars for speaking their language in public and forbade speaking it in the workplace. There were reports teachers prohibited schoolchildren from speaking Crimean Tatar to one another. Crimean Tatars were prohibited from celebrating their national holidays and commemorating victims of previous abuses. For example on May 17, occupation authority law enforcement officers detained 14 persons who had gathered for an event commemorating victims of the Crimean Tatar deportation from Simferopol in 1944.

Occupation authorities also restricted the use of Crimean Tatar flags and symbols.

Occupation authorities placed restrictions on the Spiritual Administration of Crimean Muslims, which was closely associated with Crimean Tatars. According to human rights groups, Russian security services routinely monitored prayers at mosques for any mention that Crimea remained part of Ukraine. Russian security
forces also monitored mosques for anti-Russian sentiment and as a means of recruiting police informants.

In April 2017 the International Court of Justice ruled, in response to Ukraine’s January 17 request for provisional measures concerning the Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of all Forms of Racial Discrimination, that the Russian Federation must refrain from maintaining or imposing limitations on the ability of the Crimean Tatar community to conserve its representative institutions, including the Mejlis. Nevertheless, Russian occupation authorities continued to ban the Mejlis and impose restrictions on Crimean Tatars.

Russian occupation authorities also targeted ethnic Ukrainians. By the end of 2014, Ukrainian as a language of instruction was removed from university-level education in Crimea. According to the HRMMU, in the 2017-2018 academic year instruction in Ukrainian was provided in one Ukrainian school and there were 13 available Ukrainian language classes in Russian schools that were attended by 318 children. In April 2017 the International Court of Justice ruled on provisional measures in proceedings brought by Ukraine against the Russian Federation, concluding unanimously that the Russian Federation must “ensure the availability of education in the Ukrainian language.”

Occupation authorities have not permitted churches linked to ethnic Ukrainians, in particular the Ukrainian Orthodox Church-Kyiv Patriarchate (UOC-KP) and the Ukrainian Greek Catholic Church, to register under Russian law. Occupation authorities harassed and intimidated members of the churches and used court proceedings to force the UOC-KP in particular to leave properties it had rented for years. As of June 30, the number of registered religious organizations in Crimea decreased by 45 percent in comparison with preoccupation period.

Russian occupation authorities targeted businesses and properties belonging to ethnic Ukrainians and Crimean Tatars for expropriation and seizure. On April 26, Crimean Tatar philanthropist and businessman Resul Velilyaev, an owner of a leading food wholesale company and retail network, was arrested and transferred to Lefortovo prison in Moscow on the pretext that some of his food products had exceeded their shelf-life dates. Observers believed his arrest was connected to his support for Crimean Tatar cultural heritage projects. In late September, a Moscow court extended his arrest until December 28.
Russian occupation authorities prohibited Crimean Tatars affiliated with the Mejlis from registering businesses or properties as a matter of policy.

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

Human rights groups and local LGBTI activists reported that most LGBTI individuals fled Crimea after the Russian occupation began. Those who remained live in fear of verbal and physical abuse due to their sexual orientation or gender identity.

According to HRMMU, NGOs working on access to healthcare among vulnerable groups, have found it impossible to advocate for better access to healthcare for LGBTI persons because of fear of retaliation by occupation authorities.

Russian occupation authorities prohibited any LGBTI group from holding public events in Crimea. According to HRMMU, LGBTI residents of Crimea faced difficulties with finding a safe environment for gatherings because of the overall hostile attitude towards the manifestation of LGBTI identity. In May a gay-friendly hotel closed due to continuous and unwarranted inspections, accusations of extremism, harassment by authorities, and an organized campaign of telephone threats by “city residents.” LGBTI individuals faced increasing restrictions on their right to assemble peacefully, because occupation authorities enforced a Russian law that criminalizes the so-called propaganda of nontraditional sexual relations to minors (see section 6 of the *Country Reports on Human Rights* for Russia).

**Section 7. Worker Rights**

Russian occupation authorities announced the labor laws of Ukraine would no longer be in effect after the start of 2016 and that only the laws of the Russian Federation would apply.

Russian occupation authorities imposed the labor laws and regulations of the Russian Federation on Crimean workers, limited worker rights, and created barriers to freedom of association, collective bargaining, and the ability to strike. Trade unions are formally protected under Russian law, but limited in practice. As in both Ukraine and Russia, employers were often able to engage in antiunion discrimination and violate collective bargaining rights. The pro-Russian authorities threatened to nationalize property owned by Ukrainian labor unions in
Crimea. Ukrainians who did not accept Russian citizenship faced job discrimination in all sectors of the economy. Only holders of Russian national identification cards were allowed to work in “government” and municipal positions. Labor activists believed that unions were threatened in Crimea to accept “government” policy without question and faced considerable restrictions on advocating for their members.

Although no official data were available, experts estimated there was growing participation in the underground economy in Crimea.
Tab 3
EXECUTIVE SUMMARY

Ukraine is a republic with a semipresidential political system composed of three branches of government: a unicameral legislature (Verkhovna Rada), an executive led by a directly elected president and a prime minister chosen through a legislative majority, and a judiciary. The country held presidential and legislative elections in 2014; international and domestic observers considered both elections free and fair.

Civilian authorities generally maintained effective control over security forces in the territory controlled by the government.

The most significant human rights issues included unlawful killings and politically motivated disappearances in the context of the conflict in the Donbas region; torture; and harsh and life-threatening conditions in prisons and detention centers; arbitrary arrest and detention; and lack of judicial independence. Other abuses included widespread government corruption; censorship; blocking of websites; government failure to hold accountable perpetrators of violence against journalists and anti-corruption activists; and violence against ethnic minorities, and LGBTI persons.

Russia-led forces in the Donbas region engaged in politically motivated disappearances, torture, and unlawful detention; restricted freedom of speech, assembly, and association; restricted movement across the line of contact in eastern Ukraine; and restricted humanitarian aid. The most significant human rights issues in Russian-occupied Crimea included politically motivated disappearances; torture; and restrictions on expression and association.

The government generally failed to take adequate steps to prosecute or punish most officials who committed abuses, resulting in a climate of impunity. Human rights groups and the United Nations noted significant deficiencies in investigations into human rights abuses committed by government security forces, in particular into allegations of torture, enforced disappearances, arbitrary detention, and other abuses reportedly perpetrated by the Security Service of Ukraine (SBU). The
perpetrators of the 2014 Euromaidan shootings in Kyiv have not been held to account.

Investigations into alleged human rights abuses related to Russia’s occupation of Crimea and the continuing aggression in the Donbas region remained incomplete due to lack of government control in those territories and the refusal of Russia and Russia-led forces to investigate abuse allegations.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There was at least one report that the government or its agents committed possible arbitrary or unlawful killings. For instance, on December 6, human rights groups reported that beating(s) by police might have caused the death of 25-year-old Dmytro Lystovnychy in a Lutsk pretrial detention center. Lystovnychy had been arrested four days prior for allegedly stealing a bottle of whiskey. While the State Penitentiary Service initially alleged Lystovnychy had died of “acute hepatitis” and then asserted that he had committed suicide, Lystovnychy’s family publicized photos of his body that showed significant injuries consistent with beatings. After the family filed a complaint, the Prosecutor General’s Office (PGO) opened a murder investigation, which continued at year’s end.

There were reports of killings by government and Russia-led forces in connection with the conflict in Luhansk and Donetsk Oblasts (see section 1.g.).

There were reports of apparent politically motivated killings by nongovernment actors. On March 23, former member of the Russian parliament Denis Voronenkov, who had been granted Ukrainian citizenship after fleeing the Russian Federation in 2016, was shot and killed in downtown Kyiv. According to the PGO, Voronenkov had given testimony and “was one of the main witnesses of the Russian aggression against Ukraine and, in particular, the role of [former Ukrainian president] Yanukovych regarding the deployment of Russian troops in Ukraine.” As of year’s end, the investigation remained open, and authorities had made no arrests.

On June 27, Maksym Shapoval, a high-ranking military intelligence official, was killed by a car bomb in Kyiv. He was reportedly investigating Russia’s military aggression in the conflict in Donbas to support the country’s case against Russia in
the International Court of Justice. The office of the military prosecutor was investigating the case at year’s end.

On October 30, Amina Okuyeva was shot and killed in Kyiv Oblast. Her husband, Adam Osmayev, was injured in the shooting but survived. Okuyeva and Osmayev were well-known pro-Ukraine volunteer fighters in 2014 to 2015, as well as former Chechen dissidents who had relocated to Ukraine. On June 1, Okuyeva thwarted an attempt against Osmayev’s life in downtown Kyiv when she returned fire, injuring the shooter. Osmayev’s assailant had reportedly presented himself as a French reporter and asked Osmayev for an interview hours before the attack. The Kyiv Regional Prosecutor’s Office designated Okuyeva’s killing and the attempt on her husband as contract killings.

In March 2016 Yuriy Hrabovsky, a lawyer representing a detained Russian special forces soldier, Aleksandr Aleksandrov, disappeared in Odesa. His body was later found in a shallow roadside grave. The Military Prosecutor’s Office arrested two suspects, and their trial began in December 2016. In January the judge ruled that subsequent hearings would be closed. The trial continued at year’s end.

Authorities made no arrests during the year in connection with the 2016 killing of prominent journalist Pavel Sheremet. Human rights and press freedom watchdog groups expressed concern about the lack of progress in the government’s investigation, suggesting high-level obstruction or investigatory incompetence as potential reasons. Independent journalistic investigations of the killing released in May uncovered significant evidence that investigators had apparently overlooked. On May 15, President Poroshenko expressed dissatisfaction with the investigation.

Human rights organizations and media reported deaths in prisons or detention centers due to torture or negligence by police or prison officers (see section 1.c., Prison and Detention Center Conditions).

Law enforcement agencies continued to investigate killings and other crimes committed during the Euromaidan protests in Kyiv in 2013-14. Human rights groups criticized the low number of convictions despite considerable evidence. Human rights groups also criticized prosecutors for focusing on low-ranking officials while taking little action to investigate government leaders believed to have been involved. According to the PGO, as of late July, five individuals had stood trial while 21 had absconded and were on the wanted list, including 15 suspects who had received Russian citizenship and were in Russia and three who had received political asylum in the Russian Federation.
On September 18, the Chornomorsk court in Odesa Oblast acquitted 19 defendants in the 2014 trade union building fire case due to lack of evidence. Two defendants were then rearrested in the courtroom and subsequently charged with attempting to violate the territorial integrity of the state. The case stemmed from violent clashes between Euromaidan and anti-Ukrainian unity demonstrators in downtown Odesa in 2014, during which 48 persons died, including six pro-unity and 42 pro-Russia individuals. Those who supported autonomy died in a fire at the trade union building; authorities largely failed to investigate their deaths, focusing on alleged crimes committed by individuals seeking more autonomy.

b. Disappearance

There were multiple reports of politically motivated disappearances in connection with the conflict between the government and Russia-led forces in the Donbas region and by Russian occupation authorities in Crimea (see section 1.g. and the Crimea subsection).

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

Although the constitution and law prohibit torture and other cruel and unusual punishment, there were reports that law enforcement authorities engaged in such abuse. While courts cannot legally use as evidence in court proceedings confessions and statements made under duress to police by persons in custody, there were reports that police and other law enforcement officials abused and, at times, tortured persons in custody to obtain confessions.

In the Donbas region, there were reports that government and progovernment forces engaging in military operations at times committed abuses, including torture. There were reports that Russian-led forces in the self-proclaimed “people’s republics” of Donetsk and Luhansk systematically committed numerous abuses, including torture, to maintain control or for personal financial gain. According to international organizations and nongovernmental organizations (NGOs), abuses included beatings, forced labor, psychological and physical torture, public humiliation, and sexual violence (see section 1.g.).

Abuse of prisoners and detainees by police and prison authorities remained a widespread problem. The Council of Europe’s Committee for the Prevention of Torture (CPT) expressed concern about the frequency of allegations of
mistreatment by police officers. In most cases police allegedly inflicted the mistreatment while attempting to obtain a confession. For example, police detained 24-year-old Ihor Kozoriz in Terebovlya, Ternopil Oblast, on suspicion of robbery and hooliganism; they then brought him to a police station where they beat, electrocuted, and raped him. At year’s end the local prosecutor’s office had an open investigation into the case.

There were continued reports that authorities had used torture against individuals detained on national security grounds. According to the UN Office of the High Commissioner for Human Rights Human Rights Monitoring Mission (HRMMU) and human rights groups, most of these abuses were associated with the SBU. The HRMMU noted most related cases occurred during prior years but were only documented during the year. According to a UN Subcommittee on the Prevention of Torture (SPT) report released in May and based on two 2016 visits to Ukraine, the SPT “received numerous and serious allegations of acts that, if proven, would amount to torture and mistreatment. Persons interviewed by the Subcommittee in various parts of the country have recounted beatings, electrocutions, mock executions, asphyxiations, acts of intimidation and threats of sexual violence against themselves and their family members. In the light of all the work done and experience gained during the visit, the Subcommittee has no difficulty in concluding that these allegations are likely to be true. Many of the above-mentioned acts are alleged to have occurred while the persons concerned were under the control of the State Security Service or during periods of unofficial detention.”

According to Human Rights Watch, on August 15, SBU officers in Dnipropetrovsk Oblast forced 29-year-old Daria Mastikasheva out of her car, pushed her to the ground, beat her, blindfolded her, and took her to a basement facility, where she was interrogated and tortured overnight, including by suffocation, to force her to confess on video to collaborating with Russian security services. She agreed to a video confession only after the officers threatened to harm her family. At year’s end Mastikasheva was awaiting trial on treason and weapons possession charges.

There were reports of sexual violence being committed in the context of the conflict in eastern Ukraine (see section 1.g.).

Reports of hazing in the military continued. The PGO stated it initiated 117 criminal proceedings to investigate alleged hazing in the military that resulted in convictions of 54 service members.
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. Physical abuse, lack of proper medical care and nutrition, poor sanitation, and lack of adequate light were persistent problems.

Physical Conditions: While authorities generally held adults and juveniles in separate facilities, there were reports that juveniles and adults were not separated in some pretrial detention facilities.

As of September 1, the Ministry of Internal Affairs registered eight deaths in pretrial facilities, six due to detainees’ preexisting medical conditions, and two suicides. As of October 1, the Ministry of Justice reported 476 inmate deaths, 42 of which were suicides. On September 28, an inmate of the Chernihiv pretrial center was killed in custody by another inmate, a killing reportedly involving negligence and lack of supervision by the facility personnel. The local prosecutor’s office launched a criminal case and charged several law enforcement officers with neglect of official duties. The case continued at year’s end.

Conditions in police temporary detention facilities and pretrial detention facilities were harsher than in low- and medium-security prisons. Despite a reduction in the number of inmates, overcrowding remained a problem in pretrial detention facilities. Temporary detention facilities often lacked adequate sanitation and medical facilities.

Physical abuse by guards was a problem. For example, after inmates killed a remand facility guard at an Odesa pretrial facility on August 17, staff members beat inmates. The PGO opened five criminal cases to investigate the incident.

There were reports of prisoner-on-prisoner violence. For example, on August 28, staff failure to intervene during a fight between detainees at the Chernihiv pretrial facility resulted in an inmate’s death. The local prosecutor’s office’s investigation into the incident remained open at year’s end.

During visits to detention facilities under the control of Ukrainian authorities, the HRMMU identified systemic problems with the provision of medical care. Bureaucratic and financial impediments prevented the prompt transfer of inmates to city hospitals, resulting in their prolonged suffering, and delayed diagnoses and
treatment. In one case, on March 27, two prisoners died in the interregional hospital for convicts at the Lviv remand facility due to inadequate medical care.

The Ukrainian Helsinki Human Rights Union maintained that life sentences amounted to slow executions of prisoners because of poor prison conditions. In the report on its November 2016 visit to Ukraine, the CPT expressed concerns regarding practices applied to prisoners with life sentences, including routine handcuffing, other excessive and degrading security measures, the lack of organized purposeful activities, segregation from the rest of the prisoner population, and constant surveillance inside the cells.

According to monitors of the National Preventive Mechanism, prisons are often old and in poor condition with inadequate facilities and services. Cells had limited access to daylight and were not properly heated or ventilated. For example, one random reading the temperature in the quarantine station at the Kazankivska correction colony 93 was 57 degrees Fahrenheit. The facility did not have a designated dining area; the inmates had to eat in their cells sitting on chairs. Electricity and water supplies were periodically discontinued, and inmates complained about poor hygienic conditions. Cells in both pretrial facilities and prisons were overrun with insects and rats.

According to the Association of Independent Monitors and the Human Rights Ombudsman’s Office, authorities failed adequately to protect the lives and human rights of prisoners in areas close to the zone of operation against Russia-led forces in eastern Ukraine and failed to evacuate staff and inmates in a timely fashion.

As of February approximately 9,500 detainees were in non-government-controlled territory. On September 14, under the auspices of the Ombudsman’s Office, 19 prisoners incarcerated in territories seized by Russia-led forces were transferred to penal facilities on government-controlled territory. Since 2015 a total or 178 inmates were transferred to the penitentiary facilities in government-controlled areas.

The condition of prison facilities and places of unofficial detention in areas held by Russia-led forces remained poor. According to the Justice for Peace coalition, there was an extensive network of unofficial places of detention in the Donetsk and Luhansk Oblasts located in basements, sewage wells, garages, and industrial enterprises. In most cases, these places were not suitable for even short-term detention. There were reports of shortages of food, water, heat, sanitation, and proper medical care.
Prior to the conflict, more than 5,000 prisoners were held in the part of Luhansk Oblast under the control of Russia-led forces. According to press reports citing information from the Eastern Human Rights Group, prison conditions in the area have deteriorated severely. The group reported systemic abuses, such as torture, starvation, denial of medical care, and solitary confinement, as well as the extensive use of prisoners as slave labor to produce goods that, when sold, provided personal income to the leaders of the Russia-led forces.

Administration: According to the Human Rights Ombudsman’s office, authorities generally respected prisoners’ right to religious observance. Prisoners were permitted to receive visitors.

Although prisoners and detainees may file complaints about conditions in custody with the human rights ombudsman, human rights organizations noted 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 provide for confidentiality of complaints. According to representatives of the National Preventive Mechanism, an organization that conducted monitoring visits of places of detention, authorities did not always conduct proper investigations of complaints.

Officials generally allowed prisoners, except those in disciplinary cells, to receive visitors. Prisoner rights groups noted some families had to pay bribes to obtain permission for prison visits to which they are entitled by law.

Independent Monitoring: The government generally permitted independent monitoring of prisons and detention centers by international and local human rights groups. On June 19, the SPT published its report on its visit to the country in November 2016. During a 10-month period of the year, the Ombudsperson’s Office together with representatives of civil society conducted 16 monitoring visits to penitentiary facilities.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, but the government did not always observe these requirements.
The HRMMU, Amnesty International, Human Rights Watch, and other international groups reported numerous arbitrary detentions in areas controlled by Russia-led forces (see section 1.g.).

**Role of the Police and Security Apparatus**

The Ministry of Internal Affairs is responsible for maintaining internal security and order. The ministry oversees police and other law enforcement personnel. The SBU is responsible for state security, non-military intelligence, and counterintelligence matters. The Ministry of Internal Affairs reports to the Cabinet of Ministers, and the SBU reports directly to the president. The State Fiscal Service exercises law enforcement powers through the tax police and reports to the Cabinet of Ministers. The State Migration Service under the Ministry of Internal Affairs implements state policy regarding border security, migration, citizenship, and registration of refugees and other migrants.

Civilian authorities generally had control over law enforcement agencies but rarely took action to punish abuses committed by security forces.

Impunity for abuses by law enforcement agencies remained a significant problem frequently highlighted by the HRMMU in its reports and by other human rights groups. The HRMMU noted authorities were unwilling to investigate allegations of torture, particularly when victims were detained on grounds related to national security or were seen as proseparatist.

While authorities sometimes brought charges against members of the security services, cases often remained under investigation without being brought to trial while authorities allowed alleged perpetrators to continue their work. In addition, human rights groups criticized the lack of progress in investigations of alleged crimes in areas retaken by the government from Russia-led forces, resulting in continuing impunity for these crimes. In particular, investigations of alleged crimes committed by Russia-led forces in Slovyansk and Kramatorsk in 2014 appeared stalled. Human rights groups believed that many local law enforcement personnel collaborated with Russia-led forces when they controlled these cities.

Under the law members of the parliament have authority to conduct investigations and public hearings into law enforcement problems. The human rights ombudsman may also initiate investigations into abuses by security forces.
The Ministry of Internal Affairs indicated it provides 80 hours of compulsory human rights training to security forces, focusing on the principles of the European Convention on Human Rights and Fundamental Freedoms. Law enforcement training institutions also include courses on human rights, rule of law, constitutional rights, tolerance and nondiscrimination, prevention of domestic violence, and freedom from cruel, inhuman, or degrading punishment.

Security forces generally prevented or responded to societal violence. At times, however, they used excessive force to disperse protests or, in some cases, failed to protect victims from harassment or violence. For example, during the May 9 march to mark Victory Day, activists and representatives of the Socialist Party and Opposition Bloc argued over the use of Soviet-era political symbols (flags) in Dnipro. As a result of these clashes, eight participants in the event and six police officers were injured. The head of the Dnipropetrovsk Oblast police department and his deputies were dismissed for failing to ensure a peaceful march. The minister of internal affairs opened an official probe into the clashes.

**Arrest Procedures and Treatment of Detainees**

By law authorities may detain a suspect for three days without a warrant, after which a judge must issue a warrant authorizing continued detention. Authorities in some cases detained persons for longer than three days without a warrant.

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 ones. Persons have the right to consult a lawyer upon their detention. According to the law, prosecutors may detain suspects accused of terrorist activities for up to 30 days without charges or a bench warrant. Under the law citizens have the right to be informed of the charges brought against them. Authorities must promptly inform detainees of their rights and immediately notify family members of an arrest. Police often did not follow these procedures. Police at times failed to keep records or register detained suspects, and courts often extended detention to allow police more time to obtain confessions. Authorities kept suspects under house arrest and occasionally held them incommunicado, in some instances for several weeks.

Under the law the government must provide attorneys for indigent defendants. Compliance was inconsistent because of a shortage of defense attorneys or because attorneys, citing low government compensation, refused to defend indigent clients. According to the Ministry of Justice, more than 400,000 persons received free
legal aid since its introduction in 2014. As of September 1, there were 550 points of access to free legal aid throughout the government-controlled areas of the country.

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 law prosecutors need a court order to impose travel restrictions on persons awaiting trial. Prosecutors must prove the restrictions are the minimum needed to ensure that suspects will appear at hearings and not interfere with criminal proceedings.

Arbitrary Arrest: The HRMMU reported a continued pattern of arbitrary detention by authorities, particularly in government-controlled portions of Donetsk and Luhansk Oblasts. For example, in its September report, the HRMMU documented arrests and detentions of individuals for allegedly running businesses and paying taxes in the so-called “Donetsk People’s Republic.” The report cited the SBU arrest of four entrepreneurs charged with terrorism for business activities in territory controlled by armed groups. As of August 15, all four individuals remained in pretrial detention in Mariupol.

Detainee’s Ability to Challenge Lawfulness of Detention before a Court: Under the law citizens have the right to challenge an arrest in court or by appeal to a prosecutor to obtain prompt release in cases of unlawful detention.

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, courts were inefficient and remained vulnerable to political pressure and corruption. Confidence in the judiciary remained low.

Despite efforts to reform the judiciary and the PGO, corruption among judges and prosecutors remained endemic. Civil society groups continued to complain about weak separation of powers between the executive and judicial branches of government. Some judges claimed that high-ranking politicians pressured them to decide cases in their favor, regardless of the merits. Some judges and prosecutors reportedly took bribes in exchange for legal determinations. Other factors impeded the right to a fair trial, such as lengthy court proceedings, particularly in administrative courts, inadequate funding, and the inability of courts to enforce rulings.
There were reports of intimidation and attacks against lawyers representing defendants considered “pro-Russian” or “pro-separatist.” For example, the PGO initiated a criminal case against Oleg Veremiyenko, an attorney representing Ukrainian Army Colonel Ivan Bezyazkov, who had been charged with treason and creating a terrorist organization. The local prosecutor charged Veremiyenko in February with resisting and influencing a law enforcement officer. As part of the investigation, law enforcement officials searched Veremiyenko’s office without an appropriate court warrant and seized two computers.

**Trial Procedures**

A single judge decides most cases, although two judges and three public assessors who have some legal training hear trials on charges carrying the maximum sentence of life imprisonment. The law provides for cross-examination of witnesses by both prosecutors and defense attorneys and for plea bargaining.

The law presumes defendants are innocent, and they cannot be legally compelled to testify or confess, although high conviction rates called into question the legal presumption of innocence. Defendants have the right to be informed promptly and in detail of the charges against them, with interpretation as needed; to a public trial without undue delay; to be present at their trial, to communicate privately with an attorney of their choice (or one provided at public expense); and to have adequate time and facilities to prepare a defense. The law also allows defendants to confront witnesses against them, to present witnesses and evidence, and the right to appeal.

Trials are open to the public, but some judges prohibited media from observing proceedings. While trials must start no later than three weeks after charges are filed, prosecutors seldom met this requirement. Human rights groups reported officials occasionally monitored meetings between defense attorneys and their clients.

**Political Prisoners and Detainees**

There were reports of a small number of individuals that some human rights groups considered to be political prisoners.

On August 1, the SBU detained Vasyl Muravytsky, a reporter and columnist from Zhytomyr. Muravytsky was charged with state treason, infringement of territorial integrity, incitement of hatred, and support for terrorist organizations based on statements some deemed pro-Russian. According to the SBU, he could face up to
15 years of imprisonment. Some domestic and international journalist unions called for Muravytsky’s release, claiming the charges were politically motivated.

On June 1, a higher court overturned a July 2016 appeals court decision reversing the May 2016 conviction of Ivano-Frankivsk blogger Ruslan Kotsaba. Kotsaba had been sentenced to three-and-a-half years in prison on charges that he had impeded the work of the armed forces with his calls to ignore the military draft. Authorities arrested Kotsaba in 2015, and human rights groups deemed him a political prisoner. At year’s end Kotsaba was not in detention. According to Kotsaba’s defense lawyer, the July 2016 decision was overturned to postpone their planned appeal to the European Court of Human Rights (ECHR).

Civil Judicial Procedures and Remedies

The constitution and law 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 they believe may violate basic rights and freedoms. Individuals may appeal to the human rights ombudsman at any time and to the ECHR after exhausting domestic legal remedies.

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

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

By law the SBU may not conduct surveillance or searches without a court-issued warrant. In practice, however, law enforcement agencies sometimes conducted searches without a proper warrant. In an emergency authorities may initiate a search without prior court approval, but they must seek court approval immediately after the investigation begins. Citizens have the right to examine any dossier in the possession of the SBU that concerns them; they have the right to recover losses resulting from an investigation. Because there was no implementing legislation, authorities generally did not respect these rights, and many citizens were not aware of their rights or that authorities had violated their privacy.

There were some reports that the government had accessed private communications and monitored private movements without appropriate legal
authority. For example, on October 20, journalist Oleksandr Chernovalov filed a complaint with the police alleging the government had conducted illegal surveillance on him. The Darnytsia district police in Kyiv launched an investigation, which remained underway.

g. Abuses in Internal Conflicts

The Russian government controlled the level of violence in eastern Ukraine, intensifying the conflict when it suited its political interests, while largely ignoring the 2014 ceasefire and subsequent attempts to reestablish the ceasefire agreed to by all sides. Russia continued to arm, train, lead, and fight alongside some Ukrainians, and Russia-led forces throughout the conflict methodically obstructed and threatened international monitors, who do not have the access necessary to record systematically ceasefire violations or abuses committed by Russia-led forces.

International organizations and NGOs, including Amnesty International, Human Rights Watch, and the HRMMU issued periodic reports documenting abuses committed in the Donbas region. As of September 20, the Organization for Security and Cooperation in Europe (OSCE) fielded 1,087 persons supporting a special monitoring mission (SMM), which issued daily reports on the situation and conditions in most major cities.

As of mid-August, the HRMMU reported that fighting had killed at least 10,225 persons in Ukraine, including civilians, government armed forces, and members of armed groups. This figure included the 298 passengers and crew on board Malaysian Airlines flight MH-17, which was shot down in 2014 over the Donbas region. In addition since the start of the conflict, more than three million residents have left areas of Donetsk and Luhansk Oblasts controlled by Russia-led forces. As of October 31, the Ministry of Social Policy had registered 1.6 million internally displaced persons (IDPs). According to the Office of UN High Commissioner for Refugees (UNHCR), as of August 30, there were approximately one million Ukrainian refugees in other countries, including approximately 427,000 in the Russian Federation.

The media and human rights groups continued to report widespread abuses in areas held by Russia-led forces. The HRMMU noted a “collapse of law and order” in such areas as well as “serious human rights abuses,” including killings and torture.
Killings: There were reports of extrajudicial killings by both Ukrainian and Russian-led forces. In its March report, the HRMMU reported the government had made some progress investigating extrajudicial killings, noting specifically that “investigative actions have become timelier; suspects were identified and detained shortly after the incidents. It is of concern, however, that superiors who may have ordered or concealed crimes have not brought to justice.”

The HRMMU reported that on March 10, near Krasnohorivka, law enforcement officials found the body of a man who went missing in Avdiyivka on March 3. Authorities in March detained an SBU officer suspected of committing the killing but later released him on bail.

According to the HRMMU, a young man who made his living carrying luggage for people travelling across the line of contact in Stanytsia Luhanska left for work on April 27 and never returned. In early May his family saw a media report stating his body was found in Luhansk, an area controlled by armed groups. According to the death certificate, the man died of trauma to his head, limbs, and organs.

In its September report, the HRMMU noted, “the placement of military objectives in densely populated areas through military occupation and use of civilian property continued to heighten the risk of civilian lives on both sides of the contact line.” On June 8, a 15-year-old resident of the village of Kamyanka, Donetsk Oblast, was injured in the yard of his house by shelling by Russia-led armed groups.

The HRMMU also regularly noted concerns about the dangers to civilians from landmines and other explosive devices near checkpoints (see below).

As of August 15, the public database of the National Police of Ukraine listed 1,476 individuals who had gone missing in the conflict zone since mid-April 2014. Human rights groups criticized as ineffective the government’s efforts to keep track of missing persons. Russia-led forces had no such system and no effective means of investigating missing person’s cases. According to human rights groups, approximately 1,000 bodies in government-controlled cemeteries and morgues, both military and civilian, remained unidentified as a result of fighting, mostly from 2014.

Abductions: Government forces, Russia-led forces, and criminal elements engaged in abductions. The HRMMU reported a pattern of arbitrary and incommunicado detention by government law enforcement bodies (mainly by the SBU) and by
military and paramilitary units, primarily by the former volunteer battalions now formally incorporated into the security services.

In its reports the HRMMU repeatedly expressed concern regarding reports of enforced disappearances and “unacknowledged detention” practiced by the SBU. For example, in May a woman in Mariupol was lured to an Azov battalion position, blindfolded, and transported to an unknown destination. Men hit her and threatened to bury her if she did not cooperate. Perpetrators then informed the police they had captured a member of an armed group. Police interrogated the woman without a lawyer, and she signed a document incriminating herself as a member of the armed group. The next day police filmed her “confession” and brought her to the Mariupol SBU building, where she repeated her confession to two officers. One officer left and the other locked the door and ordered her to undress for a physical examination. He photographed her scars and tattoos without any explanation. SBU officers then took her to her residence and held her there for three days. They then brought the woman to court, where an SBU officer punched her twice in the stomach in the corridor. The military prosecutor’s office opened an investigation into the case.

Human rights groups reported that Russia-led forces routinely kidnapped persons for political purposes, to settle vendettas, or for ransom. The HRMMU documented cases of enforced disappearances in territories controlled by armed groups, including many cases in which individuals were held incommunicado for more than a month. For example, on April 18, “police” detained a man in the “Luhansk People’s Republic” who was reportedly released the same day but never returned home. The following day the “ministry of state security” searched his house and seized some personal belongings. They held the victim incommunicado until May 31, during which time his family was informed that he was arrested by the “border service.” He was then accused of treason and, as of August 15, remained in detention.

In May a “military tribunal” of the “Donetsk People’s Republic” sentenced religious historian and president of the Center for Religious Studies and International Spiritual Relations Ihor Kozlovsky to two years and eight months in prison. He was abducted in January 2016 allegedly in retaliation for his pro-Ukrainian postings on social media.

In early June, Russia-led forces kidnapped Donetsk journalist Stanislav Aseyev (pen name Vasin) and accused him of espionage. The charge carries a sentence of 12 to 14 years in prison (see section 2.a.).
Physical Abuse, Punishment, and Torture: Both government and Russia-led forces reportedly abused and tortured civilians and soldiers in detention facilities. Reported abuses included beatings, physical and psychological torture, mock executions, sexual violence, deprivation of food and water, refusal of medical care, and forced labor.

In government-controlled territory, the HRMMU recorded several cases of interrogation techniques that could amount to torture, including mock executions and use of electric shocks. The HRMMU stated it suspected such cases were underreported because victims often remained in detention or were afraid to report abuse due to fear of retaliation or lack of trust in the justice system.

According to the HRMMU, in April police detained two men in Bakhmut and took them to a location outside the town, where one was held for three days and the other for one day incommunicado. Both were tortured, subjected to electric shocks in the genitals, and questioned about their participation in illegal armed groups in 2014. Both victims were then transferred to a pretrial detention facility and charged with participation in an armed group.

There were reports that Russia-led forces systematically committed numerous abuses, including torture, in the territories under their control. According to international organizations and NGOs, abuses included beatings, forced labor, psychological and physical torture, public humiliation, and sexual violence. International organizations were refused access to places of deprivation of liberty in territory controlled by Russia-led armed groups and were therefore not able to assess fully the conditions of detention facilities. In September the PGO stated that law enforcement authorities were investigating 600 cases of torture of Ukrainian citizens by Russia-led forces.

On July 13, Ludmyla Surzhenko, a 39-year-old woman who allegedly criticized the “Luhansk People’s Republic” in social media, was detained while crossing the line of contact at the Stanytsia Luhanska checkpoint, on the side controlled by armed groups. The “ministry of state security” held her incommunicado for 16 days, during which she was interrogated four times. During one interrogation session, interrogators dislocated one of her fingers with a pair of pliers and threatened to move her to a basement with male detainees. On July 29, they returned her to the same checkpoint on the government-controlled side. Luhansk Oblast police opened an investigation into the case.
The HRMMU’s report *Conflict-Related Sexual Violence in Ukraine*, which covered the period from March 2014 to the end of January, stated, “The majority of documented cases of conflict-related sexual violence happened when people, both men and women, were detained by either government forces or armed groups.” It noted that cases of sexual violence were generally underreported due to trauma suffered by victims, stigma associated with sexual violence, and fear of reprisals. According to the report, “beatings and electrocutions on the genitals, rapes, threats of rape and forced nudity were used as methods of torture and ill-treatment to punish, humiliate, or extract confessions.” In its December 2016 report, the HRMMU noted, “The country’s justice system lacks the laws, capacity, and professional experience to effectively investigate and prosecute allegations of sexual violence, resulting in widespread impunity for perpetrators.”

According to the Justice for Peace in Donbas human rights coalition, individuals held in illegal detention facilities in territories controlled by Russia-led forces reported cases of gender-based violence, in particular rape, attempted rape, sexual abuse, forced nudity, sterilization, and torture focused on genitals. Conflict-related gender-based violence against men was almost as regular and widespread as against women; 92 men and 114 women were victims of sexual violence documented by the coalition.

Both sides employed land mines without fencing, signs, or other measures to prevent civilian casualties. In June the HRMMU reported that the presence of a large number of mines and unexploded ordnance in areas close to the contact line in Donetsk and Luhansk Oblasts continued to pose a serious threat to civilians. The HRMMU noted, “All sides continued laying new mines rather than systematically clearing or marking mines or other hazards, or fencing them off.” The mines resulted in civilians being killed and maimed, often while walking to their homes and fields. In September the OSCE reported that, of the 442 total civilian casualties resulting from the conflict in eastern Ukraine in 2016, 26 percent were caused by land mines and unexploded ordnance. These risks were particularly acute for persons living in towns and settlements near the contact line as well as for the approximately 25,000 persons who crossed the contact line daily. On April 23, an OSCE SMM patrol car was destroyed in an explosion believed caused by a land mine near the village of Pryshyb, Luhansk Oblast. The explosion killed an international medic on patrol with the SMM and injured two foreign monitors. The next day in Fashchivka, Luhansk Oblast, a tractor detonated a land mine killing three civilians.
According to the OSCE SMM, approximately 2,703 square miles of territory in Donetsk and Luhansk Oblasts needed humanitarian demining. In mid-August they reported mines and ordnance killed 27 persons and injured 62 civilians since the start of the year.

Other Conflict-related Abuse: On September 20, the Netherlands, Australia, Belgium, Malaysia, and Ukraine signed a memorandum reiterating their political support and commitment to cooperate in an investigation of the 2014 downing of Malaysian Airlines flight 17 in Donbas. In September 2016 a team of prosecutors from the Netherlands, Australia, Belgium, Malaysia, and Ukraine presented the results of their investigation into the crash. The Dutch-led investigation concluded that the surface-to-air missile system used to shoot down the airliner over Ukraine, killing all 298 persons on board, was brought in from Russia at the request of Russia-led forces and returned to Russia the same night. The report largely confirmed the already widely documented role of the Russian government in the deployment of the missile system, a Buk or SA-11, and the subsequent cover-up. In the report, Dutch prosecutors traced Russia’s role in deploying the missile system into Ukraine and its attempt to hide its role after the disaster.

In 2015 government authorities introduced measures to expedite the delivery of humanitarian aid to areas controlled by Russia-led forces. Russia-led forces in Donetsk Oblast, however, sharply restricted government humanitarian aid as well as aid from international humanitarian organizations. As a result persons remaining in territories held by Russia-led forces experienced large price increases for everyday consumables, especially meat and fresh vegetables. Human rights groups also reported severe shortages of medicine, coal, and medical supplies in territory not controlled by the government.

Russia-led forces continued to receive convoys of Russian “humanitarian aid,” which Ukrainian government officials believed contained weapons and supplies for Russia-led forces.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution and law provide for freedom of expression, including for members of the press. Authorities did not always respect these rights, however. The government introduced measures that banned or blocked information, media outlets, or individual journalists deemed a threat to national security or who
expressed positions that authorities believed undermined the country’s sovereignty and territorial integrity. Other problematic practices continued to affect media freedom, including self-censorship, so-called jeansa payments (publishing unsubstantiated news articles for a fee), and slanted news coverage by media whose owners had close ties to the government or opposition political parties.

In the Donbas region, Russia-led forces suppressed freedom of speech and the press through harassment, intimidation, abductions, and assaults on journalists and media outlets. They also prevented the transmission of Ukrainian and independent television and radio programming in areas under their control.

**Freedom of Expression:** With some exceptions, individuals in areas under government control could generally criticize the government publicly and privately and discuss matters of public interest without fear of official reprisal. The law criminalizes the display of communist and Nazi symbols. According to Amnesty International, during a public demonstration on May 9 in Dnipro, several marchers were arrested for carrying Soviet symbols. On May 16, the legislature passed a law banning the manufacture or promotion of the “St. George’s ribbon,” a symbol associated with Russian-led forces in the Donbas region. Several media reports indicated authorities subsequently fined individuals carrying these symbols.

The law prohibits statements that threaten the country’s territorial integrity, promote war, instigate racial or religious conflict, or support Russian aggression against the country, and the government prosecuted individuals under these laws.

**Press and Media Freedom:** The NGO Freedom House rated the country’s press as “partly free.”

Independent media and internet news sites were active and expressed a wide range of views. Privately owned media, the most successful of which were generally owned by wealthy and influential “oligarchs,” often presented readers and viewers a “biased pluralism,” representing the views of their owners, favorable coverage of their allies, and criticism of political and business rivals. The 10 most popular television stations were owned by businessmen whose primary business was not in media. Independent media had difficulty competing with major outlets that operated with oligarchic subsidies. According to a September 28 report by the Institute for Mass Information (IMI) and Reporters without Borders, the influence of political actors on the country’s media increased during the year, with media holdings remaining nontransparent and used to support political allies of their owners.
As of December 1, IMI recorded 183 cases of alleged violations of freedom of press compared with 133 cases for the same period of 2016.

The practice of jeansa continued to be widespread. IMI’s monitoring of national print and online media for jeansa indicated that a wide range of actors ordered political jeansa, including political parties, politicians, oblast governments, and oligarchs. According to IMI press monitoring, as of September, the highest proportion of jeansa in regional media occurred in print outlets in Zaporizhzhia and Mykolaiv Oblasts, where 16 percent and 15 percent of articles, respectively, were political or commercial jeansa.

Violence and Harassment: Violence against journalists remained a problem. Human rights groups and journalists criticized government inaction in solving these crimes, giving rise to a culture of impunity.

According to IMI, as of December 1, there were 27 reports of attacks on journalists, compared with 29 cases during the same period in 2016. As in 2016, private, rather than state, actors perpetrated the majority of the attacks. As of November 1, there were 37 incidents involving threats against journalists, down from 38 during the same period in 2016. IMI and editors of major independent news outlets also noted online harassment of journalists by societal actors, reflecting a growing societal intolerance of reporting deemed insufficiently patriotic, a development they asserted had the tacit support of the government.

On July 14, law enforcement officials searched the Kyiv office of Vesti media, which observers alleged to have a pro-Russian bias and beneficial owners. According to the company, the search lasted 16 hours, during which time operations of its website and radio station were blocked. According to the chief military prosecutor, the search related to an embezzlement case involving former revenues and taxes minister Oleksandr Klymenko. Authorities asserted that money Klymenko allegedly stole under tax-evasion schemes was used to finance the Vesti media holding company. Journalists wrote an open letter to the president, the prime minister, and other government authorities, stating they considered the search a violation of civil liberties and press freedom, and an attempt to harass and intimidate journalists.

On June 22, Ihor Huzhva, the editor in chief of the media outlet strana.ua, widely considered to have a pro-Russian editorial slant, was arrested in Kyiv on suspicion of large-scale extortion of 270,000 hryvnia ($10,000) in exchange for refraining
from publishing compromising material on a politician. A member of the parliament, Dmytro Linko, alleged that Huzhva had demanded money from him. On June 27, Huzhva was released on bail. Huzhva’s lawyers claimed the journalist was arrested because of his professional activities, because his media outlet systematically criticized high-profile state officials. An investigation continued at year’s end.

There were no developments during the year in the July 2016 killing of well-known journalist Pavel Sheremet, who hosted a morning show on Vesti radio and worked for the Ukrainska Pravda online news outlet (see section 1.a.).

On June 27, the investigation of the killing of Oles Busyna, who was killed in 2015 allegedly by members of a right-wing political group, was completed and referred to a court for trial. Court hearings against two suspects were underway as of September.

There were multiple reports of attacks on journalists investigating government corruption. For example, on February 12, a car belonging to Serhiy Guz, editor in chief of the news website 5692.com and the newspaper Gorod 5692, was set on fire in Kamyanske, Dnipropetrovsk Oblast. The journalist linked the attack to his professional activity and critical reporting on local authorities. Police opened an investigation.

Censorship or Content Restrictions: IMI recorded six incidents of censorship of individual publications. The government at times banned or restricted media content on vague grounds. For example, on April 28, the National State Films Agency prohibited showings of a documentary film about killed journalist Oles Buzina on the grounds the film’s content had “violated the law.”

Both independent and state-owned media periodically engaged in self-censorship when reporting stories that might expose political allies to criticism or that might be perceived by the public as insufficiently patriotic or provide information that could be used for Russian propaganda.

A law adopted by the parliament on May 23 obligates television channels to broadcast at least 75 percent of their content in the Ukrainian language as of October 13.

Libel/Slander Laws: Libel is a civil offense. While the law limits the monetary damages a plaintiff can claim in a lawsuit, local media observers continued to
express concern over high monetary damages awarded for alleged libel. Government entities, and public figures in particular, used the threat of civil suits, sometimes based on alleged damage to a person’s “honor and integrity,” to influence or intimidate the press and investigative journalists. In early September, the head of the pro-Russian civic movement Ukrainian Choice, Viktor Medvedchuk, filed a lawsuit against member of the parliament and journalist Serhiy Leshchenko for slander over a series of articles allegedly uncovering Medvedchuk’s participation in corrupt schemes in the gas market.

National Security: Authorities took measures to prohibit, regulate, and occasionally censor information deemed a national security threat.

The government continued the practice of banning specific works by pro-Russian actors, film directors, and singers, as well as imposing sanctions on pro-Russian journalists. According to the head of the State Film Agency, Phylyp Ilienko, as of mid-September, more than 500 films and television shows had been banned on national security grounds since August 2014. In May the president signed a decree restricting operations of 468 companies and 1,228 persons that allegedly posed a “threat to information and the cyber security of the state.” Among them were the country’s two most widely used social networks, which were based in Russia, and major Russian television channels. Human rights NGOs criticized the move, and the secretary general of the Council of Europe condemned the decision, stating, “blocking social networks, search engines, postal services, and information websites is contrary to our common understanding of freedom of expression and media [freedom].”

The government continued to block Russian television channels from broadcasting in the country, based on a 2014 decision by the National Television and Radio Broadcasting Council taken to counter the perceived dangerous influence of Russian propaganda. On January 12, the National Television and Radio Broadcasting Council did not renew the independent Russian television channel Dozhd because it recognized Crimea as part of Russia rather than Ukraine, in violation of Ukrainian law. Dozhd remained available by satellite and internet. As of year’s end, only four Russian channels were permitted to broadcast in the country, compared with 83 Russian channels at the start of 2014. According to the head of the National Television and Radio Broadcasting Council, as of November 2, the council had issued 23 warnings to Ukrainian cable providers for violating the ban on certain Russian channels.
Media professionals continued to experience pressure from the SBU and the armed forces when reporting on sensitive issues, such as military losses. For example, on September 14, an SBU agent appeared at the office of the Ukrainska Pravda website demanding that it remove an article highlighting the need for more modern armament for the Ukrainian army and the government’s failure to prioritize upgrading the country’s military capabilities. In the letter the SBU stated it had opened an investigation into the article’s publication, claiming that it referenced state secrets. The editorial staff then presented SBU with an official letter of complaint. The SBU thereafter called the media outlet to apologize and, on September 20, initiated an internal probe into alleged pressure on journalists.

Authorities continued to deport and bar entry to foreign journalists in retaliation for their coverage of the conflict in eastern Ukraine. On August 25, the SBU barred two Spanish journalists from entering the country over their coverage of the conflict in eastern Ukraine. Media groups called the move “an attack on free speech.” Human Rights Watch stated, “the Ukrainian government’s practice of accusing journalists of anti-Ukraine bias, then expelling them or denying them entry, is a serious violation of its international human rights commitments.”

On August 30, the SBU in Kyiv detained Anna Kurbatova, a journalist with Russian television Channel One. Kurbatova was expelled and banned from the country for three years for allegedly engaging in anti-Ukrainian propaganda. The expulsion occurred after Kurbatova described events marking the country’s independence day as a “sad celebration” because of the armed conflict in eastern Ukraine and economic hardship in the country.

Nongovernmental Impact: Russia-led forces in eastern areas of the country harassed, arbitrarily detained, and mistreated journalists (see section 1.g.). According to the HRMMU, “persons living in the ‘Donetsk People’s Republic’ and ‘Luhansk People’s Republic’ know that expressing their opinion freely and publicly was not acceptable in armed group-controlled territory.” The HRMMU also noted, “armed groups are directly influencing and shaping the content in local media” and that they require favorable coverage as the cost of retaining registration to operate.

The HRMMU reported that journalists entering territory controlled by armed groups of the “Donetsk People’s Republic” had to inform the “press center” of the “ministry of defense” about their activities on a daily basis, were arbitrarily required to show video footage at checkpoints, and were accompanied by members of armed groups when travelling close to the contact line.
On June 3, Ukrainian journalist Stanislav Aseyev (pen name Vasin) went missing in Donetsk. Unofficial sources reported the “ministry of state security” had arrested him. Aseyev had written about life in the “people’s republic” for popular Ukrainian media outlets. On July 17, civil society groups announced that local “authorities” confirmed they had arrested Aseyev and charged him with espionage.

On July 28, a court in the “Luhansk People’s Republic” sentenced blogger Eduard Nedelyaev to 14 years in prison on treason and espionage charges. Nedelyaev was known for his critical reports about life in the territory controlled by Russian-led forces; when he was arrested in November 2016, authorities cited his “extremist” views.

**Internet Freedom**

Law enforcement bodies monitored the internet, at times without appropriate legal authority, and took significant steps during the year to ban major Russian-sourced news and social media sites.

On May 17, the president signed Decree 133, requiring internet providers to block access for three years to the Russian social networks VKontakte and Odnoklassniki, the email service Mail.ru, the search engine company Yandex, and several major Russian television channels. Some observers questioned the legality of the measure, noting that the law does not allow blocking access to sites without a court decision.

Human rights groups and journalists who were critical of Russian involvement in the Donbas region and the occupation of Crimea reported their websites were subjected to cyberattacks, such as coordinated denial of service incidents and unauthorized attempts to obtain information from computers, as well as coordinated campaigns of “trolling” and harassment on social media.

In its annual *Freedom on the Net* report published in November, Freedom House concluded that internet freedom had deteriorated for the second year in a row. It noted in particular that “authorities have become less tolerant of online expression perceived as critical of Ukraine’s position in the conflict, and the government has been especially active this year in sanctioning social media users for ‘separatist’ and ‘extremist’ activities, with many users detained, fined and even imprisoned for such activities. Meanwhile, separatist forces in the east have stepped up efforts to
block content online perceived to be in support of Ukrainian government or cultural identity.”

**Academic Freedom and Cultural Events**

There were several reports of government restrictions on academic freedom or cultural events. On April 13, representatives of the Prosecutor’s Office of Crimea, now displaced to Kyiv, searched the premises of the International Center for Policy Studies (ICPS), a research and scientific institution in Kyiv. The search was allegedly to investigate the so-called Artemenko peace plan, which lawyer Andriy Artemenko had presented publicly. The plan suggested formally surrendering Crimea to the Russian Federation for a long-term lease. According to the search warrant, *Ideas for Resolving the Conflict in Donbas*, authored by ICPS Chairman Vasyl Filipchuk, served as the basis for the “peace plan” and search. The Coalition of Human Rights issued a public statement calling the search “a disproportionate interference of the state in the activities of the think tank and an attempt to monopolize the field of ideas and to impose state doctrine as the only one possible under the threat of prosecution of those offering other approaches.”

**b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

**Freedom of Peaceful Assembly**

The constitution provides for the freedom of peaceful assembly, and the government generally respected this right. There are no laws, however, regulating the process of organizing and conducting events to provide for the right, and authorities have wide discretion under a Soviet-era directive to grant or refuse permission for assemblies on grounds of protecting public order and safety. Organizers are required to inform authorities in advance of plans for protests or demonstrations.

During the year citizens generally exercised the right to assemble peacefully without restriction in areas of the country under government control. Most assemblies were peaceful and at times accompanied by a very large police presence to maintain order. The HRMMU continued to observe improvement with regard to respect for freedom of peaceful assembly “as illustrated by a decrease in
judicial prohibitions of public assemblies and better policing of large public gatherings” throughout the country.

Smaller demonstrations suffered from insufficient security and protection by police, especially those organized by persons belonging to minority groups or opposition political movements. There were some reports of violence at lesbian, gay, bisexual, transgender, and intersex (LGBTI) events during the year, although police protection for such events was more consistent than in previous years. Police failed to prevent a violent attack against individuals participating in a 200-person Equality March in Zaporizhzhia on September 30 which resulted in several injuries requiring hospitalization. Police arrived later and detained several individuals.

Victory Day commemoration events on May 9 were generally peaceful, although skirmishes marred some, including in Dnipro, Kharkiv, Kyiv, Odesa, and Zaporizhzhia. The skirmishes resulted in bodily injuries to 32 persons and the detention of 89. Police opened 19 criminal proceedings as a result.

In the territory controlled by Russia-led forces, the HRMMU noted an absence of demonstrations because “people are concerned that they may be ‘arrested’ if they organize protests or assemblies against the policies of the armed groups.” The HRMMU also noted the only demonstrations permitted in these areas were ones in support of local “authorities,” often apparently organized by the armed groups, with forced public participation.

**Freedom of Association**

The constitution and law provide for freedom of association, and the government generally respected this right.

Human rights groups and international organizations sharply criticized a law signed by the president on March 28 that introduces vague and burdensome asset-reporting requirements for civil society organizations and journalists working on anticorruption matters. The law was widely seen as an intimidation and revenge measure against the country’s anticorruption watchdogs, which have successfully pushed for increased financial transparency for government officials.

According to the HRMMU, in the territories controlled by Russia-led forces, domestic and international civil society organizations, including human rights defenders, could not operate freely. Residents informed the HRMMU they were
being prosecuted (or feared being prosecuted) by the “ministry of state security” for their pro-Ukrainian views or previous affiliation with Ukrainian NGOs. If human rights groups attempted to work in those areas, they faced significant harassment and intimidation. The HRMMU also noted an increase in civil society organizations run by the armed groups, which appeared to require certain persons, such as public-sector employees, to join.

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The constitution and law provide citizens with freedom of internal movement, foreign travel, emigration, and repatriation. The government, however, restricted these rights, particularly in the eastern part of the country near the zone of conflict.

There were claims that officials engaged in politically motivated deportations without adherence to due process. For example, on October 21, officials deported four Georgian citizens whose residence permits had been cancelled, according to the State Migration Service. Human Rights Ombudsman Valeriya Lutkovska stated the deportations occurred without the required court warrants. Some human rights groups claimed the men were hooded and beaten during the deportation process and alleged they were targeted because of their ties to opposition figure Mikhail Saakashvili.

The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. International and domestic organizations reported the system for protecting asylum seekers, stateless persons, and other persons of concern did not operate effectively.

Abuse of Migrants, Refugees, and Stateless Persons: Authorities frequently detained asylum seekers for extended periods without court approval.

In-country Movement: The government and Russia-led forces strictly controlled movement between government-controlled areas and territories in the Donbas region controlled by Russia-led forces. Crossing the contact line remained arduous. Public passenger transportation remained prohibited.
While five crossing points existed, only four were in operation for much of the year. According to the HRMMU, between May and August, an average of 36,000 individuals crossed the line daily. People formed long lines at all operating transit corridors and had to wait for up to 36 hours with no or limited access to water, medical aid, toilets, and shelter in case of shelling or extreme weather. Individuals who frequently crossed the line complained of corruption on both sides of the line of contact.

In 2015 the SBU introduced a pass system involving an online application process to control movement into government-controlled territory. Human rights groups were concerned that many persons in non-government-controlled territory did not have access to the internet to obtain such passes. The order imposed significant hardships on persons crossing into government-controlled territory, in particular those who sought to receive pensions and government benefits, which were not distributed in the territory controlled by Russia-led forces. On April 14, the government amended the temporary order regulating movement of individuals across the line of contact so that crossing permits no longer expire and residents of territory adjacent to the line of contact on the government-controlled side do not need a permit to cross.

The HRMMU repeatedly voiced concern over reports of corruption by checkpoint personnel on both sides, including demands for bribes or goods in exchange for easing passage across the line of contact. Russia-led forces continued to hinder freedom of movement in the eastern part of the country.

The government and Russian occupation authorities subjected individuals crossing between Russian-occupied Crimea and the mainland to strict passport controls at the administrative boundary between the Kherson Oblast and Crimea. Authorities prohibited rail and commercial bus service across the administrative boundary, requiring persons either to cross on foot or by private vehicle. Long lines and insufficient access to toilets, shelter, and potable water remained prevalent. Civil society, journalists, and independent defense lawyers continued to maintain that the government placed significant barriers to their entry to Crimea, including months-long processes to obtain required permissions, thereby complicating their ability to document and address abuses taking place there.

**Internally Displaced Persons (IDPs)**
According to the Ministry of Social Policy, as of September 15, more than 1.5 million persons were registered IDPs due to Russia’s aggression in eastern Ukraine and occupation of Crimea. Some NGOs and international organizations estimated the number to be lower, since some persons returned to their homes after registering as IDPs, while others registered while still living in the conflict zone. The largest number of IDPs resided in areas immediately adjoining the conflict zones, in government-controlled areas of Donetsk and Luhansk Oblasts, as well as in the Kharkiv, Dnipropetrovsk, and Zaporizhzhya Oblasts. Many resided in areas close to the line of contact in hope they would be able to return home.

The government granted social entitlements only to those individuals who had registered as IDPs. By law IDPs are eligible to receive payments of 880 hryvnias ($33) per month for children and persons with disabilities and 440 hryvnias ($16) per month for those able to work. Families may receive no more than 2,400 hryvnias ($89) per month. According to the law, the government should provide IDPs with housing, but authorities did not take effective steps to do so. Humanitarian aid groups had good access to areas under government control.

In its June report, the HRMMU stated that in March it received information that local departments of the Ministry of Social Policy had received lists of persons registered as IDPs who allegedly had stayed outside government-controlled territory for more than 60 days. The departments were instructed to suspend payment of pensions and benefits pending verification of their recipients’ physical presence in government-controlled territories, ostensibly to combat fraud. A similar verification process initiated in February 2016 created economic problems for IDPs, reportedly forcing some to return to territories controlled by Russia-led forces.

According to the HRMMU, the government applied the IDP verification procedure broadly. The suspensions affected the majority of IDP residents in government-controlled territory, as well as most residents of areas under the control of Russia-led forces; effects were especially acute for the elderly and disabled, whose limited mobility hindered their ability to verify whether they were included in the lists or to prove their residency. The government often suspended payments without notification, and IDPs reported problems having them reinstated.

According to research conducted by the International Organization for Migration (IOM), 59 percent of surveyed IDP households relied on government support as one of their main sources of income. More than 20 percent of IDP respondents indicated their social payments had been suspended.
According to the HRMMU, IDP integration remained impeded by the lack of a government strategy and the consequent absence of allocation of financial resources, leading to IDPs’ economic and social marginalization. Local civil society organizations and international humanitarian organizations provided the bulk of assistance for IDPs on a temporary basis. NGOs reported their ability to support IDPs was limited and nearing exhaustion. UN agencies reported the influx of IDPs led to tensions arising from competition for scarce resources. Critics accused internally displaced men who moved to western areas of the country of evading military service, while competition rose for housing, employment, and educational opportunities in Kyiv and Lviv.

A shortage of employment opportunities and the generally weak economy particularly affected IDPs, forcing many to live in inadequate housing, such as collective centers and other temporary accommodations. Other IDPs stayed with host families, volunteers, and in private accommodations, although affordable private accommodations were often in poor condition.

NGOs reported employment discrimination against IDPs. Some IDPs, particularly those in government-controlled areas of Donetsk and Luhansk Oblasts, lacked sufficient sanitation, shelter, and access to potable water. IDPs continued to have difficulty obtaining education, medical care, and necessary documents. Romani activists expressed concern that some Roma in eastern areas could not afford to flee conflict areas, while others had no choice but to leave their homes.

In 2015 the Kyiv Administrative Court of Appeal overturned a National Bank decision that Crimean IDPs were nonresidents, which had restricted access to banking and financial services for those fleeing the Russian occupation. Nonetheless, media reports indicated that banks continued to restrict banking services for Crimean IDPs even after the court decision.

**Protection of Refugees**

**Refoulement:** The government did not provide for protection against the expulsion or return of asylum seekers 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. UNHCR described refoulement at the border as a “largely hidden phenomenon,” because persons seeking asylum might 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. Human rights groups noted the law offers legal protection against forcible return.

Access to Asylum: The law provides for asylum or refugee status, and the government has established a legal system to protect refugees. Protection for refugees and asylum seekers was insufficient due to gaps in the law and the system of implementation. The country is a transit and destination country for asylum seekers and refugees, principally from Afghanistan, the Russian Federation, Somalia, Syria, Iraq, and Afghanistan.

Human rights groups noted that the refugee law falls short of international standards due to its restrictive definition of 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. 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. Asylum seekers have five days to appeal an order of detention or deportation.

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

Employment: Authorities did not provide employment assistance, and most asylum seekers were unable to obtain a work permit as required by law. Authorities provided language instruction for asylum seekers only in Kyiv, Kharkiv, and Odesa, although some local NGOs reported that the instruction was provided by NGOs. Some asylum seekers worked illegally, increasing their risk of exploitation.

Access to Basic Services: The national plan on the integration of refugees adopted by the government did not allocate resources for its implementation. Human rights groups reported that authorities did not provide social and economic support or language classes to asylum seekers or assist them. A UNHCR report indicated all newly recognized refugees received a one-time grant of approximately 30 hryvnias ($1.10). However, some reports indicated the government did not always provide payment.
Temporary accommodation centers had a reception capacity of 421. Asylum seekers living outside a center often experienced difficulties obtaining residence registration, and authorities regularly fined them more than 500 hryvnias ($19) because they lacked this registration. According to the State Migration Service, refugees and those seeking complementary protection could receive residence registration at homeless shelters for up to six months.

UNHCR noted a lack of educational programs and vocational activities for those in detention for extended periods. According to UNHCR, gaps in housing and social support for unaccompanied children left many without access to state-run accommodation centers or children’s shelters. Many children had to rely on informal networks for food, shelter, and other needs and remained vulnerable to abuse, trafficking, and other forms of exploitation.

Temporary Protection: The government also provided temporary protection (“complementary protection”) to individuals who may not qualify as refugees; as of July 1 authorities provided it to approximately 674 persons.

Stateless Persons

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

According to UNHCR, approximately 36,000 persons in the country were either stateless or at risk of statelessness in 2016. These included Roma, homeless persons, current and former prisoners, and persons over 50 who never obtained a Ukrainian personal identification document after the fall of the Soviet Union and are no longer able to obtain one. According to the State Migration Service, as of September 1, there were 4,904 stateless persons residing in the country.

On July 26, the government issued a decree revoking the citizenship of opposition politician Mikhail Saakashvili, who had been granted citizenship in 2015 and who was not in Ukraine when the decree was issued. While some politicians and human rights organizations questioned the move, calling it politically motivated, the government asserted a legal basis for the decision, stating Saakashvili had knowingly made false statements in his citizenship application.

The law requires establishing identity through a court procedure, which demanded more time and money than some applicants had. UNHCR reported Roma were at
particular risk for statelessness, since many did not have birth certificates or any other types of documentation to verify their identity. Homeless persons have difficulty obtaining citizenship because of a requirement to produce a document testifying to one’s residence.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: In 2014 citizens elected Petro Poroshenko president in an election considered free and fair by international and domestic observers. The country held early legislative elections in 2014 that observers also considered free and fair.

In July 2016 citizens in seven constituencies voted in legislative by-elections. According to the OSCE election observer mission, the elections were organized and democratic but influenced by economic interests. According to OPORA, a human rights NGO that monitored elections in the country, some candidates campaigned prematurely, providing unfair advantages for certain candidates and parties. OPORA considered the elections to be free and fair with electoral irregularities that were not systemic.

IDPs were unable to vote in local elections unless they changed their registration to their new place of residence.

Political Parties and Political Participation: The Communist Party remains banned.

Participation of Women and Minorities: No laws limit the participation of women and/or members of minorities in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption. Authorities did not effectively implement the law, and many officials engaged in corrupt practices with impunity. While the number of reports of government corruption was low, corruption remained pervasive at all levels in the executive, legislative, and judicial branches.
of government. Independent anticorruption institutions faced political pressure that undermined public trust. For example, the disruption of a high-level corruption investigation, the arrest of officials from the National Anti-Corruption Bureau of Ukraine (NABU), and the seizure of sensitive NABU files raised concerns about the government’s commitment to fighting corruption.

**Corruption:** While the government publicized several attempts to combat corruption, it remained a serious problem for citizens and businesses alike.

On March 7, the Solomyansky district court in Kyiv ordered the head of the State Fiscal Service, Roman Nasirov, arrested on embezzlement charges. Nasirov was accused of causing damage to the state in the amount of two billion hryvnias ($73.7 million). The charges against Nasirov stemmed from his involvement in an embezzlement scheme during the extraction and sale of natural gas under cooperation agreements with the state-owned company Ukrgazvydobuvannia. The case remained under investigation at year’s end.

**Financial Disclosure:** The law mandates the filing of income and expenditure declarations by public officials, and a special review process allows for public access to declarations and sets penalties for either not filing or filing a false declaration. In July the NABU served a notice of suspicion to a former judge from Luhansk Oblast for filing a false declaration. According to the investigation, the judge failed to disclose vehicles and real estate assets worth approximately 350,000 dollars. As of mid-August, NABU was actively investigating 66 criminal cases based on e-declaration reviews, including suspicion of illicit enrichment and filing false declarations.

By law the National Agency for the Prevention of Corruption is responsible for reviewing financial declarations and monitoring the income and expenditures of high-level officials. Some observers questioned, however, whether the agency had the capacity and independence to fulfill this function.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. During the year the government placed burdensome new reporting
requirements on NGOs working on anticorruption in apparent retaliation for their activities (see section 2.b., Freedom of Association).

Authorities in areas controlled by Russian-led forces in eastern Ukraine routinely denied access to domestic and international civil society organizations. If human rights groups attempted to work in those areas, they faced significant harassment and intimidation (see section 2.b., Freedom of Association).

The United Nations or Other International Bodies: The government cooperated with international organizations, such as the OSCE, the Council of Europe, and the HRMMU.

Government Human Rights Bodies: The constitution provides for a human rights ombudsman, officially designated as legislative commissioner on human rights. The Human Rights Ombudsman’s Office frequently collaborated with NGOs through civic advisory councils on various projects for monitoring human rights practices in prisons and other government institutions.

Valeriya Lutkovska served as the ombudsman for human rights during the year, and observers considered her office an effective promoter of human rights. The office collaborated with leading domestic human rights groups and acted as an advocate on behalf of Crimean Tatars, IDPs, Roma, persons with disabilities, LGBTI individuals, and prison inmates.

Lutkovska’s term of office expired in March, although as of mid-September she remained in the role on an acting basis. Human rights organizations criticized the process to choose her successor, asserting that the candidates nominated were not politically impartial and lacked necessary qualifications and that the government failed to consult with civil society or conduct the process in a transparent manner.

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

Women

Rape and Domestic Violence: The law prohibits rape of men or women but does not explicitly address spousal rape or domestic violence. The courts may use a law against “forced sex with a materially dependent person” as grounds to prosecute spousal rape. Under the law, authorities may detain a person for up to five days for offenses related to domestic violence and spousal abuse. The penalty for rape is
three to 15 years’ imprisonment. Sexual assault and rape continued to be significant problems.

Domestic violence against women remained a serious problem. Spousal abuse was common. According to the PGO, 874 cases of domestic violence were registered during the first nine months of the year. According to the Ministry of Internal Affairs, police issued approximately 41,097 domestic violence warnings and protection orders during the first nine months of the year. Punishment included fines, administrative arrest, and community service. Human rights groups noted the ability of agencies to detect and report cases of domestic violence was limited, and preventive services remained underdeveloped. Human rights groups asserted that law enforcement authorities did not consider domestic violence to be a serious crime but rather a private matter to be settled between spouses. Research showed that most authorities believed that, in domestic violence cases, familial reconciliation was more important than punishing the perpetrator or protecting the victim.

La Strada operated a national hotline for victims of violence and sexual harassment. As of June, more than 15,512 individuals had called the hotline for assistance; 95 percent of the calls concerned domestic or sexual violence while more than one-half the calls involved psychological violence. The NGO reported that expanded public awareness campaigns increased the number of requests for assistance it received each year.

According to the NGO La Strada, the conflict in the Donbas region led to a surge in violence against women across the country. Human rights groups attributed the increase in violence to posttraumatic stress experienced by IDPs fleeing the conflict and by soldiers returning from combat. According to monitoring of conflict-related gender-based violence conducted by the Justice for Peace in Donbas coalition, the situation in eastern Ukraine combined with the general discriminatory policies and lack of access to judicial services in the self-styled “republics” to create an environment conducive to gross violation of women’s rights. IDPs reported instances of rape and sexual abuse; many claimed to have fled areas controlled by Russia-led forces because they feared sexual abuse.

Although the law requires the government to operate a shelter in every major city, it did not do so. According to the Ministry of Social Policy, as of July 1, government centers provided domestic violence-related services, in the form of sociopsychological assistance, to 8,483 families with 8,529 children. Social services centers monitored 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.

**Sexual Harassment:** The law puts sexual harassment in the same category as discrimination and sets penalties from a fine up to three years in prison, but 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 because courts declined to hear their cases and rarely convicted perpetrators.

While the law prohibits coercing a “materially dependent person” to have sexual intercourse, legal experts stated that safeguards against harassment were inadequate.

**Coercion in Population Control:** There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

**Discrimination:** The law provides that women enjoy the same rights as men and are entitled to receive equal pay for equal work. In practice, women received lower salaries than men and were prohibited from working in nearly 500 occupations (see section 7.d.).

**Children**

**Birth Registration:** Either birth in the country or to Ukrainian parents conveys citizenship. A child born to stateless parents residing permanently in the country is a citizen. The law requires that parents register a child within a month of birth, and failure to register sometimes resulted in denial of public services.

Registration of children born in Crimea or areas in Donbas controlled by Russia-led forces remained difficult. Authorities required hospital paperwork to register births. Russia-backed “authorities” routinely kept such paperwork if parents registered children in territories under their control, making it difficult for the child to obtain a Ukrainian birth certificate. In addition, authorities did not recognize documents issued by Russian occupation authorities in Crimea or “authorities” in
territories controlled by Russia-led forces and sometimes refused to issue birth certificates to children born in those areas.

**Child Abuse:** Human rights groups noted authorities lacked the capability to detect violence against children and refer victims for assistance. Preventive services remained underdeveloped. There were also instances of forced labor involving children (see section 7.c.).

Authorities did not take effective measures at the national level to protect children from abuse and violence and to prevent such problems. The ombudsman for human rights noted the imperfection of mechanisms to protect children who survived or witnessed violence, in particular violence committed by their parents. According to the law, parents were the legal representatives of their children, even if they perpetrated violence against them. There is no procedure for appointing a temporary legal representative of a child during the investigation of alleged parental violence.

**Early and Forced Marriage:** The minimum age for marriage is 18. If it finds marriage to be in the child’s interest, a court may grant a child as young as 16 permission to marry. Romani rights groups reported that early marriages involving girls under the age of 18 were common in the Romani community.

**Sexual Exploitation of Children:** The law prohibits the commercial sexual exploitation of children, the sale of children, offering or procuring a child for child prostitution, and practices related to child pornography. The minimum prison sentence for child rape is 10 years. Molesting a child under the age of 16 is punishable by imprisonment for up to five years. The same offense committed against a child under the age of 14 is punishable by imprisonment for five to eight years. The age of consent is 16.

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 in the country. The International Organization for Migration reported that children from socially disadvantaged families and those in state custody continued to be at high risk of trafficking and commercial sexual exploitation and the production of pornography.
Displaced Children: The majority of IDP children were from Donetsk and Luhansk Oblasts. According to the Ministry of Social Policy, authorities registered more than 232,000 children as IDPs. Human rights groups believed this number was low. UNICEF estimated the conflict has affected 1.7 million children including non-IDPs who remained in conflict areas.

Children living in areas controlled by Russia-led forces did not receive nutritional and shelter assistance. Human rights groups reported that children who experienced the conflict or fled from territory controlled by Russia-led forces suffered psychological trauma.

Institutionalized Children: The child welfare system continued to rely on long-term residential care for children at social risk or without parental care, although the number of residential-care institutions continued to drop. Government policies to address the abandonment of children reduced the number of children deprived of parental care. In August the government approved a national strategy for 2017-18 that was intended to transform the institutionalized childcare system into one that provides a family-based or family-like environment for children.

Human rights groups and media reported unsafe, inhuman, and sometimes life-threatening conditions in some institutions. Officials of several state-run institutions and orphanages were allegedly complicit or willfully negligent in the sex and labor trafficking of girls and boys under their care.


Anti-Semitism

According to census data and international Jewish groups, an estimated 103,600 Jews lived in the country, constituting approximately 0.2 percent of the population. According to the Association of Jewish Organizations and Communities (VAAD), there were approximately 300,000 persons of Jewish ancestry in the country, although the number might be higher. Before the Russian aggression in eastern Ukraine, according to VAAD, approximately 30,000 Jewish persons lived in the Donbas region. Jewish groups estimated that between 10,000 and 15,000 Jewish residents lived in Crimea before Russia’s attempted annexation.
According to the National Minority Rights Monitoring Group (NMRMG) supported by the Euro-Asian Jewish Congress and VAAD, one case of suspected anti-Semitic violence was recorded in 2016, compared with one case of anti-Semitic violence in 2015 and four cases in 2014. The NMRMG identified 18 cases of anti-Semitic vandalism in 2016, as compared with 22 in 2015 and 23 in 2014. Graffiti swastikas continued to appear in Kyiv, Lviv, and other cities. On January 13, arsonists damaged a Jewish cemetery in Kolomiya, where there were similar attacks in 2015. Jewish organizations expressed concern about the continued existence of Krakivsky Market and new construction atop a historic Jewish cemetery in Lviv. There were reportedly several anti-Semitic incidents targeting the Babyn Yar memorial during the year.

In other manifestations of anti-Semitism during the year, nationalists in Kyiv chanted “Jews out” in German at a New Year’s Day march celebrating the birthday of Stepan Bandera. In a televised interview in March, Nadiya Savchenko, a member of the parliament, used a derogatory word to describe Jews and stated that Jews possess “80 percent of the power when they only account for 2 percent of the population.”

In line with the country’s 2015 decommunization and denazification law, authorities continued to rename Communist-era streets, bridges, and monuments in honor of 20th century Ukrainian nationalists, some of whom were associated with anti-Semitism. A new monument in Uman honors Ivan Gonta, an 18th century Cossack involved in a massacre of Jews, Poles, and Greek Catholics.

**Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

**Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government did not effectively enforce these provisions. The law requires the government to provide access to public venues and opportunities for involvement in public, educational, cultural, and sporting activities for persons with disabilities. The law also requires employers to take into account the individual needs of employees with disabilities. 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, education, health care, transportation, and financial services remained difficult (see section 7.d.).

Authorities often did not integrate students with disabilities into the general student population. Only secondary schools offered classes for students with disabilities.

Government policy favored the institutionalization of children with disabilities over placement with their families. Persons with disabilities in areas controlled by Russia-led forces in the east of the country suffered from a lack of appropriate care. Patients in mental health facilities remained at risk of abuse, and many psychiatric hospitals continued to use outdated methods and medicines.

By law employers must set aside 4 percent of employment opportunities for persons with disabilities. NGOs noted that many of those employed to satisfy the requirement received nominal salaries but did not actually perform work at their companies.

National/Racial/Ethnic Minorities

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

Human rights organizations stated that the requirement to prove actual intent, including proof of premeditation, to secure a conviction made it difficult to apply the laws against offenses motivated by racial, national, or religious hatred. Authorities did not open any criminal proceedings under the laws on racial, national, or religious offenses during the year. Police and prosecutors continued to prosecute racially motivated crimes under laws against hooliganism or related offenses.

Roma continued to face governmental and societal discrimination. Roma experienced significant barriers accessing education, health care, social services, and employment.

There were reports of societal violence against Roma during the year, including instances in which police declined to intervene to stop violence. For example, on
May 18, an argument in the village of Olshany, Kharkiv Oblast, between village residents and visiting Romani individuals turned violent. Three Romani men received injuries, and one died. Regional police opened an investigation, which continued at year’s end.

There were several reports during the year that police arbitrarily detained Romani individuals, at times beating or mistreating them.

According to the Romani women’s foundation, Chirikli, local authorities erected a number of barriers to prevent issuing national identification documents to Roma. Authorities hampered access to education for persons who lacked documents and segregated Romani children into special schools or lower-quality classrooms.

During the year many Roma fled settlements in areas controlled by Russia-led forces and moved elsewhere in the country. According to Chirikli, approximately 10,000 Roma were among the most vulnerable members of the country’s IDP population. Because many Roma lacked documents, obtaining IDP assistance, medical care, and education was especially difficult.

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

The labor code prohibits workplace discrimination on the basis of sexual orientation and gender identity. No law, however, prohibits such discrimination in other areas, and discrimination was reportedly widespread in employment, housing, education, and other sectors.

There was sporadic violence against LGBTI persons, and authorities often did not adequately investigate these cases or hold perpetrators to account. For example, there was no investigation following events on July 9, when the speaker, organizers, and attendees of a Kyiv lecture on transgender problems were attacked by 10 masked individuals. Several lecture attendees pushed the attackers from the room, and one organizer pursued them and caught three individuals at the Khreshchatyk metro station. Police then intervened and detained the perpetrators. Lawyers and two members of parliament came to the police station where the attackers were detained, and they were soon released.

Crimes and discrimination against LGBTI persons remained underreported, and law enforcement authorities opened only 17 cases related to such acts.
The LGBTI rights group Nash Mir stated that extortion remained a problem and that anti-LGBTI groups employed social media to entrap LGBTI persons.

Although leading politicians and ministers condemned attacks on LGBTI gatherings and individuals, local officials sometimes voiced opposition to LGBTI rights and failed to protect LGBTI persons.

Transgender persons continued to face discrimination and stereotyping. In one case a municipal transportation company in Kharkiv fired a transgender woman because of her appearance.

While individuals no longer had to undergo sex reassignment surgery to change their names and genders officially and could do so with counseling and hormone therapy, regulations still prevent reassignment for married individuals and those with minor children. Transgender persons claimed to have difficulty obtaining official documents reflecting their gender.

According to Nash Mir, the situation of LGBTI persons in parts of the Donetsk and Luhansk Oblasts under the control of Russia-led forces was very poor. Most LGBTI persons either fled or hid their gender identity.

Overall, LGBTI groups enjoyed greater freedom to assemble than in past years. In most cases, security forces and local officials deployed adequate security forces to prevent violence and protect conferences and marches. On June 18, for example, security forces provided protection to an equality march in Kyiv. Authorities deployed more than 6,000 security personnel to protect up to 3,500 marchers, including members of parliament and the diplomatic community. Police adequately protected the equality festivals in Kyiv in May, in Dnipro in July, and a flash mob of tolerance in Zaporizhzhia in May.

**HIV and AIDS Social Stigma**

Stigma and discrimination in health-care centers were a barrier to HIV-positive individuals’ receiving counseling, testing, and treatment services. UNICEF reported that children with HIV/AIDS were at high risk of abandonment, social stigma, and discrimination. Authorities prevented many children infected with HIV/AIDS from attending kindergartens or schools. Persons with HIV/AIDS faced discrimination in housing and employment. Injection drug users and their sexual partners were also particularly at risk of discrimination.
Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The constitution provides for freedom of association as a fundamental right and establishes the right to participate in independent trade unions. The law provides the right for most workers to form and join independent unions, to bargain collectively, and to conduct legal strikes. No laws or legal mechanisms prevent antiunion discrimination; union activity is not an acceptable justification for employment termination. While legal recourse is available for reinstatement, back wages, and punitive damages, observers described courts as unpredictable, with damage awards often too low to create incentives for employer compliance.

The law contains several limits to freedom of association and the right to collective bargaining. A number of laws that apply to worker organizations are complex and occasionally contradictory. Unions reported bureaucratic hurdles in the registration process, entailing the payment of multiple fees and requiring visits to as many as 10 different offices. Efforts to reform registration of legal entities complicated registration specifically for trade unions. Independent unions reported multiple incidents of harassment by local law enforcement officials while navigating the registration process, including nonstandard requests for documentation and membership information.

The legal procedure to initiate a strike was overly complex and effectively prohibited strike action in practice, artificially lowering the numbers of informal industrial actions. The legal process for industrial disputes requires consideration, conciliation, and labor arbitration that parties could draw out for months. Only after completion of this process can workers vote to strike, a decision that courts may still block. The right to strike is further restricted by the requirement that a large percentage of the workforce (two-thirds of general workers’ meeting delegates or 50 percent of workers in an enterprise) must vote in favor of a strike before it may be called. In addition, the government is allowed to deny the right to strike due to national security or to protect the health or “rights and liberties” of citizens. The law prohibits strikes by broad categories of workers, including personnel in the PGO, the judiciary, the armed forces, the security services, law enforcement agencies, the transportation sector, and the public service sector.

Legal hurdles made it difficult for independent unions that were not affiliated with the Federation of Trade Unions of Ukraine (FPU) to take part in tripartite negotiations, participate in social insurance programs, or represent labor at the
national and international levels. The legal hurdles resulting from an obsolete labor code hindered the ability of smaller independent unions to represent their members effectively. Authorities did not enforce labor laws effectively or consistently. Inspectors were limited in number and funding (also see section 7.e.). Throughout the year the labor inspection service continued to be functionally suspended due to an incomplete reorganization. Union leaders continued to assert that inspectorate services in general suffered from high levels of corruption and capture by large economic and oligarchic interests.

Independent trade unions alleged that the country’s largest trade union confederation, the FPU, enjoyed a close relationship with employers and members of some political parties. In particular, they alleged that local authorities and employers often operated in collusion with management-controlled trade unions to obstruct the functioning of other independent unions. Authorities denied unions not affiliated with the FPU a share of disputed trade union assets inherited by the FPU from Soviet-era unions, a dispute dating back more than a decade.

Several laws adopted in 2016 weakened protection for freedom of association, including a new requirement that made trade union registration more difficult and a law complicating the tax status of trade unions.

Independent union representatives continued to be subjected to violence and intimidation. Local union representatives reported that in August the local union leader in Pirohovo (Kyiv region), Tamara Taranuschenko, was severely beaten because of her union activities related to reporting corruption.

In addition to local authorities’ interference, top-level government officials in Kyiv continued to make public statements against unions and the freedom of association, including unsupported accusations that particular unions and union leaders supported separatists and that peaceful, legal, union protests sought to destabilize the country. A pattern of officials alleging that peaceful trade union protests were unpatriotic continued.

b. Prohibition of Forced or Compulsory Labor

The law prohibits most forms of forced or compulsory labor. Penalties for violations ranged were sufficiently stringent to deter violations, but resources, inspections, and remediation were inadequate to provide for enforcement. In the first six months of the year, the Countertrafficking Department of the Ministry of Internal Affairs registered 144 violations under the law.
There are some inconsistencies between labor law in Ukraine and international standards on forced labor. Ukraine is a party to International Labor Organization Convention 105 on the use of compulsory labor for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

In the first six months of the year, the IOM assisted 626 victims of trafficking in the country, of whom 244 were women and 382 men. It assisted 20 students upon completion of reintegration plan. Approximately 89 percent of the victims were subjected to labor exploitation, while 8 percent were sexually exploited, 2 percent forced to beg, and 1.4 percent subjected to other forms of exploitation.

There were reports of trafficking of women, men, and children for labor. Traffickers subjected some foreign nationals to forced labor in construction (46 percent), agriculture (24 percent), manufacturing (18 percent), services (9 percent), the lumber industry (0.7 per cent), nursing, and street begging. Traffickers subjected some children to forced labor (see section 7.c.).

According to trade union activists, child labor in illegal mining operations in the territories controlled by Russia-led forces grew over the year.

According to the IOM, identified victims of trafficking received comprehensive reintegration assistance, including legal aid, medical care, psychological counseling, financial support, vocational training, and other types of assistance based on individual needs.

Also see the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for most employment is 16, but children who are 15 years old may perform undefined “light work” with a parent’s consent.

As of September 1, the State Service on Labor conducted 2,537 inspections to investigate compliance with child labor laws. The inspections found 64 instances of the use of child labor and 82 violations of the law. The inspections uncovered 136 working minors, two of whom were 14 or 15 years of age while 134 were between 16 and 18 years of age. The inspections indicated that minors were
engaged in diverse types of work, with children found to be working in the construction, restaurant, and agricultural sectors.

The law provides for a complex system based on three different minimum ages (16, 15, and 14) for admission to employment or work. The law does not define the light work activities that may be performed by children from the age of 14.

Due to a lack of resources, the government did not always effectively enforce the law. Labor inspections resumed during the year, after being temporarily suspended because of concerns over improper use of the inspection process. Penalties for violations ranged from small fines for illegitimate employment to prison sentences for sexual exploitation of a child; some observers believed these punishments were insufficient to deter violations.

The most frequent violations of child labor laws concerned work under hazardous conditions, long workdays, failure to maintain accurate 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/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The labor code prohibits workplace discrimination on the basis of race, color, political, religious and other beliefs, sex, gender identity, sexual orientation, ethnic, social, and foreign origin, age, health, disability, HIV/AIDS condition, family and property status, or linguistic or other grounds.

The government did not always enforce the law, and employment discrimination reportedly occurred with respect to gender, disability, nationality, race, minority status, sexual orientation or gender identity, and HIV-positive status. The agriculture, construction, mining, heavy industry, and services sectors had the most work-related discrimination. The law provides for civil, administrative, and criminal liability for discrimination in the workplace. Penalties include a fine of up to 50 tax-free minimum incomes, correctional labor for a term of up to two years, restraint of liberty for up to five years, and restriction on engaging in certain activities for a period of up to three years. When accompanied by violence, employment discrimination violations are punishable by correctional labor for a term of up to two years or imprisonment for a term of up to five years if such
actions were committed by an organized group of persons or if they caused death or other grave consequences.

Women received lower salaries due to limited opportunities for advancement and the types of industries that employed them. According to the Human Rights Ombudsman’s Office, men earned on average 29.5 percent more than women. Women held few elected or appointed offices at the national and regional levels. In addition, the law limits women’s employment opportunities although a ban on women for approximately 500 occupations, including bulldozer operator and bus driver.

e. Acceptable Conditions of Work

The monthly minimum wage meets the poverty level. Some workers in the informal sector received wages below the established minimum. Authorities checked more than 4,400 employers for minimum wage compliance over the past year.

Wage arrears continued to be a major problem during the year. A lack of legal remedies, bureaucratic wrangling, and corruption in public and private enterprises, blocked efforts to recover overdue wages, leading to significant wage theft. Total wage arrears in the country rose during the year through September 1 to 2.4 billion hryvnias ($88 million). More than half of the debt was in the Luhansk and Donetsk Oblasts. In September, the Independent Trade Union of Miners of Ukraine reported that arrears in the coal sector reached almost 300 million hryvnias ($11.5 million). Arrears and corruption problems exacerbated industrial relations and led to numerous protests.

The labor law provides for a maximum 40-hour workweek, with a minimum 42-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 agreement between employers and local trade union organization on overtime work and limits overtime to four hours during two consecutive days and 120 hours per year.

The law requires employers to provide workplace safety standards. Employers must meet occupational safety and health standards but at times ignored these regulations due to the lack of enforcement or strict imposition of penalties. The law provides workers the right to remove themselves from dangerous working conditions without jeopardizing their continued employment. According to one
NGO, employers in the metal and mining industries often violated the rule and retaliated against workers by pressuring them to quit.

Penalties for violations workplace safety standards ranged from 510 to 1,700 hryvnias ($19 to $63), which were insufficient to deter violations. The State Labor Inspectorate was responsible for enforcing labor laws. Inspectors were limited in number and funding. By 2014, the latest date for which such data were available, the number of inspectors dropped to 457 from 616, in large part due to a 70 percent funding cut that year.

The government did not always enforce minimum wage, hours of work, and occupational safety and health standards. Penalties for these violations included fines of 50 to 100 tax-free minimum incomes, limitations on the right to occupy positions of responsibility or to engage in some activities for three to five years, correctional labor for up to two years, or arrest for up to six months if the actions committed affected a minor or a pregnant woman.

Labor inspections occurred at a company’s request or upon the formal request of the investigator in the framework of criminal proceedings against a company.

Lax safety standards and aging equipment caused many injuries on the job. In addition to wage arrears, the nonpayment of overtime, operational safety problems, and health complaints were common in the mining industry.

Mineworkers, particularly in the illegal mining sector, faced serious safety and health problems. Authorities reported 415 individual injuries to coal miners over the first half of the year, including 17 fatalities; 224 individual injuries in the agro-industrial sector, including 31 fatalities; 105 injuries in construction, including 24 fatalities. Workers were more likely to face unsafe situations in the eastern regions of the country, including the Oblasts of Dnipropetrovsk (349 injuries; 15 fatalities), Donetsk (304 injuries; 15 fatalities) and Zaporizhzhia (148; 10 fatalities) as well as in areas outside government control in the Donetsk and Luhansk Oblasts.

Despite Russian aggression close to industrial areas in the Donbas region, enterprises involved in mining, energy, media, retail, clay production, and transportation continued to operate. Fighting resulted in damage to mines and plants through loss of electricity, destroyed transformers, physical damage from shelling, and alleged intentional flooding of mines by combined Russia-led forces. Miners were especially vulnerable, as loss of electrical power could strand them
underground. The loss of electrical power also threatened the operability of mine safety equipment that prevented the buildup of explosive gases.

CRIMEA

In February 2014 Russian forces entered Ukraine’s Crimean Peninsula and occupied it militarily. In March 2014 Russia announced the peninsula had become part of the Russian Federation following a sham referendum that violated Ukraine’s constitution. On March 27, 2014, the UN General Assembly adopted Resolution 68/262 on the “Territorial Integrity of Ukraine,” which called on states and international organizations not to recognize any change in Crimea’s status and affirmed the commitment of the United Nations to recognize Crimea as part of Ukraine. In April 2014 Ukraine’s legislature (Verkhovna Rada) adopted a law attributing responsibility for human rights violations in Crimea to the Russian Federation as the occupying state. The United States does not recognize the attempted “annexation” of Crimea by the Russian Federation. Russian law has been applied in Ukraine’s Crimea since the Russian occupation and purported “annexation” of the peninsula. For detailed information on the laws and practices of the Russian Federation, see the Country Reports on Human Rights for Russia.

EXECUTIVE SUMMARY

A local authority installed by the Russian government and led by Sergey Aksyonov as “prime minister” of the “state council of the republic of Crimea” administers occupied Crimea. The “state council” is responsible for day-to-day administration and other functions of governing. In September 2016 Russia’s nationwide parliamentary elections included seats allocated for purportedly annexed Crimea, a move widely condemned by the international community and that contravened the Ukrainian constitution.

Russian authorities maintained control over Russian military and security forces deployed in Crimea. Russian security services continued to consolidate control over Crimea and restrict human rights. Occupation authorities imposed and disproportionately applied repressive Russian Federation laws on the Ukrainian territory of Crimea.

Significant human rights issues included disappearances; torture, including punitive psychiatric incarceration; harsh prison conditions, including removing prisoners to Russia; arbitrary arrest and detention; a complete lack of judicial independence; political prisoners; interference with privacy; severe restrictions on
freedom of expression and the media, including closing outlets and violence against journalists; restrictions on the internet including blocking websites; gross and widespread suppression of freedom of assembly; severe restriction of freedom of association, including barring the Crimean Tatar Mejlis; onerous restrictions on freedom of movement; restrictions on participation in the political process; systemic rampant corruption; and violence against ethnic Ukrainians and Crimean Tatars.

Russian-installed authorities took few steps to investigate or prosecute officials or individuals who committed human rights abuses, creating an atmosphere of impunity and lawlessness. Occupation and local “self-defense” forces often did not wear insignia and committed abuses with impunity.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

Russian occupation authorities did not adequately investigate cases of abductions and killings of Crimean residents from 2014 and 2015. According to the Ukrainian Ministry of Foreign Affairs, 12 Crimean residents who had disappeared during the occupation were later found dead. Occupation authorities did not investigate other suspicious deaths and disappearances, occasionally categorizing them as suicide. Human rights observers reported that families frequently did not challenge findings in such cases due to fear of retaliation.

b. Disappearance

According to the Ukrainian Ministry of Foreign Affairs and the Crimean Tatar Mejlis, as of October 1, 28 persons had disappeared since the occupation of Crimea, including 12 later found dead. Russian occupation authorities did not adequately investigate the deaths and disappearances. Human rights groups reported that police often refused to register reports of disappearances and intimidated and threatened with detention those who tried to report a disappearance. Ukrainian government and human rights groups believed Russian security forces kidnapped the individuals for opposing Russia’s occupation to instill fear in the population and prevent dissent.

According to human rights groups, occupation authorities took no apparent steps to investigate the May 2016 disappearance of Crimean Tatar activist Ervin Ibragimov
in Bakhchisaray, who was last seen being forced into a van by men wearing police uniforms. Ibragimov’s whereabouts were still unknown at year’s end. Press reports indicated that police supposedly investigating the crime refused to provide any information about the investigation to Ibragimov’s family. In September his father was informed the investigation into Ibragimov’s case would be united with two other cases of disappearances that took place in Bakhchisaray in April 2016.

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

There were widespread reports Russian authorities in Crimea abused residents who opposed the occupation. Human rights monitors reported that Russian occupying forces subjected Crimean Tatars and ethnic Ukrainians in particular to physical abuse. On September 13, for example, members of the Russian Federal Security Service (FSB) along with masked men broke into the family home of Renat Paralamov in the town of Nyzhniohirsk. They seized his laptop, tablet, and a book on Islam, and detained him. Law enforcement officials denied any knowledge of his whereabouts. Paralamov then contacted his family the next evening and asked them to pick him up at the Simferopol bus station. He had been beaten and showed physical signs of torture. Paralamov publicly stated he had been tied up with a bag over his head, beaten, injected with unknown substances, and subjected to electric shocks. Paralamov stated he signed false statements while under pressure from the torture.

Occupation authorities demonstrated a pattern of using punitive psychiatric incarceration as a means of pressuring detained individuals. On May 25, so-called authorities ordered the psychiatric evaluation of Suleyman Kadyrov, a member of the Feodosia regional Mejlis, who was charged with publicly inciting the violation of Russia’s territorial integrity because of a social media post stating that Crimea is a part of Ukraine. Observers called the decision punitive and without legitimate basis. As of late September, seven Crimean Tatar defendants had been subjected to psychiatric evaluation and confinement against their will without apparent medical need (see section 1.d.).

Human rights monitors reported that occupation authorities also threatened individuals with violence or imprisonment if they did not testify in court against individuals authorities believed were opposed to the occupation.

Prison and Detention Center Conditions
Physical Conditions: Prison and detention center conditions reportedly remained harsh and overcrowded. Former detainees in Crimea complained to the HRMMU about the resulting degrading treatment. Human rights groups reported prisons suffered from overcrowding and poor conditions.

The HRMMU reported a substantial number of Crimean prisoners were transferred to the Russian Federation. One factor in the transfers was the lack of specialized penitentiary facilities in Crimea, requiring the transfer of juveniles, persons sentenced to life imprisonment, and prisoners suffering from serious physical and mental illnesses.

According the OSCE’s Office of Democratic Institutions and Human Rights and the OSCE’s high commissioner on national minorities, health care in prisons deteriorated after the occupation began.

According to the HRMMU report on Crimea, occupation authorities exerted pressure on detainees who refused to accept Russian Federation citizenship. A female detainee who rejected Russian Federation citizenship complained she was denied family visits and that sunflower oil was regularly poured over her personal belongings as a harassment technique. Other detainees who refused Russian Federation citizenship were placed in smaller cells or in solitary confinement.

Independent Monitoring: Occupation authorities did not permit monitoring of prison or detention center conditions by independent nongovernmental observers or international organizations. Occupation authorities permitted the “human rights ombudsman,” Lyudmila Lubina, to visit prisoners, but human rights activists regarded Lubina as representing the interests of occupation authorities and not an independent actor.

On March 17, 12 inmates serving sentences in the penitentiary institutions of Crimea were transferred to mainland Ukraine following advocacy by the Ukrainian ombudsman for human rights and her Russian counterpart.

d. Arbitrary Arrest or Detention

Role of the Police and Security Apparatus

Russian government agencies, including the Ministry of Internal Affairs, the FSB, the Federal Investigative Committee, and the Office of the Prosecutor General applied and enforced Russian law in Crimea. The FSB also conducted security,
counterintelligence, and counterterrorism activities and combatted organized crime and corruption. A “national police force” operated under the aegis of the Russian Ministry of Internal Affairs.

In addition to abuses committed by Russian forces, “self-defense forces,” largely consisting of former Ukrainian Ministry of Internal Affairs officers allegedly linked to local organized crime, reportedly continued to operate and commit abuses. These forces often acted with impunity in intimidating perceived occupation opponents and were involved in extrajudicial detentions and arbitrary confiscation of property. While the “law” places the “self-defense forces” under the authority of the “national police,” their members continued to commit abuses while receiving state funding for their activities as well as other rewards, such as beachfront property and service medals.

According to human rights groups, there was total impunity for human rights abuses committed by Russian occupation forces and Crimean “self-defense forces.”

**Arrest Procedures and Treatment of Detainees**

See the *Country Reports on Human Rights* for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

**Arbitrary Arrest:** Arbitrary arrests continued to occur as a means of instilling fear, stifling opposition, and inflicting punishment on those who opposed the occupation. According to the HRMMU, in many cases victims were neither charged nor tried but were detained as a form of extrajudicial punishment or harassment. Detention under such circumstances usually lasted from several hours to several days. Many victims were journalists, land or business owners, and persons arrested during police raids at markets, mosques, cafes, restaurants, or places of entertainment. The HRMMU noted the prevalence of members of the Crimean Tatar community among those apprehended during police raids. Detainees were typically taken to the police station, photographed, fingerprinted, and made to provide DNA samples before being released. The HRMMU calculated that, as of September, at least 150 such raids had taken place since the occupation began.

In one example of such an arrest, on February 22, activist Marlen Mustafa was arrested near his home by representatives of the FSB’s “Center for Combating
Extremism.” While he was in detention, occupation law enforcement officials searched his house. Authorities detained 10 persons who had gathered outside his home to film the search and sentenced them to five days of administrative detention for “participating in an unsanctioned mass event.” Marlen Mustafa was sentenced to 11 days of administrative detention for reposting “extremist” videos on his social media account in 2014.

e. Denial of Fair Public Trial

Under the Russian occupation regime, the “judiciary” was neither independent nor impartial. Judges, prosecutors, and defense attorneys all were subject to political directives from occupation authorities. The outcomes of trials appeared predetermined by government interference.

Trial Procedures

See the Country Reports on Human Rights for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Occupation authorities interfered with a defendant’s ability to access an attorney. On January 25, FSB officers detained lawyer Nikolai Polozov in Simferopol shortly after he returned from giving a presentation on political prosecutions in Crimea at a meeting of the Parliamentary Assembly of the Council of Europe. FSB officers detained him for interrogation in the criminal case against Ilmi Umerov and then changed his status to a witness in the case. Doing so prevented him from representing Umerov in court. Polozov was subsequently released.

Political Prisoners and Detainees

Human Rights advocates estimated there were more than 50 political prisoners in occupied Crimea. Charges of extremism, terrorism, or violation of territorial integrity were particularly applied to opponents of the occupation, such as Crimean Tatars, independent journalists, and individuals expressing dissent on social media.

Russian occupation authorities also transferred Crimean cases to Russia’s legal system and changed the venue of prosecution for some detainees. Human rights groups identified several dozen Crimean residents as political prisoners held in either Crimea or Russia. These included: Teimur Abdullaev, Uzeir Abdullaev, Rustem Abultarof, Talyat Abdurakhmanov, Zevri Abseitov, Refat Alimov,

On August 4, an occupation court in Crimea sentenced Ukrainian activist Volodymyr Balukh to three years and seven months in prison, and imposed a fine of 10,000 rubles ($174). On October 2, the verdict was cancelled and the case returned to trial court. On December 1, Balukh was transferred to house arrest as his appeals process continued. The FSB detained Balukh in December 2016, claiming it found ammunition and explosives in the attic of his house. Human rights defenders asserted that the material was planted in retaliation for his pro-Ukrainian views, which he displayed through hanging a plaque and Ukrainian flag in the courtyard of his house.

On September 11, an occupation court in Simferopol sentenced Akhtem Chiygoz, deputy head of the Crimean Tatar Mejlis, to eight years in prison. Russian authorities arrested Chiygoz in 2015 and charged him with “inciting a mass riot” during protests he organized at the Crimean parliament in 2014 that were disrupted by pro-Russian activists, resulting in clashes between the groups. Subsequently occupation authorities prosecuted individuals alleged to have participated in the protest, although Russia did not exercise control over Crimea at the time. Human rights groups reported that authorities reviewed video of the incident and selectively brought charges against leading Crimean Tatar and Ukrainian individuals who subsequently opposed the occupation, in particular members of the Crimean Tatar Mejlis. Video footage showed Chiygoz and other Crimean Tatar leaders working to defuse tensions in the hopes of avoiding clashes with counterprotesters. Occupation authorities refused to investigate acts of violence committed by pro-Russian “protesters,” who independent observers believed likely were working for Russian security services.
On September 27, an occupation court in Simferopol sentenced Ilmi Umerov, deputy head of the Crimean Tatar Mejlis, to two years in prison, which was harsher than the three-year suspended sentence sought by the prosecution. He was convicted on “separatism” charges based upon a 2016 television interview in which he stated that Crimea remains a part of Ukraine.

Both Chiygoz and Umerov were released October 25 following negotiations by the Turkish government. The details of their release were not publicly known.

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

See the Country Reports on Human Rights for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Occupation authorities and others engaged in electronic surveillance, entered residences and other premises without warrants, and harassed relatives and neighbors of perceived opposition figures.

Russian occupation authorities routinely conducted raids on homes to intimidate the local population, particularly Crimean Tatars and ethnic Ukrainians, ostensibly on the grounds of searching for weapons, drugs, or “extremist literature.”

Human rights groups reported Russian authorities had widespread authority to tap telephones and read electronic communications and had established a network of informants to report on suspicious activities. According to Mejlis members, Russian authorities had invited hundreds of Crimean Tatars to “interviews” where authorities played back the interviewees’ telephone conversations and read their email aloud. Authorities reportedly encouraged state employees to inform on their colleagues who might oppose the occupation. According to human rights advocates, eavesdropping and visits by security personnel created an environment in which persons were afraid to voice any opinion contrary to the occupation authorities, even in private.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press
Occupation authorities significantly restricted freedom of expression and subjected dissenting voices including the press to harassment and prosecution. They refused to register independent print and broadcast media outlets, forcing them to cease operations. Threats and harassment against international and Ukrainian journalists were common.

**Freedom of Expression:** Individuals could not publicly criticize the Russian occupation without fear of reprisal. Human rights groups reported the FSB engaged in widespread surveillance of social media, telephones, and electronic communication and routinely summoned individuals for “discussions” for voicing or posting opposition to the Russian occupation.

For example, on April 13, a riot patrol unit searched the homes of Seidamet Mustafayev and Riza Muzhdabayev, both of whom had allegedly posted the banned symbols of the Hizb-ut-Tahrir Islamic group through their social network accounts. Mustafayev was arrested and held for 12 days, while Muzhdabayev spent three days in custody. After the search occupation authorities detained six Crimean Tatars who had witnessed the search.

On May 23, a member of the local Mejlis was summoned to the police station in the village of Sovetskoe for mentioning in a social network posting the Mejlis of the Crimean Tatar people without stating that it was prohibited in the territory of Crimea. On June 1, the occupation court found him guilty of an administrative violation and imposed a fine of 2,000 Russian rubles ($35).

**Press and Media Freedom:** Independent print and broadcast media could not operate freely. Occupation authorities refused to register most independent media outlets, forcing them to close in 2015.

On September 22, Ukrainian journalist Mykola Semena, who had been charged in 2016 with “undermining Russian territorial integrity via mass media,” received a 2.5-year suspended sentence with a prohibition on journalistic activities. Semena, a freelance writer for the news website Krym Reali, had written articles using a pseudonym criticizing the de facto Crimean government and Russian occupation. Occupation authorities detained Semena twice in 2015, and human rights groups believed that Russian security forces hacked into his computer to prove he had written material critical of the occupation. Authorities had placed Semena, who was in poor health, under house arrest in April 2016.
Violence and Harassment: There were numerous cases of Russian security forces or police harassing independent media and detaining journalists in connection with their professional activities.

On February 16, police officers in Simferopol apprehended a camera crew of the Ukrainian STB channel, Alyona Lunkova, Andriy Shurin, Serhiy Sivko, and Vitaliy Kikot, and a journalist of Hromadske Radio, Iryna Romaliyska, as they were interviewing passers-by. Law enforcement officials spent more than an hour reviewing their documentation, but they did not take any individuals into custody after learning that a defense attorney had been summoned. The journalists reported they were then followed from Kerch to Yalta.

Censorship or Content Restrictions: Following Russia’s occupation of Crimea, journalists overwhelmingly resorted to self-censorship to continue reporting and broadcasting. Russian occupation authorities banned most Ukrainian and Crimean Tatar-language broadcasts, replacing the content with Russian programming. Human rights groups reported Russian authorities forbade songs by Ukrainian singers, such as Ruslana and Jamala, from playing on Crimean radio stations. Censorship of independent internet sites became more widespread.

Internet Freedom

Russian occupation authorities restricted free expression on the internet by imposing repressive laws of the Russian Federation on Crimea (see section 2.a. of the Country Reports on Human Rights for Russia). Security services routinely monitored and controlled internet activity to suppress dissenting opinions. According to media accounts, occupation authorities interrogated residents of Crimea for posting pro-Ukrainian opinions on Facebook or in blogs.

On January 12, FSB officers searched the apartment of a married couple, Natalia Kharchenko and Andriy Vynohradov, in Simferopol. The search warrant indicated it was issued in connection with a pretrial criminal investigation into alleged extremist posts on the social media VKontakte website. The post included a photo of Kharchenko holding a Ukrainian flag and stated that Russia was evil and must be fought.

Throughout the year Russian authorities blocked internet sites they considered “extremist,” but that in fact provided mainstream reporting about the situation in Crimea. Russian authorities blocked more than 60 websites as “extremist” for stating Crimea remained a part of Ukraine.
Academic Freedom and Cultural Events

Russian authorities in Crimea engaged in a widespread campaign to suppress the Crimean Tatar and Ukrainian languages. While Crimean Tatar and Ukrainian are official languages in occupied Crimea, authorities continued to reduce instruction in schools and offered the languages only as optional instruction at the end of the school day. The Mejlis reported authorities continued to pressure Crimean Tatars to use the Cyrillic, rather than the Latin, alphabet.

According to press reports, on February 27, FSB agents subjected biologist Guriy Kornilov to intimidating interrogations in retaliation for his opposition to Russia’s occupation. Kornilov was fired from his position at the Nikitinsky Botanical Gardens in Yalta in 2016 after he refused to take Russian citizenship and made his positions known within the scientific community.

b. Freedoms of Peaceful Assembly and Association

Freedom of Peaceful Assembly

Organizations representing minority communities reported gross and widespread harassment and intimidation by occupation authorities to suppress their ability to assemble peacefully. Abuses included arbitrary searches, interrogations, threats of deportation, and unsubstantiated accusations of possessing “extremist” literature.

The “regulation” limits the places in Crimea where public events may be held to 366 listed locations. The HRMMU noted that the “regulation” restricted freedom of assembly to a shrinking number of “specially designated spaces,” an unnecessary move that appeared “designed to dissuade the exercise of the right of freedom of assembly.”

Persons who expressed their position publicly understood that they put at risk themselves and their families. On May 18, Osman Izmaylov, a Crimean Tatar, was stopped by the traffic police four times for wearing the mourning ribbon attached to a Crimean Tatar flag on the grounds that “the car is not a means of transporting flags,” “it is prohibited by technical guidelines,” and “the flag distracts drivers.” Izmaylov was told that he violated the law on peaceful assembly, despite the fact that he was driving his personal vehicle.
On August 8, 76-year-old Crimean Tatar Server Karametov was detained and sentenced to 10 days of administrative arrest in Simferopol. Karametov was arrested while demonstrating outside the Supreme Court building in support of deputy head of the Mejlis of the Crimean Tatar People, Akhtem Chiygoz, who had been convicted and sentenced on charges of organizing an illegal demonstration in 2014. Occupation authorities used disproportionate force while detaining him, including holding him in a police car for five hours with no access to toilets, food, water, or medication. A number of procedural safeguards were violated during his trial, including access to defense counsel, a translator, and independent examination of evidence.

There were reports of occupation authorities using coercive methods to provide for participation at rallies in support of the “government.”

There were reports that occupation authorities charged and fined individuals for allegedly violating public assembly rules in retaliation for gathering to witness security force raids on homes.

**Freedom of Association**

Occupation authorities broadly restricted freedom of association for individuals that opposed the occupation. For example, in May the Simferopol-based Ukrainian Cultural Center was forced to close due to constant pressure on the center’s leadership. Members of the center remained under constant surveillance, as they had been since 2014. Their public activities, including paying tribute to Ukrainian literary, political, or historical figures, were often disrupted or prohibited.

Following the 2016 ban on the Crimean Tatar Mejlis as an “extremist organization,” occupation authorities banned gatherings by Mejlis members and prosecuted individuals for discussing the Mejlis on social media (see section 6).

c. **Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

d. **Freedom of Movement**

Russian occupation authorities did not respect rights related to freedom of movement and travel.
In-country Movement: There were reports occupation authorities selectively detained and at times abused persons attempting to enter or leave Crimea. According to human rights groups, Russian authorities routinely detained adult men at the administrative boundary for additional questioning, threatening to seize passports and documents, seizing telephones and memory cards, and questioning them for hours.

Occupation authorities prohibited entry into Crimea by Mustafa Jemilev and Refat Chubarov, members of the Verkhovna Rada, and the former and current chairmen of the Crimean Tatar Mejlis, respectively, and Crimean Tatar activist Sinaver Kadyrov; and Ismet Yuksel, general director of the Crimean News Agency, on the pretext that they would incite radicalism.

Citizenship: Russian occupation authorities required all residents of Crimea to be Russian citizens. Those who refused Russian citizenship could be subjected to arbitrary expulsion. Multiple citizens of Ukraine were deported from Crimea for violating the Russian Federation’s immigration rules. In one case the HRMMU reported that, on January 20, the Crimea-born chairman of an NGO from Yevpatoriya providing free legal aid was convicted of an illegal stay in Crimea because he did not have a Russian passport. He was then deported.

Residents of Crimea who chose not to adopt Russian citizenship were considered foreigners. In some cases they could obtain a residency permit. Persons holding a residency permit without Russian citizenship, however, were deprived of key rights and could not own agricultural land, vote or run for office, register a religious congregation, or reregister a private vehicle. Authorities denied those who refused Russian citizenship access to government employment, education, and health care, as well as the ability to open bank accounts and buy insurance, among other limitations.

According to media sources, Russian authorities prosecuted private employers who continued to employ Ukrainians.

In some cases authorities compelled Crimean residents to surrender their Ukrainian passports, complicating international travel, because many countries did not recognize passports issued by Russian occupation authorities.

Internally Displaced Persons (IDPs)
Approximately 27,600 residents of Crimea registered as IDPs on the mainland, according to the Ministry of Social Policy. The Mejlis and local NGOs, such as Krym SOS, believed the actual number could be as high as 100,000, as most IDPs remained unregistered. Many individuals fled due to fear that occupation authorities would target them for abuse because of their work as political activists or journalists. Muslims, Greek Catholics, and Evangelical Christians who left Crimea said they feared discrimination due to their religious beliefs.

Crimean Tatars, who made up the largest number of IDPs, said they were concerned about pressure on their community, including an increasing number of arbitrary searches of their homes, surveillance, and discrimination. In addition, many professionals left Crimea because Russian occupation authorities required them to apply for Russian professional licenses and adopt Russian procedures in their work.

Section 3. Freedom to Participate in the Political Process

Recent Elections: Russian occupation authorities prevented residents from voting in Ukrainian national and local elections since Crimea’s occupation began in 2014.

In September 2016 Russia’s nationwide parliamentary elections included seats allocated for occupied Crimea, a move widely condemned by the international community. The Crimea Human Rights Group recorded incidents in which occupation authorities coerced residents into voting in the elections, including through threats of dismissals and wage cuts.

Section 4. Corruption and Lack of Transparency in Government

Corruption: There were multiple reports during the year of systemic rampant corruption among Crimean “officeholders,” including through embezzlement of Russian state funds allocated to support the occupation.

Financial Disclosure: There were no known requirements for Russian occupation authorities or their agents to file, verify, or make public any income or asset disclosure statements, nor was there a mechanism to provide for public access to information about their activities.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights
Most independent human rights organizations ceased activities in Crimea following Russia’s occupation. Occupation authorities refused to cooperate with independent human rights NGOs, ignored their views, and harassed human rights monitors and threatened them with fines and imprisonment.

Russia continued to deny access to the peninsula to international human rights monitors from the OSCE and the United Nations.

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

Children

Birth Registration: Under both Ukrainian law and laws imposed by Russian occupation authorities, either birthplace or parentage determines citizenship. Russia’s occupation and purported annexation of Crimea complicated the question of citizenship for children born after February 2014, since it was difficult for parents to register a child as a citizen with Ukrainian authorities. Registration in Ukraine required a hospital certificate, which is retained when a birth certificate is issued. Under the occupation regime, new parents could only obtain a Russian birth certificate and did not have access to a hospital certificate. In 2016 the Ukrainian government instituted a process whereby births in Crimea could be recognized with documents issued by occupation authorities.

Institutionalized Children: There were reports Russian authorities continued to permit kidnapping of orphans in Crimea and transporting them across the border into Russia for adoption. Ukraine’s government did not know the whereabouts of the children.

Anti-Semitism

According to Jewish groups, an estimated 10-15,000 Jews lived in Crimea, primarily in Simferopol. There were no reports of anti-Semitic acts.

National/Racial/Ethnic Minorities

Since the beginning of Russia’s occupation, authorities singled out Crimean Tatars and Ukrainians for discrimination, abuse, deprivation of civil liberties and religious and economic rights, and violence, including killings and abductions (also see sections 1.a.-1.d., 1.f., 2.a., 2.b., and 2.d.).
There were reports that government officials openly advocated discrimination and violence against Crimean Tatars. Occupation authorities harassed Crimean Tatars for speaking their language in public and forbade speaking it in the workplace. There were reports teachers prohibited schoolchildren from speaking Crimean Tatar to one another. Crimean Tatars were prohibited from celebrating their national holidays and commemorating victims of previous abuses. The Mejlis reported that Crimean Tatar communities did not seek permission for gatherings, because they assumed that occupation authorities would forbid them. School administrations were instructed to inform occupation authorities of the number and identities of students absent on May 18, a day commemorating the 1944 deportation of Crimean Tatars from the peninsula.

Occupation authorities also restricted the use of Crimean Tatar flags and symbols. On September 16, for example, police barred Crimean Tatar youth from holding a football match and forced them to remove their Crimean Tatar flag. The match, which had already begun, was forcibly stopped, and three Crimean Tatars were questioned. Occupation authorities claimed the match had not been authorized and was therefore illegal.

Occupation authorities placed restrictions on the Spiritual Administration of Crimean Muslims, which was closely associated with Crimean Tatars. According to human rights groups, Russian security services routinely monitored prayers at mosques for any mention that Crimea remained part of Ukraine. Russian security forces also monitored mosques for anti-Russian sentiment and as a means of recruiting police informants.

On April 19, the International Court of Justice ruled, in response to Ukraine’s January 17 request for provisional measures concerning the “Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of all Forms of Racial Discrimination,” that the Russian Federation must refrain from maintaining or imposing limitations on the ability of the Crimean Tatar community to conserve its representative institutions, including the Mejlis.

Russian occupation authorities also targeted ethnic Ukrainians. By the end of 2014, Ukrainian as a language of instruction was removed from university-level education in Crimea. According to the Crimea Human Rights Group, the number of school children instructed in Ukrainian decreased by 36 times since the start of the occupation. On April 19, the International Court of Justice ruled on provisional measures in proceedings brought by Ukraine against the Russian Federation,
concluding unanimously that the Russian Federation must “ensure the availability of education in the Ukrainian language.”

Occupation authorities have not permitted churches linked to ethnic Ukrainians, in particular the Ukrainian Orthodox Church-Kyiv Patriarchate (UOC-KP) and the Ukrainian Greek Catholic Church, to register under Russian law. Occupation authorities harassed and intimidated members of the churches and used court proceedings to force the UOC-KP in particular to leave properties it had rented for years. On August 31, Russian law enforcement authorities broke into the UOC-KP cathedral of the Holy Apostolic Prince Volodymyr and Olga in Simferopol in connection with a property contracts dispute. According to Archbishop Klyment of Simferopol and Crimea, security services plundered and damaged property of the UOC-KP cathedral, tore down the altar, and confiscated icons. Archbishop Klyment received minor injuries during the raid. Occupation authorities sealed and blocked access to the first floor, despite a “court ruling” that bailiffs were supposed to seal only 134 square yards of the property. Church officials reported regular and systematic surveillance of UOC-KP churches and parishioners.

Russian occupation authorities targeted businesses and properties belonging to ethnic Ukrainians and Crimean Tatars for expropriation and seizure. In particular they prohibited Crimean Tatars affiliated with the Mejlis from registering businesses or properties.

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

Human rights groups and local gay rights activists reported that much of the LGBTI community fled Crimea after the Russian occupation began. Those who remained live in fear of verbal and physical abuse due to their sexual orientation.

Russian occupation authorities prohibited any LGBTI group from holding public events in Crimea. LGBTI individuals faced increasing restrictions on their right to assemble peacefully, because occupation authorities enforced a Russian law that criminalizes the so-called propaganda of nontraditional sexual relations to minors (see section 6 of the *Country Reports on Human Rights* for Russia).

**Section 7. Worker Rights**
Russian occupation authorities announced the labor laws of Ukraine would no longer be in effect after the start of 2016 and that only the laws of the Russian Federation would apply.

Russian occupation authorities imposed labor laws and regulations of the Russian Federation on Crimean workers, limited worker rights, and created barriers to freedom of association, collective bargaining, and the ability to strike. The pro-Russian authorities threatened to nationalize property owned by Ukrainian labor unions in Crimea. Ukrainians who did not accept Russian citizenship faced job discrimination in all sectors of the economy. Only holders of Russian national identification cards were allowed to work in “government” and municipal positions. Labor activists believed that unions were threatened in Crimea to accept “government” policy without question and faced considerable restrictions on advocating for their members.

Although no official data were available, experts estimated there was growing participation in the underground economy in Crimea.
Tab 4
UKRAINE 2016 HUMAN RIGHTS REPORT

Note: Except where otherwise noted, references in this report do not include areas controlled by Russian-backed separatist forces in the Donbas region of eastern Ukraine or Russian-occupied Crimea. At the end of this report is a section listing human rights abuses in Russian-occupied Crimea.

EXECUTIVE SUMMARY

Ukraine is a republic with a semi-presidential political system composed of three branches of government: a unicameral legislature (Verkhovna Rada), an executive led by a directly elected president and a prime minister chosen through a legislative majority, and a judiciary. The country held presidential and legislative elections in 2014; international and domestic observers considered both elections free and fair.

Civilian authorities generally maintained effective control over security forces in the territory controlled by the government.

The most significant human rights problems in the country during the year were:

Conflict- and Occupation-related Abuses: Russian-backed separatists in Donbas engaged in abductions, torture, and unlawful detention, employed child soldiers, stifled dissent, and restricted humanitarian aid. To a lesser extent, there were also reports of some of these practices by government forces. In Crimea, Russian occupation authorities systematically targeted perceived dissidents for abuse and politically motivated prosecution.

Corruption and Official Impunity: The country suffered from impunity for corruption and deficiencies in the administration of justice. The Prosecutor General’s Office and the judicial system proved largely unable to convict perpetrators of past or current major corruption.

Insufficient Support for Internally Displaced Persons (IDPs): Russia’s occupation of Crimea and aggression in eastern Ukraine resulted in 1.7 million IDPs who faced continuing difficulties obtaining legal documents, education, pensions, and access to financial institutions and health care. During the year the government suspended all social payments for IDPs, pending verification of their presence in government-controlled territory, ostensibly to combat fraudulent payments.
Other problems reported during the year included: alleged beatings and torture of detainees and prisoners, as well as harsh conditions in government-run prisons and detention facilities; nongovernmental attacks on journalists; societal violence against women and abuse of children; societal discrimination against and harassment of ethnic and religious minorities; trafficking in persons, including forced labor; discrimination and harassment against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; and discrimination against persons with HIV/AIDS. There also were limitations on workers’ right to strike, and failure to enforce effectively labor laws and occupational safety and health standards for the workplace.

The government generally failed to take adequate steps to prosecute or punish most officials who committed abuses, resulting in a climate of impunity. Human rights groups and the United Nations noted significant deficiencies in investigations into human rights abuses committed by government security forces, in particular into allegations of torture, enforced disappearances, arbitrary detention, and other abuses reportedly perpetrated by the Security Service of Ukraine (SBU). The perpetrators of the 2014 Euromaidan shootings in Kyiv and riots in Odesa have not been held to account.

Investigations into alleged human rights abuses related to Russia’s occupation of Crimea and the continuing aggression in the Donbas region remained incomplete due to lack of government control in those territories and the refusal of Russia and Russian-backed separatists to investigate abuse allegations.

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

a. Arbitrary Deprivation of Life and other Unlawful or Politically Motivated Killings

There were several reports that the government or its agents committed arbitrary or unlawful killings.

According to media reports, police in Kryve Ozero allegedly beat a man to death on August 24, after responding to a domestic violence call. Authorities detained four police officers on suspicion of murder. In response, the chief of the National Police disbanded a police station where the killing occurred. On October 2, the detained officers were released on bail; the pretrial investigation continues.
There were also reports of killings by government and Russian-backed separatist forces in connection with the conflict in Luhansk and Donetsk Oblasts (see section 1.g.).

There were reports of politically motivated killings by nongovernment actors.

On July 20, a car bomb in Kyiv killed Belarusian-born journalist, Pavel Sheremet, as he drove in a car belonging to his partner, Olena Prytula. Sheremet, a Russian citizen, worked for *Ukrainska Pravda* newspaper and Vesti radio station, where he had been critical of Ukrainian, Russian, and Belarusian authorities. Authorities released a video of two individuals placing the device under the car. As of year’s end, the investigation remained open and authorities had made no arrests.

On March 9, Yuriy Hrabovsky, a lawyer representing a detained Russian special forces soldier, Aleksandr Aleksandrov, disappeared in Odesa. On March 25, his body was found in a shallow roadside grave. The killing remained under investigation at year’s end, and authorities had made no arrests.

Human rights organizations and media reported deaths in prisons or detention centers due to torture or negligence by police or prison officers (see section 1.c., Prison and Detention Center Conditions).

Law enforcement agencies continued to investigate killings and other crimes committed during the Euromaidan protests in Kyiv in 2013-14. Human rights groups were critical of the low number of convictions despite considerable evidence. Human rights groups also criticized prosecutors for focusing on low-ranking officials while taking little action to investigate government leaders believed to have been involved. According to the Prosecutor General’s Office, as of mid-November, courts had convicted 45 persons investigated for Euromaidan-related crimes, 152 were on trial, and 190 remained under investigation.

Law enforcement agencies also continued their investigation into the events in Odesa in 2014 in which 48 persons died, including six government supporters and 42 persons who supported more autonomy for regions. Those who supported autonomy died in a fire at the Trade Union Building; authorities largely failed to investigate these deaths, focusing on alleged crimes committed by individuals seeking more autonomy. A Council of Europe report in 2015 found the government’s investigation lacked independence and that the Prosecutor General’s Office and the Ministry of Internal Affairs failed to conduct a thorough, coordinated investigation. On January 15, a group of civil society activists and
journalists released a statement expressing their lack of confidence in the investigation by the Prosecutor General’s Office and the Ministry of Internal Affairs, accusing the authorities of sabotaging the investigation to prevent the perpetrators from being brought to justice. On May 4, Odesa police chief, Petro Lutsiuk, was fired from his position, and the Prosecutor General’s Office later charged him with abuse of authority in connection with the events at the trade union building. Court hearings continued through the year’s end.

b. Disappearance

There were multiple reports of politically motivated disappearances, particularly in relation to the conflict between the government and combined Russian and separatist forces in the Donbas region and by Russian occupation authorities in Crimea (see section 1.g., Crimea subsection).

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

Although the constitution and law prohibit torture and other cruel punishment, there were reports that law enforcement authorities engaged in such abuse. While courts cannot legally use as evidence in court proceedings confessions and statements under duress made to police by persons in custody, there were reports that police and other law enforcement officials abused and, at times, tortured persons in custody to obtain confessions.

In the Donbas region, there were reports that government and progovernment forces engaged in military operations at times committed human rights abuses, including torture. There were reports that Russian-backed separatist forces in the self-proclaimed “people’s republics” of Donetsk and Luhansk systematically committed numerous abuses, including torture, to maintain control or for personal financial gain. According to international organizations and nongovernmental organizations (NGOs), abuses included beatings, forced labor, psychological and physical torture, public humiliation, and sexual violence (see section 1.g.).

In a July joint report, Amnesty International (AI) and Human Rights Watch (HRW) highlighted allegations of the use of torture at SBU detention sites, including beatings, starvation, and electric shocks.

In its March report, the UN Human Rights Monitoring Mission in Ukraine (HRMMU), under the Office of the UN High Commissioner for Human Rights,
gave an undated account of a “profederalism” activist who was allegedly tortured and pressured to sign a confession at an SBU facility in Odesa. The government asserted that such “profederalist” messaging was used by Russia to weaken Ukraine’s central government. The man reported that during interrogation the SBU suffocated him with a plastic bag and beat him. Afterwards, the SBU brought the man to the lobby of the SBU building to witness that authorities had also arrested his son. His son was then brought to a neighboring cell, where the father could hear his son scream as he was abused.

Abuse of prisoners and detainees by police and prison authorities remained a widespread problem. For example, on August 23, 15 staff members of the Chernihiv pretrial detention facility reportedly beat 25-year-old Viktor Kravchenko. After the beating, facility staff placed him in a disciplinary cell and denied his request for medical help. The facility’s administration denied any wrongdoing.

There were reports of hazing in the military. On August 4, the country’s human rights ombudsman sent a letter to the Prosecutor General’s Office and the Ministry of Defense expressing concern about military hazing following the suicide of Vlad Khaisuk, a young soldier serving in a unit stationed in Stanytsia Luhanska. After Khaisuk’s suicide, his parents found videos on Khaisuk’s smartphone of him being hazed and humiliated by other soldiers. The Luhansk Department of the Military Prosecutor’s Office investigated and found no signs of military hazing. At year’s end, however, police in Stanytsia Luhanska were investigating the accident as a homicide.

In its September report, the HRMMU noted that it “continued to document cases of sexual violence, amounting to torture, of conflict-related detainees, both men and women. It includes cases of rape, and threats of rape or other forms of sexual violence towards victims and/or their relatives.” In one example, the HRMMU described a case in March where unidentified members of the security services detained a man, took him to an abandoned building, and interrogated him about the positions of armed groups. When he could not provide information, the perpetrators chained him to a metal cage, took a ramrod, and inserted it into the man’s urethra, causing him severe pain.

During the first nine months of the year, the Prosecutor General’s Office forwarded for prosecution 35 cases specifically alleging torture or degrading treatment involving law enforcement officers.
According to the Ministry of Internal Affairs, during the first nine months of the year, authorities opened 133 criminal cases against police officers for crimes including torture, illegal arrests and searches, and illegal confiscation of property. Of these alleged cases of abuse, five were for alleged torture. Authorities imposed disciplinary actions against 20 officers and fired 10.

**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. Physical abuse, lack of proper medical care and nutrition, poor sanitation, and lack of adequate light were persistent problems. The Ukrainian Helsinki Human Rights Union maintained that life sentences amounted to slow executions of prisoners because of the poor conditions of their imprisonment.

**Physical Conditions:** Authorities generally held adults and juveniles in separate facilities, although there were reports that juveniles and adults were not separated in some pretrial detention facilities.

Conditions in police temporary detention facilities and State Penitentiary Service pretrial detention facilities were harsher than in low- and medium-security prisons. Despite a reduction in the number of inmates, overcrowding remained a problem in pretrial detention facilities. Temporary detention facilities often lacked adequate sanitation and medical facilities.

Physical abuse by guards was a problem. For example, according to the Ombudsman’s Office, the staff of the Kryzhopil Correctional Center Number 113 in Vinnytsia Oblast systematically violated prisoners’ rights during the year. Inmates complained to the Ombudsman’s Office about illegal actions of the administration, including systematic beatings, forced and unpaid labor, and lack of medical care. The monitoring team found that a convicted person kept in one of the disciplinary cells tried to commit suicide, which he claimed was due to fear of physical violence by the prison administration. The local prosecutor’s office launched an investigation into the actions of the correctional facility administration.

There were reports of prisoner-on-prisoner violence. For example, on June 6, an inmate of the Shepetivka correctional facility in Khmelnytskyi Oblast died of a traumatic brain injury inflicted by his fellow inmates. The penitentiary service conducted an investigation of the incident.
According to the Association of Independent Monitors and the Human Rights Ombudsman’s Office, authorities failed to protect the lives and human rights of prisoners in areas close to the zone of operation against combined Russian and separatist forces in eastern Ukraine adequately and failed to evacuate staff and inmates in a timely fashion. As of September 1, under the auspices of the Ombudsman’s Office, 17 prisoners incarcerated in territories seized by Russian-backed separatist forces were transferred to penal facilities on government-controlled territory.

The condition of prison facilities and places of unofficial detention in areas held by Russian-backed separatist forces was very poor. According to the Justice for Peace coalition, there was an extensive network of unofficial places of detention in the Donetsk and Luhansk Oblasts located in basements, sewage wells, garages, and industrial enterprises. In most cases the places of detention were not suitable for even short-term detention. There were reports of shortages of food, water, heat, sanitation, and proper medical care.

According to October press reports citing information from the Eastern Human Rights Group, abuse of prisoners was widespread in areas not controlled by the government. Prior to the conflict, more than 5,000 prisoners were held in the part of Luhansk Oblast under the control of Russian-backed separatists. According to the group, prison conditions had deteriorated severely. The groups reported systemic abuses, such as torture, starvation, denial of medical care, and solitary confinement, as well as the extensive use of prisoners as slave labor to produce goods that, when sold, provided a direct source of personal income to Russian-backed separatist leaders.

Administration: Authorities kept records of prisoners in detention, but they were occasionally incomplete. In areas controlled by Russian-backed separatist forces, authorities lacked central record keeping, leading to difficulties for prisoners and arbitrarily held detainees. Human rights groups reported instances in which authorities confiscated prisoners’ identification cards and failed to return them upon their release. Prisoners released by Russian-backed separatists often had no identification. There was no prison ombudsman.

In government-controlled areas, prisoners could file complaints with the Office of the Parliamentary Ombudsman for Human Rights. As of October 1, the ombudsman’s office received 1,114 complaints from prisoners and their relatives throughout the country. The most common complaints were regarding a lack of
appropriate living and sanitary conditions; cruel, inhuman, and degrading treatment; public humiliation; limited communication with family members and relatives; unjustified punishment; denial of the right to legal consultation; and denial of the right to submit a complaint about actions of the administration. Prisoners also complained about inadequate medical treatment and precautions. For example, authorities did not isolate prisoners with contagious tuberculosis from other patients.

Although prisoners and detainees may file complaints about conditions in custody with the human rights ombudsman, human rights organizations noted 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 provide for confidentiality of complaints.

Officials generally allowed prisoners to receive visitors, with the exception of those in disciplinary cells. Prisoner rights groups noted some families had to pay bribes to obtain permission for prison visits to which they are entitled by law.

**Independent Monitoring:** The government generally permitted independent monitoring of prisons and detention centers by international and local human rights groups. On May 25, the UN Subcommittee on the Prevention of Torture (SPT) suspended its visit to the country after being denied access to places in several parts of the country where it suspected the SBU was illegally depriving individuals of their liberty. On September 5, the SPT resumed its visit and was granted access to the facilities. During the year the Ombudsperson’s Office together with representatives of civil society conducted monitoring visits to penitentiary facilities in 15 oblasts.

**d. Arbitrary Arrest or Detention**

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

AI and HRW reported details of arbitrary secret detentions by the SBU that emerged following the release of 13 persons from an SBU facility in Kharkiv (see section 1.b.). One of those detained, Viktor Ashykhin, was kidnapped from his hometown of Ukrainsk in 2014 and released in July. He told AI that he was moved three times during his 597-day illegal detention to hide him from independent monitors.
The HRMMU, AI, HRW, and other international groups reported numerous unauthorized detentions in areas of Donbas controlled by Russian-backed separatists (see section 1.g.).

**Role of the Police and Security Apparatus**

The Ministry of Internal Affairs is responsible for maintaining internal security and order. The ministry oversees police and other law enforcement personnel. The SBU is responsible for all state security, nonmilitary intelligence, and counterintelligence matters. The Ministry of Internal Affairs reports to the Cabinet of Ministers, and the SBU reports directly to the president. The State Fiscal Service exercises law enforcement powers through the tax police and reports to the Cabinet of Ministers. The State Migration Service under the Ministry of Internal Affairs implements state policy regarding border security, migration, citizenship, and registration of refugees and other migrants.

Civilian authorities generally had control over law enforcement agencies but rarely took action to punish abuses committed by security forces.

Impunity for abuses by law enforcement remained a significant problem frequently highlighted by the HRMMU in its reports and by other human rights groups. In its September report, the HRMMU attributed the problem to “pressure on the judiciary, [and] inability and unwillingness of the Office of the Prosecutor General and Office of the Military Prosecutor to investigate” abuses. The HRMMU also noted that authorities were unwilling to investigate allegations of torture, particularly when victims were detained on grounds related to national security or were seen as pro-separatist.

While authorities sometimes brought charges against members of the security services, cases often remained under investigation without being brought to trial, while authorities allowed alleged perpetrators to continue their work. Additionally, human rights groups criticized the lack of progress in investigations of alleged crimes in areas retaken by Ukraine from Russian-backed separatists, resulting in continuing impunity for these crimes. In particular, investigations of alleged crimes committed by Russian-backed separatist forces in Slovyansk and Kramatorsk in 2014 appeared stalled. Human rights groups believed that many of the local law enforcement personnel in both cities collaborated with Russian-backed separatists when they controlled these cities.
Under the law members of the Verkhovna Rada have authority to conduct investigations and public hearings into law enforcement problems. The human rights ombudsman may also initiate investigations into abuses by security forces.

Security forces generally prevented or responded to societal violence. At times, however, they used excessive force to disperse protests and, in some cases, failed to protect victims from harassment or violence. For example, on September 1, approximately 100 persons attacked a camp of peaceful demonstrators near the Odesa City Council on Dumska Street. The attackers pushed protesters from the square using fire extinguishers and tear gas and destroyed their camp. A few protesters were injured and hospitalized. According to witnesses, police watched and did nothing to prevent the clashes.

**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. Authorities in some cases detained persons for longer than three days without a warrant.

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 ones. Persons have the right to consult a lawyer upon their detention. According to the law, prosecutors may detain suspects accused of terrorist activities for up to 30 days without charges or a bench warrant. Under the law citizens have the right to be informed of the charges brought against them. Authorities must promptly inform detainees of their rights and immediately notify family members of an arrest. Police often did not follow these procedures. Police at times failed to keep records or register detained suspects, and courts often extended detention to allow police more time to obtain confessions. Authorities kept suspects under house arrest and occasionally held them incommunicado, in some instances for several weeks.

Under the law the government must provide attorneys for indigent defendants. Compliance was inconsistent because of a shortage of defense attorneys or because attorneys, citing low government compensation, refused to defend indigent clients. According to the Ministry of Justice, 60,500 persons received free legal aid. As of September 1, there were 550 points of access to free legal aid throughout the government-controlled areas of the country.
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 criminal procedure code, prosecutors need a court order to impose travel restrictions on persons awaiting trial. Prosecutors must prove the restrictions are the minimum needed to ensure that suspects will appear at hearings and not interfere with criminal proceedings.

Arbitrary Arrest: The HRMMU reported a pattern of arbitrary detention by authorities. In its September report, the HRMMU reported that the SBU apprehended a married couple in Odesa and reportedly held the couple incommunicado at an SBU compound for 20 hours before recording their detention. SBU also reportedly subjected them to threats, sleep deprivation, interrogation without a lawyer present, and denied requests for legal counsel.

The HRMMU expressed concern over mass arrests in government-controlled portions of Donetsk and Luhansk Oblasts. These oblasts are subject to the Law on Combatting Terrorism, which allows authorities to make arrests with a lower standard of proof than allowed under the criminal procedure code, leading in some cases to arbitrary arrest. For example, in its March report, the HRMMU cited SBU raids, conducted in December 2015 in Krasnohorivka and Avdiivka in Donetsk oblast, in which authorities detained hundreds of persons for several hours for questioning about alleged affiliation with armed groups. Authorities subsequently released most detainees.

Detainee’s Ability to Challenge Lawfulness of Detention before a Court: Under the law citizens have the right to challenge an arrest in court or by appeal to a prosecutor to obtain prompt release in cases of unlawful detention.

Protracted Detention of Rejected Asylum Seekers or Stateless Persons: Authorities frequently detained asylum seekers for extended periods without court approval. They also regularly detained asylum seekers prior to their deportation (see section 2.d.).

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary and the Verkhovna Rada passed a judicial reform package in June, courts were inefficient and remained vulnerable to political pressure and corruption. Confidence in the judiciary remained low.
On June 2, parliament adopted amendments to the constitution regarding the judiciary. The amendments give new powers to the High Council of Justice, stipulate that the majority of High Council members must be judges, and authorize the High Council to make decisions on the election, dismissal, transfer, promotion, and immunity of judges. Parliament and the president no longer have decisive roles in these processes, which limit potential interference with the judiciary. Certain provisions will be implemented gradually. For example, the president retains the right to decide on the transfer of judges for two years.

On September 30, the Law on Judiciary and Status of Judges came into effect, facilitating the implementation of the above constitutional amendments. The law introduces a three-tier system of courts, with the Supreme Court as the highest judicial body, holding the authority to rescind lower courts’ judgments. The law provides for wider civil society engagement in the selection and assessment of judges through a new consultative body called the Public Integrity Council. The law allows anyone to initiate disciplinary proceedings against a judge before the High Council of Justice and imposes anticorruption measures on judges.

As of October 1, the Prosecutor General’s Office had brought 16 criminal cases against judges to court.

Judges continued to complain about weak separation of powers between the executive and judicial branches of government. Some judges claimed that high-ranking politicians pressured them to decide cases in their favor, regardless of the merits. Other factors impeded the right to a fair trial, such as lengthy court proceedings, particularly in administrative courts, inadequate funding, and the inability of courts to enforce rulings. According to the human rights ombudsman, authorities fully executed only 40 percent of court rulings.

There were reports of intimidation and attacks against lawyers representing defendants considered “pro-Russian” or “proseparatist.” For example, on January 26 in Kharkiv, an unoccupied car belonging to lawyer Oleksandr Shadrin exploded. Shadrin had been working on a number of high-profile cases involving “proseparatist” defendants. On January 29, the Ukrainian Bar Association issued an open letter of concern about the incident involving Shadrin’s car as well as other cases in which the safety of attorneys was threatened. In a similar incident on February 2 in Kyiv, an unoccupied car belonging to another lawyer, Andriy Fedur, exploded. Fedur had been defending the accused murderers of journalists Oles Buzyna and Heorgiy Gongadze.
Trial Procedures

A single judge decides most cases, although two judges and three public assessors who have some legal training hear trials on charges carrying the maximum sentence of life imprisonment. The law provides for cross-examination of witnesses by both prosecutors and defense attorneys and for plea bargaining.

The law presumes defendants are innocent, and they cannot be legally compelled to testify or confess, although high conviction rates called into question the legal presumption of innocence. Defendants have the right to be informed promptly and in detail of the charges against them, with interpretation as needed; to a public trial without undue delay; to be present at their trial, to communicate privately with an attorney of their choice (or one provided at public expense); and to have adequate time and facilities to prepare a defense. The law also allows defendants access to government-held evidence, to confront witnesses against them, to present witnesses and evidence, and the right to appeal. The law applies to all defendants regardless of ethnicity, gender, or age.

Trials are open to the public, but some judges prohibited media from observing proceedings. While trials must start no later than three weeks after charges are filed, prosecutors seldom met this requirement. Human rights groups reported that officials occasionally monitored meetings between defense attorneys and their clients.

Political Prisoners and Detainees

On May 12, an Ivano-Frankivsk court sentenced blogger Ruslan Kotsaba to three-and-a-half years in prison, on charges that he had impeded the work of the armed forces with his calls to ignore the military draft. Authorities arrested Kotsaba in 2015, and human rights groups deemed him a political prisoner. The court dropped a more serious charge of treason. On July 24, an appeals court overturned the conviction, freeing Kotsaba after 18 months in detention.

Civil Judicial Procedures and Remedies

The constitution and law 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 they believe may violate basic rights and freedoms. Individuals may appeal to the
human rights ombudsman at any time and to the European Court of Human Rights after exhausting domestic legal remedies.

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

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

By law the SBU may not conduct surveillance or searches without a court-issued warrant. In practice, however, law enforcement agencies sometimes conducted searches without a proper warrant. In an emergency authorities may initiate a search without prior court approval, but they must seek court approval immediately after the investigation begins. Citizens have the right to examine any dossier in the possession of the SBU that concerns them; they have the right to recover losses resulting from an investigation. Because there was no implementing legislation, authorities generally did not respect these rights, and many citizens were not aware of their rights or that authorities had violated their privacy.

On October 28, the newspaper *Ukrainska Pravda* published an open appeal to the president and heads of the SBU, the National Police, and the Ministry of Internal Affairs. The appeal concerned recordings the newspaper received from an anonymous source, which indicated that its journalists and editors had been under SBU surveillance at the request of high-level officials in late 2015 and possibly beyond. The newspaper demanded to know why, how, and on whose authority the surveillance had taken place. The official SBU response said that national security legislation prohibited the disclosure of information sought by *Ukrainska Pravda*.

g. Abuses in Internal Conflicts

Russia controls the level of violence in eastern Ukraine, intensifying the conflict when it suits its political interests, while largely ignoring the September 2014 ceasefire and subsequent attempts to reestablish the ceasefire agreed to by all sides. Russia has continued to arm, train, lead, and fight alongside separatists, and Russian-backed separatists have methodically obstructed and threatened international monitors throughout the conflict, who do not have the access necessary to record systematically ceasefire violations or abuses committed by separatist authorities or combined Russian-separatist forces.
International organizations and NGOs, including AI, HRW, and the UN Office of the High Commissioner for Human Rights (UNHCR) issued periodic reports of human rights abuses committed in the Donbas region by combined Russian-separatist and by government forces. As of August 17, the Organization for Security and Cooperation in Europe (OSCE) fielded 1,102 persons supporting a special monitoring mission, which issued daily reports on the situation and conditions in most major cities.

As of September 15, the HRMMU reported that fighting had killed at least 9,578 persons, including civilians, government armed forces, and members of armed groups. This figure included the 298 passengers and crew on board Malaysian Airlines flight MH-17, which was shot down in 2014 over the Donbas region. Additionally, more than three million residents have left areas of Donetsk and Luhansk Oblasts controlled by Russian-backed separatists since the start of the conflict. As of November 15, the Ministry of Social Policy had registered 1.7 million IDPs, although civil society groups believed the actual number to be lower. According to UNHCR there were approximately 1.4 million Ukrainian refugees in other countries, including approximately one million in the Russian Federation.

Media and human rights groups continued to report widespread human rights abuses in areas held by Russian-backed separatist forces. The HRMMU noted a “collapse of law and order” in such areas as well as “serious human rights abuses,” including killings and torture.

**Killings:** A May 4 special HRMMU report on “extrajudicial, summary, or arbitrary executions” occurring in the context of the conflict in eastern Ukraine expressed strong concern about both sides’ use of “inherently indiscriminate weapons, such as cluster munitions and landmines.” The HRMMU noted in its September report the “widespread practice” by both sides of “engaging in hostilities from residential areas, with civilians suffering the impact of return fire.” For example, on August 24, in the government-controlled area of Donetsk Oblast, a woman in the village of Zolote-4 died while lying in bed, when Russian-backed separatist forces fired on the village.

The HRMMU, the OSCE Special Monitoring Mission, and human rights groups did not report any extrajudicial killings by government forces during the year in connection with the conflict. Several cases from previous years remained under investigation.
There were no reports by the HRMMU or human rights organizations of extrajudicial killings of civilians by combined Russian-separatist forces during the year, although the press reported several instances. The HRMMU identified unreported cases of extrajudicial killings from previous years that authorities had not yet investigated.

According to press reports, on July 20, three drunken members of the Russian-backed separatist “7th separate motorized rifle brigade” robbed, then shot and killed a resident of the village of Komsomolsk, Luhansk Oblast. Russian-backed separatist authorities reportedly dismissed the men from their positions to conceal their involvement in the killing.

On February 17, a video appeared on the internet showing a Russian fighter code-named “Olkhon” whipping Donbas resident, Alexei Frumkin, with an electrical cord while Frumkin was tied to a post. The combined Russian and separatist battalion that released the video claimed that “Olkhon” killed Frumkin immediately after the video was shot. According to press reports, Frumkin had supported Russian-backed separatists but had vanished in the autumn of 2014, and his fate had been unknown until the video was released. It is unknown when the video was recorded.

In its June report, the HRMMU noted that “since mid-April 2014, up to 2,000 civilians have been killed in armed hostilities, mostly as a result of indiscriminate shelling of populated areas…. Dozens of individuals were subjected to summary executions and killings, or died of torture and ill-treatment in custody. Hundreds of persons remained missing--either in secret detention or, most likely, killed--with their bodies pending recovery or identification.” According to Iryna Herashchenko, Ukrainian representative to the humanitarian subgroup of the Trilateral Contact Group, 498 persons, including 347 civilians, were missing in Donbas in August. Human rights groups criticized the government for not keeping an effective database of missing persons. Russian-backed separatists had no such system and no effective means of investigating missing persons cases. According to human rights groups, approximately 1,000 bodies in government-controlled cemeteries and morgues, both military and civilian, remained unidentified as a result of fighting, mostly from 2014. According to the HRMMU, government authorities lacked coordination among law enforcement bodies in determining the whereabouts of missing persons and the identification of remains.

Abductions: Government forces, Russian-backed-separatist forces, and criminal elements engaged in abductions. The HRMMU noted a pattern of arbitrary and
incommunicado detention by government law enforcement bodies (mainly by the SBU) and by military and paramilitary units, first and foremost by the former volunteer battalions now formally incorporated into the security services.

In its reports, the HRMMU repeatedly expressed concern about reports of enforced disappearances and “unacknowledged detention” practiced by the Security Service of Ukraine (SBU). On July 21, HRW and AI released a report, *You Don’t Exist*, which documented nine alleged cases of enforced disappearances by the SBU at alleged secret detention facilities in Kharkiv, Kramatorsk, Izyum, and Mariupol. The report highlighted the case of Konstantin Beskorovayni, a local official from the town of Konstantinovka, Donetsk Oblast. Beskorovayni was allegedly subjected to enforced disappearance by the SBU, beaten and threatened during an interrogation, and held incommunicado for 15 months at an SBU facility in Kharkiv before being released on February 24 on the condition that he not speak about his detention. During his detention SBU officials repeatedly denied to Beskorovayni’s family and human rights organizations that he was in SBU custody.

On August 28, HRW and AI released a statement in which they said that, since their initial report in July, 13 individuals had been released from the SBU facility in Kharkiv. The NGOs believed that at least five persons remained confined at the site. They noted that, once individuals had been released, local police simply closed their “missing persons” cases without further investigation.

Human rights groups reported that Russian-backed separatists routinely kidnapped persons for political purposes, to settle vendettas, or for ransom. HRW reported the arbitrary detentions of civilians by Russian-backed separatist forces, “which operate without any checks and balances.” The HRMMU noted in its September report that these kidnappings were “spreading fear among civilians, in particular because of the arbitrary nature of abductions.” The HRMMU also documented an increase in disappearances at checkpoints controlled by Russian-backed separatist forces. For example, on May 27, a former armed group member went missing in Novoluhanske, while travelling from government-controlled territory, where he had been detained by government forces. His mother later found that Russian-backed separatists had detained him at a checkpoint, transported him to Horlivka, and later transferred him to “police custody” in Donetsk. On July 4, “police” told her that they no longer held her son. She has since been unable to ascertain his fate or whereabouts.
On January 27, Russian-backed separatists abducted religious historian and president of the Center for Religious Studies and International Spiritual Relations, Ihor Kozlovsky, allegedly in retaliation for his pro-Ukrainian postings on social media. According to Kozlovsky’s wife, the abductors confiscated keys to his apartment, which they then searched twice, removing equipment, documents, and a valuable collection of antique objects. According to local media, as of late November, Kozlovsky was being held in one of the separatists’ informal detention centers in Donetsk.

Russian-backed separatists also abducted journalists attempting to cover the conflict. On March 3, they released abducted pro-Ukrainian journalist, Maria Varfolomeyeva, in a prisoner exchange after 14 months of captivity in Luhansk.

The politically motivated trial in Russia of Nadiya Savchenko, a military pilot and member of the Verkhovna Rada abducted from eastern Ukraine in 2014, ended in March with a guilty verdict and a 22-year prison sentence. On May 25, after almost two years of detention, Russian authorities exchanged Savchenko for two Russian soldiers (see section 1.e., Political Prisoners and Detainees, of the Country Reports on Human Rights for Russia).

Physical Abuse, Punishment, and Torture: Government and Russian-backed separatist forces reportedly abused and tortured civilians and soldiers in detention facilities. Reported abuses included beatings, physical and psychological torture, mock executions, sexual violence, deprivation of food and water, refusal of medical care, and forced labor.

The HRMMU received reports that government forces committed human rights violations, allegedly including forced deprivation of liberty and torture.

In its September report, the HRMMU noted that in the three-month reporting period reflected in the report, approximately 70 percent of cases documented by OHCHR contained allegations of torture, mistreatment, and incommunicado detention by SBU and other security forces prior to transfer into the criminal justice system. The September report did not provide data on the total number of such cases.

There were reports that Russian-backed separatist forces systematically committed numerous abuses, including torture, in the territories under their control. According to international organizations and NGOs, abuses included beatings,
forced labor, psychological and physical torture, public humiliation, and sexual violence.

The HRMMU expressed repeated concern about reports of torture taking place in detention facilities controlled by Russian-backed separatists, to which they did not have access, and noted that reports of torture often surfaced long after the abuses had allegedly taken place. For example, the HRMMU’s June report documented multiple new accounts of mock executions, severe beatings, and intentional deprivation of medical care from 2015. On September 23, in connection with the SPT’s second visit to Ukraine, the SBU published a set of interviews with 11 individuals who alleged that they had been tortured while in the custody of Russian-backed separatists. The SBU also published a list of eight alleged torture sites in Donbas that it reported were controlled by Russian-backed separatists.

The HRMMU continued to document cases on both sides of the line of contact of sexual and gender-based violence of conflict-related detainees, both men and women. In its December report, the HRMMU noted: “In addition to a continuing pattern of sexual violence occurring in conflict-related detention, OHCHR documented cases that indicate the sexual violence and harassment of young women at government-controlled entry/exit checkpoints along the contact line.”

According to the Justice for Peace in Donbas human rights coalition, individuals held in illegal detention facilities in territories controlled by Russian-backed separatists reported cases of gender-based violence, in particular rape, attempted rape, and sexual abuse.

The HRMMU was unable to obtain first-hand accounts of sexual violence in such areas but reported that it had received multiple secondary accounts. For example, a man detained by militants between March and April in an area of Donetsk controlled by Russian-backed separatists told the HRMMU about two women who were reportedly abducted at a checkpoint when coming from government-controlled territory and incarcerated in a room next to his. The detainee heard armed men harassing the women and attempting to rape them; two days later the women were relocated. Their identities or whereabouts were unknown to the interviewee.

Both sides employed land mines without measures to prevent civilian casualties. The HRMMU reported in June that “mines contaminate large areas of agricultural land in east Ukraine, often in areas which are poorly marked, near roads and surrounding civilian areas. This has resulted in civilians being killed and maimed,
often while walking to their homes and fields. These risks are particularly acute for persons living in towns and settlements near the contact line, as well as the 23,000 people” who crossed the contact line every day between February and May.

According to the NGO Donbas SOS, approximately 27 square miles of territory in Donetsk and Luhansk Oblasts were in need of humanitarian demining. According to the Ministry of Defense, since the start of the conflict, 150 civilians have been killed and 500 injured by mines and other ordnance in the conflict zone.

Child Soldiers: There were no media reports of child soldiers serving with government forces, and the UN Children’s Fund (UNICEF) could not confirm the presence of child soldiers in the country. There were media reports that government authorities had detained 17 persons between the ages of 15 and 18 who had fought with Russian-backed separatist forces since the beginning of the conflict in 2014. Russian-backed separatist news sources continued to cite the voluntary recruitment of children as young as 12 into the armed groups. In a January 22 interview in the newspaper Dzerkalo Tizhdnya, the head of the SBU’s Antiterrorism Center, Vitaliy Malykov, described the Russian-backed separatist St. George the Victor battalion, in which he alleged that children between the ages of 12 and 16 were serving.

A three-month-long study by the Justice for Peace in Donbas coalition found that Russian aggression in Donbas has significantly increased the risk of children participating in armed conflict. The group’s analysis of open sources and interviews revealed 41 individual cases of recruitment of children into armed formations. Of these, most were boys 16 to 17 years old participating in armed formations in territories of the Donetsk and Luhansk regions controlled by Russian-backed separatists.

Other Conflict Related Abuses: On September 28, a team of prosecutors from the Netherlands, Australia, Belgium, Malaysia, and Ukraine presented the results of their investigation of the 2014 downing of Malaysian Airlines Flight MH-17. The Dutch-led investigation concluded that the surface-to-air missile system used to shoot down the airliner over Ukraine, killing all 298 persons on board, was trucked in from Russia at the request of Russian-backed separatists and returned to Russia the same night. The report largely confirmed the already widely documented Russian government role in the deployment of the missile system, a Buk or SA-11, and the subsequent cover-up. In the report Dutch prosecutors traced Russia’s role in deploying the missile system into Ukraine and its attempt to hide its role after the disaster.
In 2015 government authorities introduced measures to expedite the delivery of humanitarian aid to areas controlled by Russian-backed separatist forces. Russian-backed separatists in Donetsk Oblast, however, sharply restricted government humanitarian aid as well as aid from international humanitarian organizations. As a result persons remaining in territories held by Russian-backed separatists experienced large price increases for everyday consumables, especially meat and fresh vegetables. Human rights groups reported severe shortages of medicine and medical supplies in territory not controlled by the government.

Russian-backed separatists continued to receive convoys of Russian “humanitarian aid,” which Ukrainian government officials believed contained weapons and supplies for combined Russian and separatist forces.

On February 11, HRW released a report, *Studying under Fire*, documenting “attacks on schools on both sides of the line of contact and the use of schools by both sides for military purposes, which has turned schools into legitimate military targets.” The report also described 15 attacks on operating schools that were not being used as positions by the military.

Treatment for persons living with HIV and tuberculosis was disrupted in the east of the country where fighting interrupted crucial medical supplies. More than 6,000 persons living with HIV in the region struggled with a shortage of medicine and doctors.

**Section 2. Respect for Civil Liberties, Including:**

*a. Freedom of Speech and Press*

The constitution and law provide for freedom of speech and press, but authorities did not always respect these rights. The government introduced measures that banned or blocked information, media outlets, or individual journalists deemed a threat to national security or who expressed positions that authorities believed undermined the country’s sovereignty and territorial integrity.

Other problematic practices continued to affect media freedom, including self-censorship, so-called jeansa payments to journalists for favorable news reports disguised as objective journalism, and slanted news coverage by media whose owners had close ties to the government or opposition political parties.
In the Donbas region, Russian-backed separatists suppressed freedom of speech and the press through harassment, intimidation, abductions, and assaults on journalists and media outlets. They also prevented the transmission of Ukrainian and independent television and radio programming in areas under their control.

**Freedom of Speech and Expression:** With some exceptions, individuals in areas not under Russian occupation or Russian-backed separatist control could generally criticize the government publicly and privately and discuss matters of public interest without fear of official reprisal. The law criminalizes the display of communist and Nazi symbols, although there have been no prosecutions.

The law prohibits statements that threaten the country’s territorial integrity, promote war, instigate racial or religious conflict, or support Russian aggression towards Ukraine.

On September 15, the National Television and Radio Council issued a warning to Kherson-based radio station AKS for statements suggesting that Crimean Tatars were involved in terrorism. If a station receives a second warning, it could lose its broadcasting license.

On December 9, the Verkhovna Rada passed a bill to restrict imports of certain Russian books with “anti-Ukrainian content” that violated Ukrainian law. The books may still be legally imported below the commercial threshold of 100 copies.

**Press and Media Freedoms:** According to the NGO Freedom House, the press in the country was “partly free.”

Independent media and internet news sites were active and expressed a wide range of views. Privately owned media, the most successful of which were generally owned by wealthy and influential “oligarchs,” often presented readers and viewers a “biased pluralism,” representing the views of their owners, favorable coverage of their allies, and criticizing political and business rivals. The 10 most popular television stations were owned by businessmen whose primary business was not in media. Independent media had difficulty competing with major outlets that operated with oligarchic subsidies.

The public television broadcaster was established in 2015 and planned to be fully operational by January 2017. On November 1, the head of the public broadcaster, Zurab Alasania, resigned from his position in protest regarding a number of obstacles to establishing the channel’s operations, including the government’s
diversion of the channel’s budget for other purposes. Alasania also cited complaints he had received from the government regarding investigative journalism programs on corruption produced by the broadcaster.

The practice of jeansa, or publishing unsubstantiated news articles for a fee, continued to be widespread. For example, according to the Institute of Mass Information press monitoring, the highest proportion of jeansa in regional media was found in print outlets in Mykolaiv Oblast, where 15 percent of all published articles were political or commercial jeansa.

Violence and Harassment: Violence against journalists remained a problem in the country, though attacks on journalists dropped for the second year. Human rights groups and journalists criticized government inaction in solving these crimes, giving rise to a culture of impunity.

According to the Institute of Mass Information, there were 30 reports of attacks on journalists, half as many as in 2015, and almost a 10th as many as in 2014. As in 2015, the majority of these attacks were perpetrated by private, not state, actors. There were 42 incidents of threats against and harassment of journalists, up from 36 in 2015.

The Institute of Mass Information and editors of major independent news outlets noted online harassment of journalists by societal actors, reflecting a growing societal intolerance of reporting deemed insufficiently patriotic, a development they said had the tacit support of the government. In one case, on May 10, the nationalist website Myrotvorets (Peacemaker), which allegedly has links to the Interior Ministry, published the names and personal information of more than 4,000 domestic and foreign journalists who had received accreditation from the Russian-backed separatist “authorities” in Donetsk and Luhansk. The website claimed that the journalists’ actions amounted to collaboration with terrorists. On May 24, Myrotvorets published the personal information of an additional 300 journalists. Some affected media professionals subsequently received death threats and were subjected to significant online harassment. While Minister of Internal Affairs Arsen Avakov spoke out in support of Myrotvorets, calling the journalists “liberal separatists,” President Poroshenko on June 3 condemned the website during his annual press conference. Police investigation of the case continued through year’s end.

There were multiple incidents of violence and harassment against the television channel INTER, which is perceived to have a pro-Russian editorial policy.
According to press reports, in January protesters spray-painted “Kremlin mouthpiece” on INTER’s offices and threw rocks through its windows. On February 25, volunteer Azov Battalion fighters blocked journalists’ access to INTER’s offices after INTER broadcasters were inadvertently recorded criticizing the “heavenly hundred,” demonstrators killed during the Euromaidan protests. In June, protesters burned tires at the entrance to INTER’s offices. On August 4, Myrotvorets published hacked email correspondence purporting to show that an INTER TV journalist had coordinated the contents of an article with Russian-backed separatist leaders. On August 31, Minister of Internal Affairs Arsen Avakov publicly called on the SBU to deal with INTER, which he labeled “anti-Ukrainian.” On September 4, approximately 15 to 20 masked persons entered INTER’s offices, setting fire to the building, destroying equipment, and trapping employees in the smoke-filled building. As a result some staff members were hospitalized, including one with a spinal injury. Authorities arrested six persons at the scene; an investigation into the attack by the SBU Investigative Department continued. On November 21, five unidentified persons threw Molotov cocktails at INTER’s headquarters. Authorities opened an investigation into the incident, which continued at year’s end.

On July 20, well-known journalist Pavel Sheremet, who hosted a morning show on Vesti radio and worked for the Ukrainska Pravda online news outlet, was killed by a bomb in the car he was driving in downtown Kyiv (see section 1.a.).

During the year authorities detained but later released two suspects in the 2015 killing in Kyiv of Oles Buzina, who was perceived as pro-Russian. Both suspects were allegedly members of right-wing political groups. An investigation into the case remained open at year’s end.

There were multiple reports of attacks on journalists investigating government corruption. On May 24, three masked men fled in a car after beating Anatoliy Ostapenko, a journalist affiliated with the independent media outlet Hromadske Zaporizhzhya. Ostapenko was working on several investigations linking local authorities in Zaporizhzhya to corruption. An investigation into the attack continued at year’s end.

Censorship or Content Restrictions: The Institute for Mass Information recorded seven incidents of censorship of individual publications, down from 12 in 2015.

Both independent and state-owned media periodically engaged in self-censorship when reporting stories that might expose political allies to criticism or that might
be perceived by the public as insufficiently patriotic or that might provide information that could be used for Russian propaganda.

**Libel/Slander Laws:** Libel is a civil offense. While the law limits the monetary damages a plaintiff can claim in a lawsuit, local media observers continued to express concern over high monetary damages awarded for alleged libel. Government entities, and public figures in particular, used the threat of civil suits, sometimes based on alleged damage to a person’s “honor and integrity,” to influence or intimidate the press and investigative journalists. For example, on August 29, former prosecutor general, Viktor Shokin, announced he would sue the investigative journalism television program “Schemes” over its claims to have uncovered evidence of his corruption, including his ownership of luxury property registered in the names of family members.

**National Security:** Authorities took measures to prohibit, regulate, and occasionally censor information deemed a national security threat.

The government continued the practice of banning specific works by pro-Russian actors, film directors, and singers, as well as imposing sanctions on pro-Russian journalists. According to the head of the State Film Agency, Fillip Ilienko, as of February 18, some 432 films and television shows had been banned in the country on national security grounds since August 2014. On May 31, the president signed a decree imposing visa bans on 17 Russian journalists; several dozen other journalists were sanctioned previously. The decree also lifted sanctions against 29 foreign journalists. Human rights NGOs criticized the move. The Committee to Protect Journalists called on the country to “immediately rescind the decree banning Russian journalists from the country and to resist the urge to fight propaganda with censorship.”

The government continued to block Russian television channels from broadcasting in the country, based on a 2014 decision by the National Television and Radio Broadcasting Council based on the perceived dangerous influence of Russian propaganda. As of year’s end, only six Russian channels were permitted to broadcast, compared to 83 Russian channels able to broadcast in the country at the start of 2014. According to the head of the National Television and Radio Broadcasting Council, as of November 2, the council had issued 23 warnings to Ukrainian cable providers for violating the ban on certain Russian channels.

Media professionals continued to experience pressure from SBU and the armed forces when reporting on sensitive issues, such as military losses. On July 8, the
press center of the Antiterrorist Operation (ATO) asked the SBU to suspend the accreditation of journalists representing two Ukrainian and one Russian media outlets that were reporting from Avdiivka, Donetsk Oblast. The journalists had released a video considered by the ATO headquarters to violate the rules for reporting from a conflict area, since it disclosed soldiers’ faces, locations, and weaponry. After the request to remove it, the Ukrainian Hromadske journalists removed the video from their YouTube channel, but Russian journalist, Yulia Polukhina, published the material in Novaya Gazeta. After later receiving concurrence, Hromadske published an abridged version of the video approximately three weeks later. The HRMMU considered the response of the ATO headquarters to be disproportionate to the violation.

On February 24, the SBU deported Russian journalist, Mariya Stolyarova, and banned her from re-entering the country for five years. Stolyarova worked as a broadcast editor of “Podrobnosti Nedeli” (“Details of the Week”) at INTER TV. Before the deportation the SBU conducted an investigation regarding an obscene statement Stolyarova made on air during a broadcast of material related to the “heavenly hundred” protesters who were killed during the Euromaidan demonstrations. Law enforcement officers also questioned Stolyarova’s stay on territory controlled by Russian-backed separatists in eastern Ukraine and her alleged coordination of storylines with Russian-backed separatists.

Nongovernmental Impact: Russian-backed separatists in eastern areas of the country harassed, arbitrarily detained, and mistreated journalists (see section 1.g.). According to the HRMMU, “persons living in the ‘Donetsk People’s Republic’ and ‘Luhansk People’s Republic’ know that expressing their opinion freely and publicly was not acceptable in armed group-controlled territory,” that “armed groups are directly influencing and shaping the content in local media,” and that they require favorable coverage as the cost of retaining registration to operate.

According to the HRMMU and media reports, on January 4, the “Ministry of State Security” of the “Donetsk People’s Republic” detained Kyiv-based blogger and activist, Volodymyr Fomichev, and charged him with unlawful possession of weapons. On June 27, he pled guilty and was sentenced to two years in prison. Fomichev’s family insisted the conviction was baseless and the result of a forced confession. During the “hearings,” Fomichev gave his father a sweater covered with blood, raising concerns about mistreatment by “investigators.”

Actions to Expand Press Freedom: On February 4, parliament passed a law criminalizing the illegal seizure of materials collected, processed, and prepared by
journalists or of technical devices they use in their professional activities. The law also introduces a penalty of up to three years’ imprisonment for unlawfully denying journalists access to information, unlawfully banning them from covering particular topics, or for any other action impeding their professional activity.

**Internet Freedom**

Authorities did not restrict or disrupt access to the internet or censor online content. Law enforcement bodies monitored the internet, at times without appropriate legal authority. Authorities did not restrict content or censor websites or other communications and internet services.

According to the International Telecommunication Union, 49 percent of persons in the country used the internet in 2015.

Human rights groups and journalists that were critical of Russian involvement in the Donbas region and Crimea reported that opponents subjected their websites to cyberattacks, such as coordinated denial of service incidents and unauthorized attempts to obtain information from computers, as well as coordinated campaigns of “trolling” and harassment on social media.

Users of social media, particularly Facebook and VKontakte, sometimes had their access temporarily blocked for innocuous or political posts that other users mischaracterized as “hate speech” and flagged as terms of service violations.

In its yearly *Freedom on the Net* report, Freedom House assessed in November that internet freedom in the country deteriorated for the second year in a row, noting that, “Ukrainian authorities have become less tolerant of online expression perceived as critical of Ukraine’s position in the conflict, and the government has been especially active this year in sanctioning social media users for ‘separatist’ and “extremist” activities, with many users detained, fined and even imprisoned for such activities. Meanwhile, Russian-backed separatist forces in the east have stepped up efforts to block content online perceived to be in support of Ukrainian government or cultural identity.”

**Academic Freedom and Cultural Events**

There were several reports of government restrictions on academic freedom or cultural events. On November 4, the SBU announced that it had banned 140
Russian cultural figures from entering the country, as their actions or statements conflicted with the country’s interests.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides citizens with the right to freedom of assembly, and the government generally respected this right. There are no laws, however, regulating the process of organizing and conducting events to provide for freedom of peaceful assembly. Authorities have wide discretion under a Soviet-era directive to grant or refuse permission for assemblies on grounds of protecting public order and safety. Organizers are required to inform authorities in advance of plans for protests or demonstrations.

During the year citizens generally exercised the right to peaceful assembly without restriction in areas of the country under government control. Most assemblies were peaceful and at times accompanied by a very large police presence to maintain order. The HRMMU noted an overall improvement in the ability of the National Police to provide security for demonstrations.

There were some reports of violence at LGBTI demonstrations during the year (see section 6.).

On July 4, more than 100 persons protested peacefully against the presence of military equipment in Toretsk, Donetsk Oblast. Police arrested eight men, charged them with disobeying police, interrogated them without lawyers present, and did not bring them before the court within three hours, as required by the law. SBU officers reportedly threatened and intimidated the detainees. The detainees spent the night sleeping on the floor of a small cell with only one mattress and a wooden bench. After the court hearing ordering their release, they were brought back to a police station where the head of police in the Donetsk Oblast allegedly insulted and threatened them before their release.

In the territory controlled by Russian-backed separatists, the HRMMU noted an absence of demonstrations because “people are concerned that they may be ‘arrested’ if they organize protests or assemblies against the policies of the armed groups.” The HRMMU also noted that the only demonstrations permitted in these areas were ones in support of local authorities, often apparently organized by the armed groups, with forced public participation.
Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected this right.

The HRMMU noted a pattern of harassment of Communist Party members. For example, on June 28, the apartment of a first secretary of the Kharkiv local branch of the Communist Party was searched, and she was charged with violating the territorial integrity of Ukraine and bribing state officials. On June 30, a Kharkiv court ruled to place her in pretrial detention.

According to the HRMMU, in the territories controlled by the Russian-backed separatists, “civil society organizations, including human rights defenders, cannot operate freely.” Residents informed the HRMMU that they were being prosecuted (or were afraid of being prosecuted) by the “ministry of state security” for their pro-Ukrainian views or previous affiliation with Ukrainian NGOs. The HRMMU also noted an increase in civil society organizations run by the armed groups, which appeared to have compulsory membership for certain persons, such as public sector employees.

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at www.state.gov/religiousfreedomreport/.


The constitution and law provide citizens with freedom of internal movement, foreign travel, emigration, and repatriation. The government, however, restricted these rights, particularly in the eastern part of the country near the zone of conflict.

Abuse of Migrants, Refugees, and Stateless Persons: Authorities frequently detained asylum seekers for extended periods without court approval.

The government cooperated with the Office of UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. International and domestic organizations reported the system
for protecting asylum seekers, stateless persons, and other persons of concern did not operate effectively.

In-country Movement: The government and Russian-backed separatist forces strictly controlled the freedom of movement between government- and Russian-backed separatist controlled territories in the Donbas region. Crossing the contact line remained arduous. While five crossing points existed, only four were in operation for much of the year. According to the HRMMU, between May and August, an average of 26,000 to 32,000 individuals crossed the line daily. People formed long lines at all operating transit corridors and had to wait for up to 36 hours with no or limited access to water, medical aid, toilets, and shelter in case of shelling or extreme weather. The HRMMU’s March report noted that two elderly persons died at government checkpoints due to lack of timely medical care; its September report noted three deaths for the same reason. The HRMMU’s June report noted that, on April 27, four civilians were killed and eight injured at a crossing point near Olenivka in the “Donetsk People’s Republic,” when it was shelled while they waited in line overnight.

Movement across the line of contact was limited to four crossing points in Donetsk Oblast and one in Luhansk Oblast, which were frequently closed due to nearby fighting. The crossing point at Stanytsia Luhanska traversed a temporary wooden structure that the OSCE Special Monitoring Mission (SMM) believed was unsafe. People regularly reported long lines; as an example, on August 19, the SMM reported more than 700 persons waiting to cross into the country at Stanytsia Luhanska. On August 16, more than 1,000 persons were observed at the same crossing point, and medical officials claimed 21 persons were treated for heat-related illnesses.

In 2015 the SBU introduced a pass system involving an online application process to control movement into government-controlled territory. Human rights groups were concerned that many persons in nongovernment-controlled territory did not have access to the internet to obtain such passes. The order imposed significant hardships on persons crossing into government-controlled territory, in particular those who sought to receive pensions and government benefits, which ceased distribution in the territory controlled by Russian-backed separatists in 2014.

The HRMMU repeatedly voiced concern about reports of corruption by checkpoint personnel on both sides, including demands for bribes or goods in exchange for easing passage across the line of contact. Russian-backed separatists continued to hinder freedom of movement in the eastern part of the country during the year. In
April the crossing checkpoint in Stanytsia Luhanska was closed due to shelling by Russian-backed separatist forces and, as of December, it was open only for pedestrians. Russian-backed separatists have also consistently prevented civilians from crossing at the Zolote checkpoint in Luhansk oblast.

The government and Russian occupation authorities subjected individuals crossing between Russian-occupied Crimea and the mainland to strict passport controls at the administrative boundary between the Kherson oblast and Crimea. Authorities prohibited rail and commercial bus service across the administrative boundary, requiring persons either to cross on foot or by private vehicle. The three crossing points between Russian-occupied Crimea and mainland Ukraine were closed on several occasions in early August, creating long lines of individuals who were prevented from freely moving across the administrative boundary. As of August 15, the movement of vehicles and persons fully resumed but slowed due to enhanced security measures.

**Internally Displaced Persons**

According to the Ministry of Social Policy, as of November 15, there were more than 1.7 million registered internally displaced persons (IDPs) due to Russia’s aggression in eastern Ukraine and occupation of Crimea. Some NGOs and international organizations estimated the number to be lower, since some persons returned to their homes after registering as IDPs, while others registered while still living in the conflict zone. The largest number of IDPs resided in areas immediately surrounding the conflict zones, in government-controlled areas of Donetsk and Luhansk Oblasts, as well as in the Kharkiv, Dnipropetrovsk, and Zaporizhzhya Oblasts. Many resided in areas close to the line of contact in hope that they would be able to return home.

The government granted social entitlements only to those individuals who had registered as IDPs. By law IDPs are eligible to receive payments of 880 hryvnias ($33) per month for children and persons with disabilities and 440 hryvnias ($16) per month for those able to work. Families may receive no more than 2,400 hryvnias ($89) per month. According to the law, the government should provide IDPs with housing, but authorities had not taken effective steps to do so. Humanitarian aid groups had good access to areas under government control.

On February 16, the Ministry of Social Policy instructed its regional offices and local departments to suspend all social payments for IDPs, pending verification of their presence in government-controlled territory, ostensibly to combat fraudulent
payments. According to the HRMMU, following this decision the SBU provided regional administrations with lists of individuals whose social entitlements should be revoked pending verification. The HRMMU reviewed a list that the SBU submitted to the regional administration in Kharkiv and determined that it was developed from information in the SBU database on individuals who received permits to cross the contact line. On June 8, the government adopted amendments to resolutions on IDPs to allow for automatic termination of benefits and prescribing two to six months for reinstatement, depending on the grounds for termination. The HRMMU, the human rights ombudsperson, the Council of Europe, and other domestic and international human rights and humanitarian groups criticized these amendments.

According to the HRMMU, the government applied the IDP verification procedure extremely broadly. The suspensions affected approximately 85 percent of IDPs residing in government-controlled areas and 97 percent of those residing in areas under the control of Russian-backed separatists, particularly the elderly and disabled whose limited mobility hindered their ability to verify whether they were included in the lists or prove their residency. The government often suspended payments without notification, and IDPs reported problems having them reinstated. In one case the HRMMU interviewed a female IDP with disabilities in Kramatorsk, who was also the single parent of a 13-year-old daughter with disabilities. She incidentally discovered that all of her other social payments had also been cut, including her disability pension.

According to the HRMMU, IDP integration remained impeded by the lack of a state strategy and the consequent absence of allocation of financial resources, leading to IDPs’ economic and social marginalization. Local civil society organizations and international humanitarian organizations provided the bulk of assistance for IDPs on a temporary basis. NGOs reported that their ability to support IDPs was limited and nearing exhaustion. UN agencies reported that the influx of IDPs led to tensions arising from competition for resources. Critics accused internally displaced men who moved to western areas of the country of evading military service, while competition rose for housing, employment, and educational opportunities in Kyiv and Lviv.

A shortage of employment opportunities and the generally weak economy particularly affected IDPs, forcing many to live in inadequate housing, such as collective centers and other temporary accommodation. As of July 1, there were 271 such collective centers housing more than 10,000 persons. Other IDPs stayed
with host families, volunteers, and in private accommodation, although affordable private accommodation was often in poor condition.

UN agencies expressed concern about instances of eviction of IDPs from the collective centers. On September 29, 22 elderly IDPs, including two disabled persons, were evicted from the Kuialnyk sanatorium in Odesa. A representative from the Odesa regional administration stated that the management of the sanatorium had suspended utilities on September 26 due to nonpayment of bills. While collective center accommodation was only intended as a temporary solution, many IDPs remained for extended periods.

There were reports of government officials expressing discriminatory views toward IDPs. For example, on September 23, Minister of Internal Affairs Avakov publicly attributed an increase in the crime rate to an inflow of IDPs, provoking a public outcry.

NGOs reported employment discrimination against IDPs. Some IDPs, particularly those in government-controlled areas of Donetsk and Luhansk Oblasts, lacked sufficient sanitation, shelter, and access to potable water. IDPs continued to have difficulty obtaining education, medical care, and necessary documents. Romani activists expressed concern that some Roma in eastern areas could not afford to flee conflict areas, while others had no choice but to leave their homes.

In September 2015 the Kyiv Administrative Court of Appeal overturned a National Bank decision that Crimean IDPs were nonresidents, which had restricted access to banking and financial services for those fleeing the Russian occupation. Nonetheless, media reports indicated that banks continued to restrict banking services for Crimean IDPs even after the court decision.

**Protection of Refugees**

**Access to Asylum:** The law provides for asylum or refugee status, and the government has established a legal system to protect refugees. Protection for refugees and asylum seekers was insufficient due to gaps in the law and the system of implementation. The country is a transit and destination country for asylum seekers and refugees, principally from Afghanistan, Somalia, and Syria.

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. 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. Asylum seekers have five days to appeal an order of detention or deportation.

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.

Refoulement: The government did not provide for protection against the expulsion or return of asylum seekers 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. 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. Human rights groups noted the law offers legal protection against forcible return.

Employment: Authorities did not provide employment assistance, and most asylum seekers were unable to obtain a work permit as required by law. Authorities provided language instruction for asylum seekers only in Kyiv, Kharkiv, and Odesa. Some attempted to work illegally, increasing their risk of exploitation.

Access to Basic Services: The national plan on the integration of refugees adopted by the government did not allocate resources for its implementation. Human rights groups reported that authorities did not provide social and economic support to asylum seekers or assist them. Authorities did not provide language courses or social assistance. A UNHCR report indicated all newly recognized refugees received a one-time grant of approximately 30 hryvnias ($1.10).

Temporary accommodation centers had a reception capacity of 320 persons and could accommodate approximately 20 percent of asylum applicants. Asylum seekers living outside a center often experienced difficulties obtaining residence registration, and authorities regularly fined them more than 500 hryvnias ($19).
because they lacked this registration. According to the State Migration Service, refugees and those seeking complementary protection could receive residence registration at homeless shelters for up to six months.

UNHCR noted an improvement in the quantity and quality of food provided in the migrant custody centers as well as a lack of educational programs and vocational activities for those in detention for extended periods. According to UNHCR, gaps in housing and social support for unaccompanied children left many without access to state-run accommodation centers or children’s shelters. As of November 1, seven unaccompanied migrant children were registered, five of whom expressed a desire to apply for refugee status. Many children had to rely on informal networks for food, shelter, and other needs and remained vulnerable to abuse, trafficking, and other forms of exploitation.

Temporary Protection: The government also provided temporary protection (“complementary protection”) to individuals who may not qualify as refugees; authorities provided it to approximately 618 persons during the year.

Stateless Persons

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

According to UNHCR, there were 35,179 persons in the country under its statelessness mandate as of mid-2015. According to the State Migration Service, at the end of the year there were 5,343 stateless persons residing in the country.

The law requires establishing identity through a court procedure, which demanded more time and money than some applicants had. UNHCR reported Roma were at particular risk for statelessness, since many did not have birth certificates or any other types of documentation to verify their identity.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. On July 17, parliamentary by-elections were conducted in seven constituencies.

Elections and Political Participation
Recent Elections: In 2014 citizens elected Petro Poroshenko president in an
election considered free and fair by international and domestic observers. Later
that year the country held early parliamentary elections that observers also
considered free and fair. In October 2015 the country held nationwide local
elections.

On July 17, citizens in seven constituencies voted in parliamentary by-elections.
According to the OSCE observer mission, the elections were organized and
democratic but influenced by economic interests. According to OPORA, a human
rights NGO that monitored elections in the country, some candidates started
campaigning prematurely, leading to unfair advantages for certain candidates and
parties. OPORA considered the elections to be free and fair with electoral
irregularities that were not systemic.

IDPs were unable to vote in local elections unless they changed their registration to
their new place of residence.

Political Parties and Political Participation: On February 25, President Poroshenko
signed a bill that allows political parties to wait until after an election to select
which members from a party list will take seats in the Verkhovna Rada. The law
was widely criticized by domestic and international election monitoring groups, as
it shifts the power of selecting deputies from the electorate to the leadership of
political parties.

The Communist Party remains banned.

Participation of Women and Minorities: There are no laws limiting the
participation of women and members of minorities in the political process and
women and minorities did so.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption, although authorities did not
effectively implement the law, and many officials engaged in corrupt practices
with impunity. While the number of reports of government corruption was low,
corruption remained pervasive at all levels in the executive, legislative, and judicial
branches of government and in society.
During the year multiple high-level officials who had been brought into the government to oversee anticorruption reform processes resigned due to efforts to impede their work. Complaining of ingrained corruption, Minister of Economy Aivaras Abromavicius resigned in February and was followed by some members of his team. Abromavicius stated in his resignation letter that corrupt officials had blocked systematic reform and were attempting to gain influence over state enterprises.

**Corruption:** While the government publicized several attempts to combat corruption, it remained a serious problem for citizens and businesses alike. The law establishes two governmental anticorruption bodies, the National Agency for Prevention of Corruption (NAPC) and the National Anticorruption Bureau of Ukraine (NABU).

As of October 1, the NABU had launched 243 criminal proceedings in corruption cases with support from the newly created Specialized Anticorruption Prosecutor’s Office. Authorities tried 31 corruption cases involving 70 persons, including judges, prosecutors, and state officers, but many were for minor violations. In a major anticorruption case, the Verkhovna Rada stripped Member of Parliament Oleksandr Onyshchenko of immunity from prosecution in July under suspicion of corruption and embezzlement. At year’s end he remained a fugitive outside the country, and the investigation continued.

Civil society criticized the Prosecutor General’s Office and the judicial system for failing to hold high-level officials to account for corruption. According to the anticorruption watchdog group, Nashi Hroshi, between July 2015 and July 2016, 952 persons were convicted of corruption. Of these individuals 312 were fined (70 percent of these fines were below 20,000 hryvnias ($740)), 336 persons received suspended sentences, and 137 had their convictions overturned. One hundred twenty-eight persons were sentenced to prison; of these individuals 33 were serving sentences, while the rest had appeals pending. Of the 952 persons convicted for corruption, only three were officials of significant stature: two heads of district administrations and one deputy head of the state agricultural inspectorate. As of July all three cases were undergoing appeals, and the defendants had yet to begin serving their sentences.

While members of the Verkhovna Rada are immune from prosecution, several members, such as Onyshchenko, were stripped of immunity for prosecution during the year. Judges may not be arrested or detained before courts convict them, unless the Verkhovna Rada rescinds their immunity.
The NAPC is responsible for the development of national anticorruption policies, monitoring national compliance with anticorruption legislation, and verifying asset declarations of high officials. The NAPC, established in March 2015, began operations in May.

The law designates NABU as the lead investigative agency for allegations of corruption by senior government officials, including the president, members of the Cabinet of Ministers, members of the Verkhovna Rada, and local governors. NABU is responsible only for investigating corruption offenses committed after its creation in 2015. The Prosecutor General’s Office had 25,000 open corruption cases that predated the creation of NABU.

There were reports that the Prosecutor General’s Office took steps during the year to hinder NABU’s ability to investigate high-level corruption. On August 5, an investigative group from the Prosecutor General’s Office raided the NABU headquarters in Kyiv, alleging that NABU had illegally wiretapped its employees. On August 12, Prosecutor General’s Office staff allegedly unlawfully detained and beat two NABU detectives who they asserted were engaged in wiretapping. On September 20, three Prosecutor General’s Office employees were suspended pending the outcome of an internal investigation, which continued at year’s end.

According to the Justice Ministry, implementation of a 2014 law on “lustration” was 99 percent completed. Some 700,000 civil servants and state officials were on the list for lustration. The checks resulted in the dismissal of approximately 1,000 state officials. According to the Parliamentary Anticorruption Committee, 80 percent of state officials from the Yanukovych era were discharged from their posts. Law enforcement and judicial agencies, however, avoided full compliance with the law. The SBU subjected only 50 staff members to lustration. The judiciary lustrated only 40 judges, eight of whom contested the decision in court and were restored to their positions.

Financial Disclosure: The law mandates the filing of income and expenditure declarations by public officials, and a special review process allows for public access to declarations and sets penalties for either not filing or filing a false declaration.

By law, the NACP is responsible for reviewing financial declarations and monitoring the income and expenditures of high-level officials. On August 15, the government officially launched an asset e-declaration system. By the conclusion
of the first phase on November 1, more than 120,000 officials had submitted e-declarations, indicating near total compliance. The results were made publicly available, provoking public outcry about the lavish lifestyles of many public officials. By law the NAPC reviews the declarations and refers suspected corruption cases to the NABU for further action. Some observers questioned, however, whether the NAPC had the capacity to fulfill this function.

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 and within 20 days to requests for large amounts of data. Requesters can appeal denials within agencies and ultimately to the court system. Instructions for filing information requests were a common and conspicuous component of government websites. Implementation of the law on public access to government information and training of officials on the regulations governing such access remained inadequate.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The government invited human rights groups to participate in monitoring activities, drafting legislation, and adopting administrative rules.

International and domestic human rights groups collaborated with the government to draft the National Human Rights Strategy and related action plan in 2015. During the year civil society closely monitored implementation and expressed concern about government progress on the action plan. Representatives from the human rights ombudsman’s office noted that, as of September 23, the strategy remained largely unimplemented and cited concerted resistance from certain ministries, including the Ministries of Justice and Health, to cooperating with the office on implementation. Human rights groups described particular government resistance to implementing points in the plan that related to the rights of IDPs. The HRMMU stated that, in the Ministry of Justice’s first progress report on the plan, some activities marked as completed were implemented only partially or not in substance.
The Ministry of Justice, the Office of the Human Rights Ombudsman’s, and civil society groups such as the Ukrainian Helsinki Human Rights Union participated in open hearings in December to mark the one-year anniversary of the action plan. Nongovernmental representatives reported slow progress and weak intragovernmental coordination, but both government representatives and human rights activists indicated progress in justice sector reform and the provision of social services.

Russian authorities and the separatists they backed routinely denied domestic and international human rights groups access to territories they controlled in Crimea and eastern Ukraine. If human rights groups attempted to work in those areas, they faced significant harassment and intimidation (see section 2.b.).

The United Nations or Other International Bodies: The government cooperated with international organizations, such as the OSCE, the Council of Europe, and the HRMMU.

Government Human Rights Bodies: The constitution provides for a human rights ombudsman, officially designated as parliamentary commissioner on human rights. The Human Rights Ombudsman’s Office frequently collaborated with NGOs through civic advisory councils on various projects for monitoring human rights practices in prisons and other government institutions (see sections 1.c. and 1.d.).

Valeriya Lutkovska served as parliamentary ombudsman for human rights during the year, and observers considered her office an effective promoter of human rights. The office was a partner with leading domestic human rights groups and an advocate on behalf of Crimean Tatars, IDPs, Roma, persons with disabilities, LGBTI individuals, and prisoners.

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

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 but underreported problems. According to the Prosecutor General’s Office, through September there were 355 registered reports of rape or attempted rape of which authorities brought 47 to court.

Domestic violence against women remained a serious problem. Spousal abuse was common. According to the Prosecutor General’s Office, 922 cases of domestic violence were registered during the first nine months of the year, and 833 cases were brought to court. Advocacy groups asserted the percentage of women subjected to physical violence or psychological abuse at home remained high. Human rights groups noted the ability of agencies to detect and report cases of domestic violence was limited, and preventive services remained underfunded and underdeveloped. Additionally, human rights groups stated that law enforcement authorities did not consider domestic violence to be a serious crime but rather a private matter to be settled between spouses.

According to the Kyiv-based international women’s rights center, La Strada, Russian aggression in the Donbas region led to a dramatic surge in violence against women across the country. Human rights groups attributed the increase in violence to post-traumatic stress experienced by IDPs fleeing the conflict and by soldiers returning from combat. IDPs reported instances of rape and sexual abuse; many claimed to have fled because they feared sexual abuse. There were no special social services available to women IDPs. According to the Ministry for Social Policy, police issued approximately 38,000 domestic violence warnings and protection orders during a six-month period. According to the ministry, approximately 65,000 persons were under police monitoring in connection with domestic violence. Punishment included fines, administrative arrest, and community service.

La Strada operated a national hotline for victims of violence and sexual harassment. Through September more than 24,000 individuals called the hotline for assistance, and 35 percent of the calls related to domestic or sexual violence. According to La Strada, more than 49 percent of calls related to psychological violence. The NGO reported that expanded public awareness campaigns increased the number of requests for assistance it received each year.

Although the law requires the government to operate a shelter in every major city, it did not do so, in part due to lack of municipal funding. During the year officials identified 19 centers for social and psychological help and nine centers for psychological and legal help for women who suffered from domestic violence.
According to the Ministry of Social Policy, as of July 1, government centers provided domestic violence-related services, in the form of sociopsychological assistance, to 423 families with children and 3,934 individuals. Social services centers monitored 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.

According to women’s advocacy groups, municipal 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 not registered as local residents. Government centers offered only limited legal, psychological, and economic assistance to survivors of domestic violence. Each center could accommodate approximately 30 women and children, which was often inadequate.

Sexual Harassment: The law puts sexual harassment in the same category as discrimination, but 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 because courts declined to hear their cases and rarely convicted perpetrators. Women’s groups also cited a persistent culture of sexism and harassment.

While the law prohibits coercing a “materially dependent person” to have sexual intercourse, legal experts stated that safeguards against harassment were inadequate.

Reproductive Rights: The government recognized the right of couples and individuals to decide the number, spacing, and timing of their children, manage their reproductive health, and have the information and means to do so, free from discrimination, coercion, and violence.

Discrimination: The law provides that women enjoy the same rights as men, including under family, religious, personal status, labor, property, nationality, and inheritance laws, and are entitled to receive equal pay for equal work. In practice women received lower salaries than men (see section 7.d.).
Children

**Birth Registration:** Either birthplace or parentage determines citizenship. A child born to stateless parents residing permanently in the country is a citizen. The law requires that parents register a child within a month of birth.

Registration of children born in Crimea or areas in the east controlled by Russian-backed separatists remained difficult. Authorities required hospital paperwork to register births. Russian-backed separatist “authorities” routinely kept such paperwork if parents registered children in territories under their control, making it difficult for the child to obtain a Ukrainian birth certificate. Additionally, authorities do not recognize documents issued by Russian-occupied Crimean or Russian-backed separatist entities and sometimes refused to issue birth certificates to children born in those areas.

**Child Abuse:** As of September 30, the Ministry of Internal Affairs reported 4,817 crimes against children. Human rights groups noted that authorities lacked the capability to detect violence against children and refer victims for assistance. Preventive services remained underfunded and underdeveloped. There were also instances of forced labor involving children (see section 7.c.).

Authorities did not take effective measures at the national level to protect children from abuse and violence and to prevent such problems. Parliament’s ombudsman for human rights noted the imperfection of mechanisms to protect children who survived violence or witnessed violence, in particular violence committed by their parents. According to the law parents were legal representatives of children, even if they perpetrated violence against them. There is no procedure for appointing a temporary legal representative of a child during the investigation of a case of parental violence.

The Office of the Parliamentary Ombudsman for Human Rights includes a representative for children’s rights, nondiscrimination, and gender equality. As of August 31, the office had received 552 complaints regarding children’s rights.

A major consequence of Russian aggression in the Donbas was its effect on children. In January the law On Protection of Childhood was amended to include a provision supporting children affected by the armed conflict. In August the Ukrainian Institute of Extremism Research reported that fighting killed 166 children since the conflict started in 2014. According to UNICEF the conflict has
affected 1.7 million children, including approximately 230,000 forced from their homes. Children living in areas controlled by Russian-backed separatists did not receive nutritional and shelter assistance. Human rights groups reported that children who experienced the conflict or fled from territory controlled by Russian-backed separatists suffered psychological trauma. UNICEF reported that 200,000 children in the Donbas needed psychological rehabilitation, and approximately 580,000 urgently needed aid.

Early and Forced Marriage: The minimum age for marriage is 18. If it finds marriage to be in the child’s interest, a court may grant a child as young as 16 permission to marry. Romani rights groups reported early marriages involving girls under the age of 18 were common in the Romani community.

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children, the sale of children, offering or procuring a child for child prostitution, and practices related to child pornography. The minimum prison sentence for child rape is 10 years. Molesting children under the age of 16 is punishable by imprisonment for up to five years. The same offense committed against a child under the age of 14 is punishable by imprisonment for five to eight years. The age of consent is 16.

The Ministry of Internal Affairs recorded 274 sexual crimes against children during the year. 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 in the country. The International Organization for Migration reported that children from socially disadvantaged families and those in state custody continued to be at high risk of trafficking and commercial sexual exploitation 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.

Child Soldiers: There were reports that Russian-backed separatists used child soldiers in the conflict in the east of the country (see section 1.g.).

Displaced Children: According to the Ministry of Social Policy, authorities registered more than 235,700 children as IDPs. Human rights groups believed this number was low, as children who fled without their parents cannot register as IDPs.
unless another relative officially files for custody, which can be a lengthy process. The majority of IDP children were from Donetsk and Luhansk Oblasts.

**Institutionalized Children:** The child welfare system continued to rely on long-term residential care for children at social risk or without parental care, although the number of residential care institutions continued to drop. During the year some 100,000 orphans and other children deprived of parental care lived and studied in various types of boarding schools. Approximately 90 percent of such children ended in the schools because of their parents’ poverty, their inability to raise children, or the child’s developmental disorders.

In recent years the government implemented policies to address the abandonment of children and their reintegration with their biological families. Consequently, the number of children deprived of parental care decreased. Human rights groups and media reported unsafe, inhuman, and sometimes life-threatening conditions in some institutions. Children institutionalized in state-run orphanages were at times vulnerable to trafficking. Officials of several state-run institutions and orphanages were allegedly complicit or willfully negligent in the sex and labor trafficking of girls and boys under their care.

Observers noted the judicial system lacked the expertise to work effectively with minors, and the legal process for juveniles emphasized punishment over rehabilitation. Supportive social services were often lacking, and children in custody or under supervision faced bureaucratic and social barriers to reintegration. Authorities viewed imprisonment as a form of supervision and punishment rather than correction and education.

**International Child Abductions:** The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State’s *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](travel.state.gov/content/childabduction/en/legal/compliance.html).

**Anti-Semitism**

According to census data and international Jewish groups, an estimated 103,600 Jews lived in the country, constituting approximately 0.2 percent of the population. According to the Association of Jewish Organizations and Communities (VAAD), there were approximately 300,000 persons of Jewish ancestry in the country, although the number may be higher. Before Russian aggression in eastern Ukraine, according to VAAD approximately 30,000 Jewish persons lived in the
Donbas. Jewish groups estimated between 10,000 and 15,000 Jewish residents lived in Crimea before Russia’s attempted annexation.

Jewish community leaders reported that societal anti-Semitism was low, and authorities took steps to address problems of anti-Semitism when they arose. Institutional anti-Semitism was rare, and VAAD stated that attacks were isolated and carried out by individuals rather than organized groups. VAAD claimed that negative attitudes towards Jews and Judaism continued to be low, although some individuals espoused anti-Semitic beliefs. VAAD believed that some attacks were provocations meant to discredit the government. In September the Jewish pilgrimage to the Uman burial site of Rabbi Nachman took place without significant incidents. On December 21, however, unknown individuals vandalized the site with a pig’s head and blood. Authorities opened an investigation into the incident and immediately condemned it.

In July authorities named a street in Kyiv after former Organization of Ukrainian Nationalists (OUN) leader, Stepan Bandera. In response according to press reports, more than 20 Ukrainian Jewish groups published a statement condemning, as a form of Holocaust denial, the naming of streets for leaders of the OUN and the Ukrainian Insurgent Army (UPA). Some international scholars also objected. At the same time, authorities also named a street in Kyiv in honor of Janusz Korczak, a Polish-Jewish writer who had died in Auschwitz.

According to the National Minority Rights Monitoring Group (NMRMG) supported by the Euro-Asian Jewish Congress and VAAD, one case of suspected anti-Semitic violence was recorded during the year, compared to one case of anti-Semitic violence in 2015, four such cases in 2014, and four in 2013. The NMRMG identified 18 cases of anti-Semitic vandalism during the year, as compared to 22 in 2015 and 23 in 2014. Graffiti swastikas continued to appear in Kyiv and other cities. On January 13, arsonists damaged a Jewish cemetery in Kolomiya, following similar attacks in 2015. On March 4, unknown persons set fire to a wreath left by the Israeli minister of justice at the Babyn Yar memorial. On April 15, vandals defaced a monument to the Holocaust in Cherkasy. In May, on Israel’s national memorial day for the Holocaust, an unknown group of persons burned an Israeli flag at the Babyn Yar memorial. There were reportedly several anti-Semitic incidents targeting the memorial during the year.

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. On September 29, the government
held a commemoration ceremony marking the 75th anniversary of the Babyn Yar massacre, during which 33,771 Jews were killed in two days during the Nazi German occupation.

**Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

**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. The government did not effectively enforce these provisions.

The law requires the government to provide access to public venues and opportunities for involvement in public, educational, cultural, and sporting activities for persons with disabilities. The law also requires employers to take into account the individual needs of employees with disabilities. The government generally did not enforce these laws. According to the Ministry of Social Policy, approximately 25 percent of persons with disabilities were employed.

Advocacy groups maintained that, despite the legal requirements, most public buildings remained inaccessible to persons with disabilities, restricting the ability of such persons to participate in society. Access to employment, education, health care, transportation, and financial services remained difficult (see section 7.d.).

There were reports of societal discrimination against persons with disabilities in places of public accommodation. For example, February media reports described how a young man in Lviv, who used a wheelchair, had been repeatedly denied membership in a fitness club since 2014. The club’s management gave several reasons for its refusal, including that his wheelchair could spread disease in the facility and that the man’s disability could scare off other patrons.

Inclusive education remained problematic. Authorities often did not integrate students with disabilities into the general student population. Only secondary schools offered classes for students with disabilities. State employment centers lacked resources to place students with disabilities in appropriate jobs.
NGOs noted 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.

Government policy favored institutionalization of children with disabilities over placement with their families. The state cared for more than 70,000 of the country’s estimated 150,000 children with disabilities, but lacked the legal framework and funds to deinstitutionalize them. 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 isolated and limited their professional opportunities in adulthood. Persons with disabilities in areas controlled by Russian-backed separatists in the east of the country suffered from a lack of appropriate care.

Patients in mental health facilities remained at risk of abuse, and many psychiatric hospitals continued to use outdated methods and medicines. According to the Ukrainian Psychiatric Association, 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.

Government monitors observed incidents of involuntary seclusion and application of physical restraints to persons with mental disabilities at psychiatric and neuropsychiatric institutions of the Ministry of Social Policy. Health-care authorities placed patients in isolated and unequipped premises or even metal cages, where authorities held them for long periods without proper access to sanitation.

By law employers must set aside 4 percent of employment opportunities for persons with disabilities. NGOs noted that many of those employed to satisfy the requirement received nominal salaries but did not actually work at their companies.

On September 7, parliament adopted legislation to harmonize the country’s law with international standards with respect to the rights of persons with disabilities.

**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 observed that overall xenophobic incidents declined slightly during the year.

The law criminalizes deliberate actions to incite hatred or discrimination 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. 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 of 3,400 to 8,500 hryvnias ($126 to $315) or imprisonment for up to five years.

Human rights organizations stated that the requirement to prove actual intent, including proof of premeditation, to secure a conviction made application of the law difficult. Authorities did not prosecute any of the criminal proceedings under the laws on racial, national, or religious offenses. Police and prosecutors continued to prosecute racially motivated crimes under laws against hooliganism or related offenses.

According to the Prosecutor General’s Office, authorities registered 58 criminal investigations involving racial, national, or religious hatred during the first nine months of the year. Of these cases 13 were closed and 15 were forwarded to court. The International Organization for Migration (IOM), reported as of October 31, 10 documented cases of violence against racial or ethnic minorities that involved 17 victims. Victims of the attacks were from Afghanistan, the Democratic Republic of the Congo, Ghana, Jordan, Nigeria, and Syria, as well as citizens of Tajik, Jewish, and Muslim descent. Most of the incidents occurred in Dnipropetrovsk, Kyiv, Kharkiv, and Odesa. There were cases of vandalism, including arson, targeting Jewish and Romani property in the Dnipropetrovsk, Cherkasy, and Zakarpatty Oblasts and in Kyiv, Lviv, Odesa, and Mykolaev.

On January 4, the Pechersk District Court in Kyiv sentenced a participant in a racist attack at a Dynamo Kyiv football match to two years in prison. Investigations into other persons involved remained open.

Roma continued to face governmental and societal discrimination. Romani rights groups estimated the Romani population at between 200,000 and 400,000. Official census data placed the number at 47,600. The discrepancy in population estimates was due in part to a lack of legal documentation for many 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 were mainly located in the Zakarpattya, Poltava, Cherkasy, Volyn, Dnipropetrovsk, and Odesa Oblasts. Roma experienced significant barriers accessing education, health care, social services, and employment due in part to discriminatory attitudes against them.

There were reports of societal violence against Roma during the year, including cases in which police declined to intervene to stop the violence. On August 27, police failed to stop a mob from attacking a Romani settlement near Loshchynivka, Odesa Oblast, and watched while the mob vandalized Romani homes and set at least one on fire. The mob formed in reaction to the news that police arrested a man of Romani heritage in connection with the killing and rape of a local nine-year-old girl. In subsequent days local authorities announced a plan to evict Roma from their homes forcibly but cancelled the plans after the majority of recently arrived Roma fled of their own accord. Odesa’s regional governor, Mikhail Saakashvili, appeared to condone the evictions, stating, “I fully share the outrage of the residents of Loshchynivka…there is massive drug-dealing in which the antisocial elements that live there are engaged. We should have fundamentally dealt with this problem earlier--and now it’s simply obligatory.”

There were several reports during the year that police arbitrarily detained Romani individuals, at times beating or mistreating them.

While the government in 2013 adopted a seven-year action plan to implement a strategy for protecting and integrating Roma into society, the European Roma Rights Center (ERRC) reported that it had not led to significant improvements for Roma. The ERRC monitored the plan in collaboration with the International Renaissance Foundation. According to human rights groups, the government did not allocate funds for the plan’s implementation.

According to parliament’s ombudsman for human rights, 24 percent of Roma have never had any schooling, and only 1 percent of the Romani population had a university degree. Approximately 31 percent of Romani children did not attend school. According to the ERRC, more than 60 percent of Roma were unemployed, creating a vicious cycle leading to social exclusion and marginalization. According to the ombudsman, securing employment was the main problem for the Romani minority. Approximately 49 percent of Roma named it as their most significant challenge.

According to the Romani women’s foundation, Chiricli, local authorities erected a number of barriers to prevent issuing passports to Roma. Authorities hampered
access to education for persons who lacked documents and segregated Romani children into special schools or lower-quality classrooms.

During the year many Roma fled settlements in areas controlled by Russian-backed separatists and moved elsewhere in the country. According to Chiricli approximately 10,000 Roma were among the most vulnerable members of the country’s IDP community. Because many Roma lacked documents, obtaining IDP assistance, medical care, and education was especially difficult.

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

The labor code prohibits workplace discrimination on the basis of sexual orientation and gender identity. No law, however, prohibits such discrimination in other areas. LGBTI groups, along with international and domestic human rights organizations, criticized the lack of such language in the *National Human Rights Strategy*, although the action plan for implementation included provisions for incorporating LGBTI rights.

There was sporadic violence against LGBTI persons. For example, on February 28, hooligans assaulted two persons in Odesa after calling them a derogatory slur. While homophobic threats from right-wing nationalist groups continued, their presence at festivals and marches was often limited to several dozen counterprotesters. Although leading politicians and ministers condemned attacks on LGBTI gatherings and individuals, local officials sometimes voiced opposition to LGBTI rights and failed to protect LGBTI persons.

Overall, LGBTI groups enjoyed greater freedom to assemble than in past years. In most cases security forces and local officials deployed adequate security forces to prevent violence and protect conferences and marches. For example, security forces provided protection to an equality march in Kyiv on June 6 and a pride march in Odesa on August 11. In the case of the equality march, authorities deployed more than 6,000 security personnel, protecting more than 2,000 marchers including members of parliament. Police also adequately protected the equality festivals in Kyiv in May, in Dnipro in July, and in Zaporizhzhya in September. During an equality festival in Kyiv, right-wing groups telephoned a bomb threat. Instead of cancelling the event, security forces cleared the building, allowing the event to continue.
One notable exception was the Lviv equality festival on March 19. Hotels and conference spaces refused to honor reservations made by the festival, allegedly under pressure from city officials, who then banned all public gatherings. After the festival relocated to another hotel, security officials allowed right-wing radicals to threaten participants. After a bomb threat cancelled the conference, security forces evacuated participants on buses and took no action to prevent attacks from radicals, who threw rocks and firecrackers. Security forces failed to take action against right-wing groups that “went on safari,” seeking persons suspected of being LGBTI for attack throughout the next day. According to civil society groups, assailants injured five persons after the festival.

Nash Mir LGBT Human Rights Center reported 215 instances in which persons allegedly violated the rights of LGBTI persons in the country between January and September, including 133 instances of threats and 79 instances of violence, many related to attacks in and around the Lviv equality festival. Nash Mir stated that while the number of incidents increased, there were no reports of murder or grievous harm done to LGBTI persons in the first half of the year. Crimes and discrimination against LGBTI persons remained underreported, however; and law enforcement authorities only opened 17 cases related to such acts. Nash Mir stated that extortion remained a problem and anti-LGBTI groups employed social media to entrap LGBTI persons.

Transgender persons continued to face discrimination and stereotyping in media. Medical policies towards transgendered persons improved somewhat, as, individuals no longer had to undergo sex reassignment surgery to change their names and genders officially and could do so with counseling and hormone therapy. This procedure was approved by the Ministry of Health and registered with the Ministry of Justice during the year. Regulations still prevent reassignment for married individuals and those with minor children. Transgender persons claimed to have difficulty obtaining official documents reflecting their gender.

According to Nash Mir, the situation of LGBTI persons in Russian-occupied Crimea and parts of Donetsk and Luhansk Oblasts under the control of Russian-backed separatists was very poor. Most LGBTI persons either fled or have hidden their gender identity. According to a report published by the Center for Civil Liberties and Memorial’s Antidiscrimination Center in Saint Petersburg, violence and intimidation against LGBTI persons in territories controlled by Russian-backed separatists in Donetsk and Luhansk Oblasts was widespread and encouraged by Russian and Russian-backed authorities. According to the report, the Occupy Pedophilia movement was active and tolerated by local and Russian
authorities. The group used social media to identify LGBTI persons and then abused them physically and verbally. According to the report, a foreign victim was beaten and forced to perform degrading acts. The report also claimed that Russian-backed separatists forced suspected LGBTI persons to dig trenches for military fortifications if ransoms were not paid.

There was overall improvement during the year in social attitudes towards homosexuality and a decline in homophobic rhetoric from churches and leading political figures, and increasing numbers of Verkhovna Rada members voiced support for LGBTI rights. Seven Verkhovna Rada members participated in the June equality march in Kyiv.

**HIV and AIDS Social Stigma**

UNICEF reported that children with HIV/AIDS were at high risk of abandonment, social stigma, and discrimination. Authorities prevented many children infected with HIV/AIDS from attending kindergartens or schools. They were subjected to neglect and 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 its prevention and treatment. Persons with HIV/AIDS faced discrimination and, at times, lacked access to treatment.

**Section 7. Worker Rights**

**a. Freedom of Association and the Right to Collective Bargaining**

The constitution provides for freedom of association as a fundamental right and establishes the right to participate in independent trade unions. The law also provides for the right of most workers to form and join independent unions, to bargain collectively, and to conduct legal strikes. There are no laws or legal mechanisms to prevent antiunion discrimination, although the labor code 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 observers described court enforcement as arbitrary and unpredictable, with damages too low to create incentives for compliance on the part of employers.

The law contains several limits to freedom of association and the right to collective bargaining. A number of laws that apply to worker organizations are excessively complex and contradictory. 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. Efforts to reform legal entity registration complicated registration specifically for trade unions. Independent unions reported multiple incidents of harassment by local law enforcement officials while navigating the registration process, including nonstandard requests for documentation and membership information.

The legal procedure to initiate a strike was overly complex and effectively prohibited strike action in practice, contributing to increasing numbers of informal industrial actions. By law industrial disputes should follow procedures of consideration, conciliation, and labor arbitration that parties can draw out for months. Only after the exhaustion of this process are workers able to vote to strike, which courts may still block. The right to strike is also restricted by the requirement that a large percentage of the workforce (two-thirds of general workers’ meeting delegates or 50 percent of workers in an enterprise) must vote in favor of a strike before it may be called. Poorly defined legal grounds for striking allowed the government the possibility to deny the right to strike due to national security or to protect the health or “rights and liberties” of citizens. Additionally, the law prohibits strikes by overly broad categories of workers, including personnel in the Prosecutor General’s Office, the judiciary, the armed forces, the security services, law enforcement agencies, the transportation sector, and the public service sector.

In 2014 the European Court of Human Rights adjudicated restrictions in the transportation sector, declaring restrictions on strikes in the sector illegal. The decision required the government to amend legislation in conformity with the ruling, but, as of December, it had not done so. Transportation-sector workers could also refer to the Law on Transport, which regulates the strikes in the transport sector and allows strikes in case of nonfulfillment of administrative duties by employer.

Legal hurdles also made it difficult for independent unions, those not affiliated with the Federation of Trade Unions of Ukraine (FPU), to take part in tripartite negotiations, participate in social insurance programs, or represent labor at the national and international levels. These legal hurdles, set in place by outdated laws and an obsolete labor code, further entrenched the FPU and hindered the ability of smaller independent unions to act effectively when representing their members. Authorities did not enforce labor laws effectively or consistently. On the regulatory side, inspectors were limited in number and funding (also see section
Throughout the year the labor inspection service continued to be functionally suspended due to an incomplete reorganization.

Observers disputed the independence of unions from government or employer control. Independent trade unions alleged that the country’s largest trade union confederation, the FPU, enjoyed a close relationship with employers and members of some political parties. Authorities further denied unions not affiliated with the FPU a share of disputed trade union assets inherited by the FPU from Soviet-era unions, a dispute dating back more than a decade.

Statutory worker-management commissions were not always effective. Management at times dominated the commissions. There were cases where workers who renounced membership in an FPU-affiliated union and joined an independent union faced loss of pay, undesirable work assignments, and dismissal.

Several pieces of legislation passed during the year weakened protection of freedom of association, including the aforementioned law complicating trade union registration and a law complicating the tax status of trade unions.

Independent union representatives continued to be subjected to violence and intimidation. In January the deputy head of the Kryvyi Rih, Dnipropetrovsk chapter of the Independent Trade Union of Miners of Ukraine (NPGU), Elena Maslova, was beaten on her way home from work. NPGU president, Mykhaylo Volinets, claimed the attack was in response to Maslova’s union activities. The union reported that authorities have not identified any perpetrators and did not investigate the attack.

In February the president of the Novovolinsk chapter of the NPGU, Anatoliy Muhomedzhanov, was beaten in the office of the mine’s director. The trade union alleged that multiple witnesses saw who beat him, but police did not pursue the incident.

Arrears and corruption issues exacerbated industrial relations and led to numerous protests. In August the NPGU leader in Selidovo and Novogrodifka, Victor Trifonov, set himself on fire during a sit-in in the Kyiv building of the Ministry of Energy and Coal of Ukraine. In response government officials accused trade union members of siding with separatists in the east of the country.

In September the president of the Free Health-care Workers Union, Oleg Panasenko, reported that unknown persons destroyed a union protest camp at the
entrance of the Ministry of Health, while police were present and failed to intervene.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. Penalties for violations ranged from three to 15 years imprisonment and were sufficiently stringent to deter violations, but resources, inspections, and remediation were inadequate to provide for enforcement. In the first nine months of the year, the IOM assisted 777 victims of trafficking in the country: 312 women and 465 men. Approximately 93 percent of the victims had been subjected to labor exploitation.

There were reports of trafficking of women, men, and children for labor. Traffickers subjected some foreign nationals to forced labor in construction, agriculture, manufacturing, domestic work, the lumber industry, nursing, and street begging. Traffickers subjected some children to forced labor (see section 7.c.) The government made minor efforts to prevent or eliminate forced labor, citing a lack of budgetary resources.

According to the IOM, identified victims of trafficking received comprehensive reintegration assistance, including legal aid, medical care, psychological counseling, financial support, vocational training, and other types of assistance based on individual needs.

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

c. Prohibition of Child Labor and Minimum Age for Employment

The law sets 16 as the minimum age for most employment. Children who are 15 years of age may perform undefined “light work” with a parent’s consent, leaving the issue open to interpretation by employers and opening the system to abuse. The law allows children to do some forms of “nonhazardous” work beginning at 14 as part of an apprenticeship in the context of vocational training.

The government did not effectively enforce the law due to a lack of resources within the Ministry of Social Policy and a continued moratorium on surprise labor inspections for much of the year. Penalties for violations ranged from small fines for illegitimate employment or other labor law violations to prison sentences for sexual exploitation of a child or involvement of a child in illicit activities or
pornography; they were insufficient to deter violations. The penalty for forcing children to beg is imprisonment for up to three years.

The most frequent violations of child labor laws related to work in hazardous conditions, long workdays, failure to maintain work records, and delayed salary payments.

As of September 20, the territorial bodies of the State Service on Labor had conducted 2,547 inspections in which they examined compliance with child labor laws. The inspections found 112 instances of the use of child labor and 105 violations of the law. The businesses inspected included 17 agricultural enterprises, 24 trade companies, 35 service providers, and 36 companies in other sectors. The inspections uncovered 252 working minors, of whom 56 were 14 to 15 years old and 196 were 16 to 18 years old.

There were reports of child soldiers among the Russian-backed separatist forces in the east of the country (see section 1.g., Child Soldiers).

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The labor code prohibits discrimination in the workplace based on race, color, political, religious and other beliefs, sex, gender identity, sexual orientation, ethnic, social, and foreign origin, age, health, disability, HIV/AIDS condition, family and property status, or linguistic or other grounds.

The government did not effectively enforce the law, and discrimination in employment and occupation reportedly occurred with respect to gender, disability, nationality, race, minority status, sexual orientation or gender identity, and HIV-positive status. The agriculture, construction, mining, heavy industry, and services sectors had the most work-related discrimination. The law provides for civil, administrative, and criminal liability for discrimination in the workplace. Penalties include a fine of up to 50 tax-free minimum incomes, correctional labor for a term of up to two years or restraint of liberty for a term up to five years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years. Such actions accompanied by violence, are punishable by correctional labor for a term of up to two years, imprisonment for a term of up to five years, or imprisonment for a term of two to five years, if such
actions were committed by an organized group of persons or if they caused death or other grave consequences.

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. According to the Human Rights Ombudsman’s Office, men earned on average 29.5 percent more than women. Domestic and international observers noted that women held few elected or appointed offices at the national and regional levels. Additionally, the law limits women’s employment opportunities and prohibits women from engaging in more than 500 occupations, including bulldozer operator and bus driver.

e. Acceptable Conditions of Work

The monthly minimum wage was 1,378 hryvnias ($51) from January 1 through April 30; it rose to 1,450 hryvnias ($54) on May 1 and to 1,600 hryvnias ($59) on December 1. As of January 1, 2017, the minimum wage for private-sector workers is to increase to 3,200 hryvnias ($119) according to the 2017 draft budget. The hourly minimum wage was 8.29 hryvnias ($0.31) from January through April and rose to 8.69 hryvnias ($0.32) on May 1 and to 9.29 hryvnias ($0.34) on December 1. Some workers in the informal sector received wages below the established minimum. The poverty income level rose during the year from 1,330 hryvnias ($49) per month to 1,399 hryvnias ($52) during the year.

The labor law provides for a maximum 40-hour workweek, with a minimum 42-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 agreement between employers and the respective local trade union organization on all overtime work and limits overtime to four hours during two consecutive days and 120 hours per year.

Wage arrears continued to be a major problem during the year. A lack of legal remedies, bureaucratic wrangling, and corruption in public and private enterprises, often blocked efforts to recover overdue wages, leading to significant wage theft.

In July the NPGU reported that arrears in the coal sector reached almost 496 million hryvnias ($18.4 million). Arrears and corruption issues exacerbated industrial relations and led to numerous protests.
Total wage arrears in the country rose during the year to 1.9 billion hryvnias ($70 million) as of September 1. More than half of the debt was in the Luhansk (23.2 percent), Donetsk (19.6 percent), and Kharkiv (10.1 percent) regions.

The law requires employers to provide safe workplaces. While the law and associated regulations contain occupational safety and health standards, employers frequently ignored them due to the lack of enforcement mechanisms and the government’s failure to hold employers accountable for unsafe conditions. The law provides workers the right to remove themselves from dangerous working conditions without jeopardizing their continued employment. According to one NGO, employers in the metal and mining industries often violated the rule and retaliated against workers by pressuring them to quit.

Penalties for violations ranged from 510 to 1,700 hryvnias ($19 to $63), which were insufficient to deter violations. The State Labor Inspectorate was responsible for enforcing labor laws. Inspectors were limited in number and funding. By 2014, the latest date for which such data were available, the number of inspectors had dropped to 457 from 616, in large part due to a 70 percent funding cut that year.

The government did not effectively enforce minimum wage, hours of work, and occupational safety and health standards in all sectors, including the informal economy. Penalties for violations included fines of 50 to 100 tax-free minimum incomes, limitations on the right to occupy positions of responsibility or to engage in some activities for three to five years, correctional labor for up to two years, or arrest for up to six months if the actions committed affected a minor or a pregnant woman. It is impossible to determine whether these penalties were enough to deter violations as with little to no inspection regime, coupled with a largely nonfunctioning reporting mechanism, it was difficult for the government to detect violations. The government has had a moratorium in place on surprise inspections since 2014, with the goal of cutting the number of required inspections and certifications, deregulating the economy, and preventing corruption. The moratorium constrained the government’s ability to enforce labor laws effectively. During this period authorities required the State Labor Service and its predecessor, the State Labor Inspectorate, to pursue a lengthy interagency process to obtain permission from the Cabinet of Ministers to conduct an inspection. Labor inspections could also occur at a company’s request or upon the formal request of the investigator in the framework of criminal proceedings against a company.
Lax safety standards and aging equipment caused many injuries on the job. Wage arrears, nonpayment of overtime, operational safety problems, and health complaints were common in the mining industry.

Mineworkers, particularly in the illegal mining sector, faced very serious safety and health problems. Through September there were 144 incidents resulting in mining injuries, including 17 fatalities, or approximately 8 percent fewer injuries but 54 percent more fatalities than in the same period in 2015. During the same period, authorities reported 635 individual injuries to coal miners, or almost 17 percent above the same period in 2015. Also through September there were 3,168 occupational injuries for all employment types (including 298 fatalities), which was 0.5 percent (11 percent) above the same period in 2015. Workers faced unsafe situations in areas outside government control in the Donetsk and Luhansk Oblasts.

Despite Russian aggression close to industrial areas in the Donbas region, enterprises involved in mining, energy, media, retail, clay production, and transportation continued to operate through December. Fighting resulted in physical damage to mines and plants through loss of power, destroyed transformers, physical damage from shelling, and reportedly intentional flooding of mines by combined Russian-separatist forces. Miners were especially vulnerable, as loss of electrical power could strand them underground. Additionally, loss of electrical power threatened the operability of mine safety equipment that prevented the buildup of explosive gases.

CRIMEA

In February 2014 Russian forces entered Ukraine’s Crimean Peninsula and occupied it militarily. In March 2014 Russia announced the peninsula had become part of the Russian Federation following a sham referendum that violated Ukraine’s constitution. On March 27, 2014, the UN General Assembly adopted Resolution 68/262 on the “Territorial Integrity of Ukraine,” which called on states and international organizations not to recognize any change in Crimea’s status and affirmed the commitment of the UN to recognize Crimea as part of Ukraine. In April 2014 Ukraine’s legislature (Verkhovna Rada) adopted a law attributing responsibility for human rights violations in Crimea to the Russian Federation as the occupying state. The United States does not recognize the attempted “annexation” of Crimea by the Russian Federation. Russian law has de facto applied in Ukraine’s Crimea since the Russian occupation and purported “annexation” of the peninsula. For detailed information on the laws and practices of the Russian Federation, see the Country Reports on Human Rights for Russia.
EXECUTIVE SUMMARY

A local authority installed by the Russian government and led by Sergey Aksyonov as “prime minister” of the “state council of the republic of Crimea” administered occupied Crimea. The “state council” was responsible for day-to-day administration and other functions of governing. On September 18, Russia’s nationwide parliamentary elections included seats allocated for occupied Crimea, a move widely condemned by the international community. “Authorities” closed the election to independent observers; it was not free and fair and was held in contravention of the Ukrainian constitution.

Russian authorities maintained control over Russian military and security forces deployed in Crimea.

Russian security services continued to consolidate control over Crimea and restrict human rights. Occupation authorities imposed and disproportionately applied repressive Russian Federation laws on the Ukrainian territory of Crimea.

The most significant human rights problems in Crimea during the year related directly to the Russian occupation.

Russian security services engaged in an extensive campaign of intimidation to suppress dissent and opposition to the occupation that employed kidnappings, disappearances, physical abuse, political prosecution, repeated interviews, and interrogations by security forces. Russian security forces routinely detained individuals without cause and harassed and intimidated neighbors and family of those who opposed the occupation.

Occupation authorities deprived members of certain groups, particularly ethnic Ukrainians and Crimean Tatars, of fundamental civil liberties, including the freedom to express their nationality and ethnicity, subjecting them to systematic discrimination. On May 12, Russian authorities banned the Crimean Tatar Mejlis, a democratically elected body representing the Crimean Tatar people, claiming it was an extremist organization, and prohibited all meetings, gatherings, or financial activities of the group. Continuing their policy of imposing Russian citizenship on all residents of Crimea, occupation authorities subjected persons who refused Russian citizenship to discrimination in accessing education, health care, and employment. They also interfered with freedom of expression and assembly, criminalizing the display of cultural and national symbols, preventing groups of
private individuals from celebrating their national and cultural heritage, and restricting access to education in Ukrainian and Crimean Tatar languages.

Russian authorities engaged in a widespread campaign to suppress free speech and media in Crimea. Independent media ceased to operate in Crimea. Occupation authorities questioned, detained, and charged with extremism the few remaining independent journalists who worked independently, often merely for expressing their belief that Crimea remained part of Ukraine.

Other problems included poor conditions in prisons and pretrial detention facilities; political interference in the judicial process; limitations on freedom of movement; the internal displacement of thousands of individuals to government-controlled Ukraine; failure to allow residents of Ukraine’s region of Crimea to exercise the ability to vote in periodic and genuine elections to choose their leaders; official corruption; discrimination and abuse of ethnic and religious minority groups; discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; kidnapping and transport of orphans to Russia by occupation authorities; and employment discrimination against persons who did not hold a Russian passport.

Russian-installed authorities took few steps to investigate or prosecute officials or individuals who committed human rights abuses, creating an atmosphere of impunity and lawlessness. Occupation and local “self-defense” forces often did not wear insignia and committed abuses with impunity.

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

a. Arbitrary Deprivation of Life and other Unlawful or Politically Motivated Killings

Russian occupation authorities did not adequately investigate cases of abductions and killings of Crimean residents from 2014 and 2015. According to the Ukrainian Ministry of Foreign Affairs, 12 Crimean residents who had disappeared during the occupation were later found dead. Occupation authorities did not investigate other suspicious deaths and disappearances, occasionally categorizing them as suicide. Human rights observers reported that families frequently did not challenge findings in such cases due to fear of retaliation.

b. Disappearance
According to the Ukrainian Ministry of Foreign Affairs and the Crimean Tatar Mejlis, as of October 1, 28 persons had disappeared since the occupation of Crimea, including 12 later found dead. Russian occupation authorities did not adequately investigate the deaths and disappearances. Human rights groups reported that police often refused to register reports of disappearances and intimidated and threatened with detention those who tried to report a disappearance. Ukrainian government and human rights groups believed Russian security forces kidnapped the individuals for opposing Russia’s occupation to instill fear in the population and prevent dissent.

On May 24, a group of uniformed men kidnapped Ervin Ibragimov, a member of the Bakhchisaray Mejlis and of the Coordinating Council of the World Congress of Crimean Tatars, after stopping his car on a road outside Bakhchisaray. Footage from a closed-circuit television camera showed the men forcing Ibragimov into a car and departing. According to the Crimea Human Rights Group, the men wore uniforms of the Ministry of Internal Affairs’ traffic police. According to the HRMMU, on May 25, Ibragimov’s father went to the Federal Security Service (FSB) in Simferopol to file a complaint and provide the television footage. The FSB officers allegedly refused to file the complaint and told him to send it by mail. A week before he disappeared, Ibragimov told friends that he had noticed a car waiting outside his house that later followed him during the day. Ibragimov had planned to travel to the town of Sudak on May 25 to attend the court hearing of a group of Crimean Tatars charged for holding an “unauthorized” gathering on May 18 to mark Crimean Tatar Deportation Remembrance Day. On June 1, Ibragimov’s employment record book and passport were found near a bar in Bakhchisaray. While occupation authorities opened an investigation into the case, according to the Crimea Human Rights Group, they specifically excluded the possibility of a political motivation for the disappearance or of state involvement.

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

There were widespread reports that Russian authorities in Crimea abused residents who opposed the occupation. Human rights monitors reported that Russian occupying forces subjected Crimean Tatars and ethnic Ukrainians in particular to physical abuse. For example, on June 11, Ukrainian blogger and activist, Yuri Ilchenko, escaped from house arrest in Sevastopol and fled across the administrative boundary to government-controlled Ukraine. Ilchenko had been awaiting trial on extremism charges from February 2015 for his online writings expressing his opposition to the occupation of Crimea. Ilchenko and his parents
claimed to be the first individuals in Sevastopol formally to decline taking Russian citizenship. In August he gave several accounts to the press describing his mistreatment during detention in a pretrial facility in Simferopol that lasted from February 2015 through June 2. Ilchenko claimed that security officials had repeatedly beaten him and collaborated with other inmates to continue beatings and threats while he was in detention, to coerce him explicitly into taking Russian citizenship, and to punish him for speaking Ukrainian. He claimed they forced him to remain awake for days and beat him when he fell asleep in retaliation for refusing to wear a “St. George’s ribbon,” a Russian military symbol. Ilchenko claimed occupation authorities denied him clothing, bedding, and medical care.

Occupation authorities demonstrated a pattern of using punitive psychiatric incarceration as a means of pressuring detained individuals, including in the case of Ilmi Umerov (see section 1.d.). For example, on November 3, authorities ordered that six Crimean Tatar defendants accused of belonging to Hizb-ut-Tahrir be subjected to psychiatric evaluation and confinement against their will without apparent medical need (see section 1.d.).

Human rights monitors reported that occupation authorities also threatened individuals with violence or imprisonment if they did not testify in court against individuals that authorities believed were opposed to the occupation.

**Prison and Detention Center Conditions**

**Physical Conditions:** Prison and detention center conditions reportedly remained harsh and overcrowded. In June the director of the Russian Federal Prison System stated that Crimea lacked sufficient prison facilities and that there were twice as many inmates as there were cells necessary to house them. Human rights groups reported that prisons suffered from overcrowding and poor conditions.

According to a 2015 report on Crimea by the OSCE’s Office of Democratic Institutions and Human Rights (ODIHR) and the OSCE High Commissioner on National Minorities, health care in prisons had deteriorated since the occupation began. Yuri Ilchenko reported that prisoners in the Simferopol pretrial detention facility lacked proper food, sanitation, and health care. On March 1, the Crimea Human Rights Group reported that a group of four Crimean Tatars detained in February on politically motivated “terrorism” charges were living in cells in a Simferopol pretrial facility that were infested with fleas and bedbugs, were forced to sleep in shifts on a single filthy bed, and given food that contained cockroaches.
Administration: According to the 2015 OSCE/ODIHR report, persons incarcerated during the Russian occupation did not have the opportunity to retain Ukrainian citizenship. Russian authorities compelled all individuals who were in prison or pretrial facilities when the occupation began to accept Russian citizenship. As of August the Human Rights Ombudsman’s Offices of Ukraine and Russia were working on a solution that would allow some prisoners to return to Ukraine.

Independent Monitoring: Occupation authorities did not permit monitoring of prison or detention center conditions by independent nongovernmental observers or international organizations. Occupation authorities permitted “human rights ombudsman,” Ludmila Lubina, to visit prisoners, but human rights activists regarded Lubina not as an independent actor but as representing the interests of the occupation authorities.

d. Arbitrary Arrest or Detention

Occupation authorities arbitrarily detained protesters, activists, and journalists for opposing the Russian occupation.

Role of the Police and Security Apparatus

Russian government agencies, including the Ministry of Internal Affairs, the FSB, the Federal Investigative Committee, and the Office of the Prosecutor General applied and enforced Russian law in Crimea. The FSB also conducted security, counterintelligence, and counterterrorism activities and combatted organized crime and corruption. A “national police force” operated under the aegis of the Russian Ministry of Internal Affairs.

In addition to abuses committed by Russian forces, “self-defense forces,” largely consisting of former Ukrainian Ministry of Interior officers allegedly linked to local organized crime, reportedly continued to operate and commit abuses. These forces often acted with impunity in intimidating perceived occupation opponents and were involved in extrajudicial detentions and arbitrary confiscation of property. While the “law” places the “self-defense forces” under the authority of the “national police,” their members continued to commit abuses while receiving state funding for their activities as well as other rewards, such as beachfront property and service medals. For example, on December 8, members of “self-defense” forces allegedly beat two residents of the village of Shchelkino. Police arriving at the scene declined to arrest members of the self-defense forces. An investigation into the incident continued.
Arrest Procedures and Treatment of Detainees

Arbitrary Arrest: There were reports that Russian occupation authorities made arbitrary arrests, in particular targeting Crimean Tatars.

On May 12, police arrested Ilmi Umerov, a member of the Crimean Tatar Mejlis, accusing him of “undermining the territorial integrity of the Russian Federation” for stating that Crimea remains part of Ukraine. Umerov, who suffered from health problems, has since been taken from court hearings in poor health. On August 18, Umerov was forcibly subjected to psychiatric hospitalization, ostensibly for an examination, exacerbating his health problems. On September 7, occupation authorities released him from the hospital following international publicity over the case. At year’s end his case remained in pretrial investigation.

As of October 25, occupation authorities had arrested 19 Crimean residents, mostly Crimean Tatars, accusing them of belonging to Hizb-ut-Tahrir, a pan-Islamic organization prohibited in Russia but not Ukraine. Human rights groups believed occupation authorities intended to intimidate Crimean Tatars, discredit the Mejlis leadership, and instill fear in the local population to prevent dissent through the arrests.

Russian authorities continued to detain Akhtem Chiygoz, the deputy leader of the Crimean Tatar Mejlis. Russian authorities arrested Chiygoz in January 2015 and charged him with “inciting a mass riot” during protests he organized at the Crimean parliament in 2014 that were disrupted by pro-Russian activists, resulting in clashes between the groups. Subsequently, occupation authorities prosecuted individuals alleged to have participated in the protest, although Russia did not exercise control over Crimea at the time. Human rights groups reported that authorities reviewed video of the incident and selectively brought charges against leading Crimean Tatar and Ukrainian individuals who subsequently opposed the occupation, in particular members of the Crimean Tatar Mejlis. Video footage shows Chiygoz and other Crimean Tatar leaders working to defuse tensions in the hopes of avoiding clashes with counterprotesters. Occupation authorities refused to investigate acts of violence committed by pro-Russian “protesters,” who were likely working for Russian security services according to independent observers. On December 12, authorities extended Chiygoz’s detention until April 2017.

Throughout the year Russian authorities conducted mass arrests designed to humiliate and intimidate Crimean Tatars. On April 1, Russian security forces
detained 35 men, mostly Crimean Tatars, in Pionierske, took them to a “center to combat extremism,” and collected DNA samples from them. Human rights groups claimed that Russian security forces attempted to recruit some as police informants. On May 6, Russian security forces detained more than 100 Crimean Tatars at a mosque in Molodizhne. On May 7, Russian security forces detained another 35 Muslims, many of whom were Crimean Tatars, at a market in Simferopol.

e. Denial of Fair Public Trial

Under the Russian occupation regime, the “judiciary” was neither independent nor impartial.

Trial Procedures

See the *Country Reports on Human Rights* for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Political Prisoners and Detainees

Russian occupation authorities routinely detained and prosecuted individuals for political reasons (see section 1.d.). They also transferred Crimean cases to Russia’s legal system and changed the venue of prosecution for some detainees. Human rights groups identified several dozen Crimean residents as political prisoners held in either Crimea or Russia. These included: Oleg Sentsov, Oleksander Kolchenko, Oleksiy Chirniy, Oleksander Kostenko, Ilmi Umerov, Akhtem Chiygoz, Ali Asanov, Mustafa Dehermedzhy, Mykola Semena, Andrii Kolomiets, Ruslan Zaytullaev, Rustam Vaytov, Nuri Primov, Ferat Sayfullaev, Enver Bekirov, Vadim Siruk, Muslim Aliev, Emir-Ussein Kuku, Refat Alimov, Arcen Dzhepparov, Enver Mamutov, Remzi Memetov, Zevri Abseitov, Rustem Abultarov, and others.

According to Mejlis member Gayana Yuksel, as of October 26, occupation authorities have deprived 67 Crimean Tatar children of a parent because of politically motivated imprisonment since the start of the occupation.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence
Occupation authorities and others engaged in electronic surveillance, entered residences and other premises without warrants, and harassed relatives and neighbors of perceived opposition figures.

Russian occupation authorities routinely conducted raids on homes to intimidate the local population, particularly Crimean Tatars and ethnic Ukrainians, ostensibly on the grounds of searching for weapons, drugs, or “extremist literature.” In its June report, the HRMMU expressed concern about “the growing number of large scale ‘police’ actions conducted with the apparent intention to harass and intimidate Crimean Tatars and other Muslim believers.” On February 11 and 12, Russian occupation authorities raided Crimean Tatar villages in the Yalta and Bakhchisaray regions. According to the Crimea Human Rights Group, men with guns and in balaclavas burst into homes and in some cases broke through doors or windows, despite encountering no resistance from the residents. Between April 16 and 20, authorities conducted several raids on Crimean Tatar homes in the Alyushta region. According to press reports, police entered Crimean Tatar homes and demanded to know how many persons lived in the house, where they went shopping, where their children studied, and who sold drugs in the village. They also demanded to inspect gardens and greenhouses.

Human rights groups reported that Russian authorities had widespread authority to tap telephones and read electronic communications and had established a network of informants to report on suspicious activities. According to Mejlis members, Russian authorities had invited hundreds of Crimean Tatars to “interviews” where authorities played back the interviewees’ telephone conversations and read their e-mail aloud. Media reported that in July the FSB interviewed a doctor in a Feodosia hospital after a colleague had denounced him for privately expressing pro-Ukrainian views. The doctor stated that posters in the hospital hallways advertised an FSB hotline. The eavesdropping and visits by security personnel create an environment in which persons are afraid to voice any opinion contrary to the occupation authorities, even in private.

According to press reports, on January 22, the Russian FSB sent a notice to all post offices in Crimea containing a list of individuals deemed “extremist,” but which was in fact a list of individuals known to oppose the occupation, with instructions to report to the FSB any correspondence sent or received by these individuals.

Occupation authorities harassed family members of a number of political opponents. On February 2, Russian migration and security officials questioned Erol Abdulzhelilov, grandson of Crimean Tatar leader Mustafa Jemilev,
demanding his passport and summoning him to a police station. On February 18, Russian authorities summoned Yevgeny Kostenko, the brother of Oleksander Kostenko, imprisoned on political grounds, and threatened him with a forced psychiatric examination when he refused to answer questions. On September 26, occupation authorities pressured the young children of imprisoned Crimean Tatar activist, Emir-Ussein Kuku, to make statements about Kuku that could be used to strip him of his parental rights.

Following the sabotage of electrical lines from government-controlled territory to occupied Crimea, Russian officials cut power and natural gas to the homes of Crimean Tatar Mejlis members in retaliation.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Occupation authorities significantly restricted freedom of speech and press, and subjected dissenting voices to harassment and prosecution. They refused to register independent print and broadcast media outlets, forcing them to cease operations. Threats and harassment against international and Ukrainian journalists were common.

Freedom of Speech and Expression: Individuals could not publicly criticize the Russian occupation without fear of reprisal. Human rights groups reported that the FSB engaged in widespread surveillance of social media, telephones, and electronic communication and routinely summoned individuals for “discussions” for voicing or posting opposition to the Russian occupation.

For example, on August 12, occupation authorities in Yalta charged Larysa Kitaiska with extremism because of a social media posting that they believed to be anti-Russian. Kitaiska had left Crimea for mainland Ukraine after the occupation began, but had temporarily returned to resolve a property matter when she was charged. Kitaiska left Crimea shortly after she was charged; she maintained that occupation authorities brought the case in retaliation for her pro-Ukrainian views and participation in the 2013-14 Euromaidan movement.

On October 5, armed security forces raided the home of Suleyman Kadyrov, a member of the Feodosia Mejlis, because of a March Facebook posting in which Kadyrov stated that Crimea remains a part of Ukraine. On October 11, occupation authorities charged Kadyrov with separatism.
Press and Media Freedoms: Independent print and broadcast media could not operate freely. Occupation authorities refused to register most independent media outlets, forcing them to close in 2015.

On March 25, *Krymska Svitlytsya*, the only Ukrainian-language newspaper remaining in Crimea, ceased publication. According to its website, the newspaper moved operations to Kyiv after it could no longer provide for the safety of its employees in Crimea.

On January 15, Russian occupation forces detained blogger and journalist Zair Akadyrov as he covered the trial of the “February 26” group of political prisoners and took him to a police precinct for questioning.

On December 7, the “prosecutor general” of Crimea charged Mykola Semena with “undermining Russian territorial integrity via mass media,” a criminal offense punishable up to five years in prison. Semena, a freelance writer for the news website *Krym Reali*, had written pieces using a pseudonym criticizing the de facto Crimean government and Russian occupation. Occupation authorities detained Semena twice in 2015, and human rights groups believed that Russian security forces hacked into his computer to prove he had written articles critical of the occupation. Authorities placed Semena, who was in poor health, under house arrest in April, under the condition that he not leave Crimea. On September 29, a judge denied Semena’s request to seek medical treatment in government-controlled Ukraine.

On June 14, Russian occupation authorities arrested Alexi Sapov, editor of *Argumenty Nedeli-Krym*. Sapov was one of the last reporters to cover the trials of Crimean Tatars. Sapov was previously a journalist in Vladimir, Russia, where his reporting led to accusations that he had blackmailed a member of the Russian parliament. Russian authorities extradited Sapov to Vladimir, Russia.

Violence and Harassment: There were numerous cases of Russian security forces or police harassing independent media and detaining journalists in connection with their professional activities.

On May 11, Russian authorities detained Igor Burdyga, a Ukrainian journalist covering the anniversary of the deportation of Crimean Tatars. According to Burdyga authorities detained him for his journalistic work, accused him of being a member of the Ukrainian nationalist group Right Sector, and forced him to testify
that he had been involved in the demolition of electrical power lines in Ukraine that supplied Crimea. After seven hours of detention, authorities released Burdyga and he left Crimea.

Censorship or Content Restrictions: Following Russia’s occupation of Crimea, journalists overwhelmingly resorted to self-censorship to continue reporting and broadcasting. Russian occupation authorities banned most Ukrainian and Crimean Tatar-language broadcasts, replacing the content with Russian programming. Human rights groups reported that Russian authorities forbade songs by Ukrainian singers, such as Ruslana and Jamala, from playing on Crimean radio stations. Censorship of independent internet sites became more widespread.

**Internet Freedom**

Russian occupation authorities restricted free expression on the internet by imposing repressive laws of the Russian Federation on Crimea (see section 2.a. of the *Country Reports on Human Rights* for Russia). Security services routinely monitored and controlled internet activity to suppress contrary opinions. According to media accounts, occupation authorities interrogated residents of Crimea for posting pro-Ukrainian opinions on Facebook or in blogs.

On May 27, journalist Lilia Bujurova received a warning from security forces about postings she made on social media that Crimea was part of Ukraine.

On November 11, the Yevpatoria city court sentenced Serhiy Vasylchenko, a local anarchist, to 10 days in jail for “extremism” after he made calls on social media to boycott the Russian Duma elections in Crimea.

Throughout the year, Russian authorities blocked internet sites they considered “extremist,” but that in fact provided mainstream reporting about the situation in Crimea. For example, in February they blocked the sites of *Ukrainska Pravda*, censor.net, and Apostrophe. Following the arrest of Mykola Semena in April, Russian authorities blocked the website of Krym Reali. By August Russian authorities had blocked more than 60 websites as “extremist” for stating that Crimea remained a part of Ukraine.

**Academic Freedom and Cultural Events**

Russian authorities in Crimea engaged in a widespread campaign to suppress Crimean Tatar and Ukrainian languages. While Crimean Tatar and Ukrainian are
official languages in occupied Crimea, authorities continued to reduce instruction in schools and offered the languages only as an optional language at the end of the school day. In 2015 authorities closed the Crimean Tatar school in Bakhchysarai. The Mejlis reported that authorities continued to pressure Crimean Tatars to use the Cyrillic, as opposed to the Latin, alphabet.

On May 27, Russian security officers interviewed children at School No. 15 in Blizhne, Feodosia District, after receiving reports that some had not worn the St. George’s Ribbon, a Russian military symbol, on May 9. According to human rights monitors, authorities interviewed students about their opinions on Ukrainian sovereignty over Crimea. Authorities singled out Crimean Tatar boys for questioning, and witnesses reported that FSB officers stated they would conduct similar investigations in the future.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

Organizations representing minority communities reported gross and widespread harassment and intimidation by occupation authorities to suppress their ability to assemble peacefully. Abuses included arbitrary searches, interrogations, threats of deportation, and unsubstantiated accusations of possessing “extremist” literature.

According to the HRMMU, on July 4, occupation authorities amended a 2014 resolution listing the places in Crimea where public events could be held, decreasing the number almost by half (from 665 to 366). The HRMMU noted that the amendments further restricted freedom of assembly to a shrinking number of “specially designated spaces,” an unnecessary move that appeared “designed to dissuade the exercise of the right of freedom of assembly.”

On March 1, authorities in Simferopol refused to allow the commemoration of the birthdate of Taras Shevchenko, the national poet of Ukraine. On March 9, Simferopol authorities issued a blanket prohibition on public gatherings not organized by the government from March 7 to March 22.

Occupation authorities prohibited gatherings and meetings to commemorate the 72nd anniversary of the 1944 Soviet mass deportation of Crimean Tatars on May 18. On May 17, Ilmi Umerov received a preemptive warning from police not to organize any type of gathering. In the days leading up to the anniversary, schoolteachers forbade students, particularly Crimean Tatar students, to skip
school to participate in commemorative events. The Mejlis reported that Crimean Tatar communities did not seek permission for gatherings as they assumed that occupation authorities would forbid them. Throughout Crimea peaceful assemblies took place, but authorities arrested Crimean Tatars displaying flags and other symbols, including at least one person in Bakhchysarai, four in the Kirovsky District, and four in Sudak.

Occupation authorities forbade any assembly marking Crimean Tatar Flag Day on June 26.

On August 20, a group named The Deceived of Crimea gathered in Simferopol to protest rampant corruption in Crimea following Russia’s occupation in 2014. Despite having obtained permission from the local government, authorities prohibited protesters from assembling for a demonstration planned to coincide with a visit by President Putin of Russia.

There were reports of occupation authorities using coercive methods to provide for participation at pro-”government” rallies. For example, according to press reports, a Duma candidate shared on social media a photograph of an order authorities sent to municipal government offices in Feodosia, which stated that attendance at a September 8 rally in support of the United Russia party was mandatory and that those unable to attend must write an explanatory note to their superiors.

There were reports that occupation authorities charged and fined individuals for allegedly violating public assembly rules in retaliation for gathering to witness security force raids on homes. For example, courts fined at least five Crimean Tatars for gathering to witness security force raids on neighboring homes in Bakhchisarai in May. Crimean Tatar leaders claim the charges were designed to intimidate Crimean Tatars into passively remaining in their homes during raids.

**Freedom of Association**

Occupation authorities broadly restricted freedom of association for individuals that opposed the occupation.

On February 15, the “prosecutor general” of Crimea filed a motion to ban the Crimean Tatar Mejlis, an elected, representative body of Crimean Tatars that the Ukrainian government legally recognizes. On April 13, the prosecutor general provisionally banned the Mejlis pending a court decision; the Russian Ministry of Justice upheld the decision on April 18. On April 26, a Russian occupation court
declared the Mejlis an extremist organization for continuing to recognize Ukrainian sovereignty in Crimea. On September 29, the Russian Supreme Court upheld the lower court’s decision. The ban forbids Mejlis organized meetings or demonstrations, sharply restricts its financial activities, and prohibits the display of the Mejlis flag and symbols. While the Mejlis was led by a central council of 33 members, its organization extended to towns and villages, meaning that up to 2,000 local members of Mejlis groups were under threat.

In late September authorities fined at least eight Mejlis members for allegedly taking part in a meeting of an illegal organization, stemming from their informal gathering at the home of Ilmi Umerov on September 22. They had gathered to wish exiled Crimean Tatar leader, Refat Chubarov, a happy birthday via Skype, but authorities had monitored the meeting and determined that it constituted a meeting of the banned Mejlis. On December 29, Umerov announced that he was unable to pay the fine as occupation authorities had frozen his bank accounts by putting him on a list of “extremists.”

On February 11, Russian authorities summoned Nariman Jelal, the highest ranking member of the Crimean Tatar Mejlis not incarcerated or exiled, demanding he detail the activities of the Crimean Tatar Mejlis and his future travel plans.

Russian authorities raided groups and institutions associated with Ukrainian culture. On March 31, security forces raided the Taras Shevchenko Association in Simferopol and seized approximately 250 books for promoting Ukrainian nationalism. Many of the seized materials dealt with the Holodomor, a famine produced by Soviet authorities in 1932 and 1933 that led to the deaths of millions of Ukrainians. On July 18, authorities questioned Leonid Kuzmin, a member of the Ukrainian Cultural Association. Authorities compelled Kuzmin to sign a nondisclosure agreement, forbidding discussion of the grounds for his questioning.

Russian occupation authorities carried out numerous raids on Crimean Tatar cultural and spiritual institutions. On January 27, Russian police raided the Crimean Tatar children’s center Elif in Dzhankoi, seizing books and materials. On January 28, police raided the Islamic Cultural Center in Simferopol, again seizing books and materials.

Russian laws imposed on Crimea that regulate NGOs prohibit any group that receives foreign funding and engages in vaguely defined “political activity” to register as a “foreign agent,” a term that connotes treason or espionage. While authorities had not included any Crimean NGOs on the list during the year, the law
had a chilling effect on their activities (see sections 2.b. and 5 of the *Country Reports on Human Rights* for Russia).

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).


Russian occupation authorities did not respect rights related to freedom of movement and travel.

In-country Movement: There were reports that occupation authorities selectively detained and at times abused persons attempting to enter or leave Crimea. According to human rights groups, Russian authorities routinely detained adult males at the administrative boundary for additional questioning, threatening to seize passports and documents, seizing telephones and memory cards, and questioning them for hours. Crimean residents travelling on Ukrainian passports were required to complete migration paperwork when crossing the administrative boundary between Kherson Oblast and occupied Crimea. As of April 1, Russian authorities forbade Crimean residents with Ukrainian license plates from driving out of Crimea and required all Crimean residents to obtain Russian driver licenses.

On February 25, when Ukrainian journalist Anastasia Ringis attempted to visit her parents in Crimea, Russian authorities prohibited her from entry until 2020. On March 22, Ukrainian authorities reported that Russian occupation authorities banned Kherson residents Rustem Gugurik, Bekir Gugurik, and Bilyal Seytumerov from admission to Crimea for five years.

Occupation authorities also prohibited entry into Crimea by Mustafa Jemilev and Refat Chubarov, members of the Verkhovna Rada and the former and current chairmen of the Crimean Tatar Mejlis, respectively; Crimean Tatar activist Sinaver Kadyrov; and Ismet Yuksel, general director of the Crimean News Agency, on the pretext that they would incite radicalism.

There were reports that authorities forcibly relocated stateless persons in retaliation for their political activism. For example, on November 7, authorities deported Crimean Tatar activist Nedim Khalilov, who had initiated a court case several
months earlier against occupation authorities, which sought to have Russia’s occupation of Crimea declared illegal. Khalilov possessed only a Soviet identity document, which stated that his place of birth was Uzbekistan. He had obtained neither Ukrainian nor Russian citizenship on ideological grounds. After a brief court hearing, occupation authorities forcibly deported Khalilov to a detention center in Russia; at year’s end, he was still awaiting deportation to Uzbekistan, where he had no relatives, housing, or other support.

**Citizenship:** Russian occupation authorities require all residents of Crimea to be Russian citizens. Those who refuse Russian citizenship may be subjected to arbitrary expulsion. According to the Russian Office of the Federal Bailiff’s Service, occupation authorities expelled a couple with Israeli and Ukrainian citizenships from Kerch in February. Additionally, authorities denied those who refused Russian citizenship access to government employment, education, and health care, as well as the ability to open bank accounts and buy insurance, among other limitations. One media report detailed the case of a woman in Yevpatoria who could not have stitches removed because she had not accepted Russian citizenship. In another case, a displaced person from the Donbas could not receive treatment for a dog bite.

According to media sources, Russian authorities prosecuted private employers who continued to employ Ukrainians. According to the Crimea Human Rights Group, on April 8, occupation authorities fined the company Voyazhkrym 35,000 rubles ($570) for employing a Ukrainian. On April 18, authorities fined the Fregat shipbuilding company in Kerch 250,000 rubles ($4,100) for employing a Ukrainian.

In some cases authorities compelled Crimean residents to surrender their Ukrainian passports, complicating international travel, as many countries did not recognize passports issued by Russian occupation authorities.

Occupation authorities announced that, as of January 1, individuals who retained Ukrainian citizenship must register their passports or be subjected to fines or imprisonment.

**Internally Displaced Persons**

Approximately 30,000 residents of Crimea registered with Ukraine’s State Emergency Service as IDPs on the mainland, according to the UN Office for the Coordination of Humanitarian Affairs. The Mejlis and local NGOs, such as Krym
SOS, believed the actual figure could be as high as 100,000 as most IDPs remained unregistered. Many individuals fled out of fear that occupation authorities would target them for abuse because of their work as political activists or journalists. Muslims, Greek Catholics, and Evangelical Christians who left Crimea said they feared discrimination due to their religious beliefs.

Crimean Tatars, who made up the largest number of IDPs, said they were concerned about pressure on their community, including an increasing number of arbitrary searches of their homes, surveillance, and discrimination. Additionally, many professionals left Crimea because Russian occupation authorities required them to apply for Russian professional licenses and adopt Russian procedures in their work.

Section 3. Freedom to Participate in the Political Process

Recent Elections: Russian occupation authorities have prevented residents from voting in Ukrainian national and local elections since Crimea’s occupation began in 2014.

On September 18, Russia’s nationwide parliamentary elections included seats allocated for occupied Crimea, a move widely condemned by the international community. The Crimea Human Rights Group recorded incidents where occupation authorities coerced residents into voting in the elections, including threats of dismissals and wage cuts.

Section 4. Corruption and Lack of Transparency in Government

Corruption: There were multiple reports during the year of systemic rampant corruption among Crimean “office-holders,” including through embezzlement of Russian state funds allocated to support the occupation. According to media reports, more than half of the funding for transportation infrastructure during the year was misspent or unaccounted for, and funds for infrastructure in Crimea were being funneled to the Kerch bridge project without adequate oversight. Human rights sources also reported misspent or stolen medical services funds adversely affected the provision of health care under Russian occupation.

Financial Disclosure: There were no known requirements for Russian occupation authorities or their agents to file, verify, or make public any income or asset disclosure statements, nor was there a mechanism to provide for public access to information about their activities.
Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Most independent human rights organizations ceased activities in Crimea following Russia’s occupation. Occupation authorities refused to cooperate with independent human rights NGOs and ignored their views, and they harassed human rights monitors and threatened them with fines and imprisonment.

Russia continued to deny access to the peninsula to international human rights monitors from the OSCE and the United Nations. A Council of Europe human rights delegation visited Crimea in April.

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

Children

Birth Registration: Under both Ukrainian law and laws imposed by Russian occupation authorities, either birthplace or parentage determines citizenship. Russia’s occupation and purported annexation of Crimea complicated the question of citizenship for children born after February 2014, since it was difficult for parents to register a child as a citizen with Ukrainian authorities. Registration in Ukraine requires a hospital certificate, which is retained when a birth certificate is issued. Under the occupation regime, new parents could only obtain a Russian birth certificate and did not have access to a hospital certificate. During the year Ukrainian government instituted a process whereby births in Crimea could be recognized with documents issued by occupation authorities.

Institutionalized Children: There were reports that Russian authorities continued to permit kidnapping of orphans in Crimea and transporting them across the border into Russia for adoption. Ukraine’s government did not know the whereabouts of the children.

Anti-Semitism

According to Jewish groups, an estimated 10-15,000 Jews lived in Crimea, primarily in Simferopol. There were no reports of anti-Semitic acts.

National/Racial/Ethnic Minorities
Since the beginning of Russia’s occupation, authorities singled out Crimean Tatars and Ukrainians for discrimination, abuse, deprivation of religious and economic rights, and violence, including killings and abductions (see sections 1.a., 1.b., 1.c., 1.d., 1.f., 2.a., 2.b., and 2.d.).

Crimean Tatars are an ethnic group native to Crimea, dating most recently to the Crimean Khanate of the 15th century. In 1944 Soviet authorities forcibly deported more than 230,000 Crimean Tatars to the Soviet Far East for allegedly collaborating with the Nazis during World War II. Following the dissolution of the Soviet Union, many surviving Crimean Tatars returned to Crimea. Prior to the Russian occupation, there were approximately 300,000 Crimean Tatars living in Crimea.

There were reports that government officials openly advocated discrimination and violence against Crimean Tatars. For example, during a public online discussion on December 13, Natalya Kryzhko, a member of the “parliament,” threatened to “load [Crimean Tatars] on barges and drown them in the Black Sea” in reaction to requests by two Crimean Tatar villages to restore their historic Crimean Tatar place names.

Occupation authorities harassed Crimean Tatars for speaking their language in public and forbade speaking it in the workplace. There were reports that teachers prohibited schoolchildren from speaking Crimean Tatar to one another.

Occupation authorities placed restrictions on the Spiritual Administration of Crimean Muslims, which is closely associated with Crimean Tatars. According to human rights groups, Russian security services routinely monitored prayers at mosques for any mention that Crimea remains part of Ukraine. Russian security forces also monitored mosques for anti-Russian sentiment and as a means of recruiting police informants.

Laws forbid religious gatherings outside established institutions. Crimean Tatars reported that Russian occupation authorities threatened the custom of home funeral services and have compiled lists of gravediggers and Muslim leaders.

Russian occupation authorities also targeted ethnic Ukrainians. According to the Crimean Human Rights Group, on June 10, a court convicted Vladimir Baluch of insulting an official during an investigation into a stolen automobile. Baluch maintained the charges were in retaliation for his displays of Ukrainian ethnic symbols and opposition to the occupation. On December 8, the FSB raided
Baluch’s home after he posted a sign “renaming” his street in honor of the “heavenly hundred” protesters who died during the 2013-14 Euromaidan protests in Kyiv. During the raid the FSB claimed to have found explosives, which Baluch insists its agents planted, and arrested Baluch. He faced weapons charges carrying a prison term of four years. On December 27, a court extended his detention until February 2017. In 2015 security forces detained and beat Baluch for flying a Ukrainian flag at his home.

Occupation authorities have not permitted churches linked to ethnic Ukrainians, in particular the Ukrainian Orthodox Church-Kyiv Patriarchate (UOC-KP) and the Ukrainian Greek Catholic Church, to register under Russian law. Occupation authorities harassed and intimidated members of the churches and used court proceedings to force the UOC-KP in particular to leave properties it had rented for years. According to a January 16 court decision, the UOC-KP was compelled to vacate part of the St. Vladimir and Olga church in Sevastopol after its lease expired and was required to pay an administrative fine of nearly 600,000 rubles ($9,800). Church officials reported regular and systematic surveillance of UOC-KP churches and parishioners.

Russian occupation authorities targeted businesses and properties belonging to ethnic Ukrainians and Crimean Tatars for expropriation and seizure. Particularly, they prohibited Crimean Tatars affiliated with the Mejlis from registering businesses or properties.

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

Human rights groups and local gay rights activists reported that much of the LGBTI community fled Crimea after the Russian occupation began. Those who remained live in fear of verbal and physical abuse due to their sexual orientation. According to a report commissioned by the Ukrainian Center for Civil Liberties and Memorial’s Antidiscrimination Center in Saint Petersburg, the Russian group Occupy Pedophilia is active in Crimea. The group used social media to lure suspected LGBTI persons to locations where they are humiliated, filmed, and beaten. According to one report, a group of six men patrolling a park beat two individuals in Simferopol. The victims did not file a complaint with police for fear of retaliation. Individuals were accosted and abused for wearing nonconformist clothing, on the assumption that they must be LGBTI persons. Human rights groups stated that these groups operated with the tacit support of local authorities, who did not investigate such crimes.
Russian occupation authorities prohibited any LGBTI groups from holding public events in Crimea. On April 25, an LGBTI activist in Sevastopol announced plans to hold a peaceful protest. In response Sergei Aksyonov, the head of the occupation authorities in Crimea, stated that authorities would prevent any such assembly. Subsequently, “self-defense” forces threatened to expel LGBTI individuals from Crimea forcibly. LGBTI individuals faced increasing restrictions on their right to assemble peacefully, as occupation authorities enforced a Russian law that criminalizes the so-called propaganda of nontraditional sexual relations to minors (see section 6 of the *Country Reports on Human Rights* for Russia).

**Section 7. Worker Rights**

Russian occupation authorities announced that the labor laws of Ukraine would no longer be in effect after January 1 and that only the laws of the Russian Federation would apply (see section 7 of the *Country Reports on Human Rights* for Russia).

Russian occupation authorities imposed labor laws and regulations of the Russian Federation on Crimean workers, limited worker rights, and created barriers to freedom of association, collective bargaining, and the ability to strike. The NGO Freedom House reported that pro-Russian authorities threatened to nationalize property owned by Ukrainian labor unions in Crimea. Ukrainians who did not accept Russian citizenship faced job discrimination in all sectors of the economy. Only Russian passport holders could continue to work in “government” and municipal positions.
Tab 5
EXECUTIVE SUMMARY

Ukraine is a republic with a semi-presidential political system composed of three branches of government: a unicameral legislature (the Verkhovna Rada), an executive led by a directly elected president and a prime minister chosen through a legislative majority, and a judiciary. The country last held presidential and legislative elections in May 2014 and October 2014, respectively; international and domestic observers considered both free and fair. Civilian authorities generally maintained effective control over security forces. Authorities did not have control over security forces in the eastern part of the country controlled by Russian-backed separatists and in Russian-occupied Crimea.

The most significant human rights developments in the country during the year were:

First, separatists, supported by Russian military and civil officials, continued to control parts of Donetsk and Luhansk regions by force of arms, as self-proclaimed “people’s republics.” The United Nations reported that, as of November 15, more than 9,000 persons had died and approximately 18,000 had been wounded as a result of Russian aggression in these regions, including civilians, members of the Ukrainian armed forces, and Russian-backed separatists, since fighting began in 2014. More than two million persons have fled the region. Separatists systematically engaged in abductions, torture, and unlawful detention. To a lesser extent, there were also reports of these practices by government forces. Separatists also employed child soldiers and restricted humanitarian aid. Additionally, the government imposed restrictions on freedom of movement. Internally displaced persons (IDPs) faced difficulties obtaining legal documents, education, pensions, and access to financial institutions and health care.

Second, in Crimea, Russian occupation authorities committed numerous human rights abuses, targeting ethnic and religious communities, particularly Crimean Tatars, as well as independent journalists and anyone perceived as opposing the
Russian occupation regime. Russia’s occupation of Crimea displaced more than 20,000 Crimeans.

Third, the country suffered from corruption and deficiencies in the administration of justice. Human rights groups and the UN noted there were few investigations into human rights abuses committed by security forces. In particular, the Security Service of Ukraine (SBU) and Ministry of Internal Affairs operated with impunity. Corruption in the Prosecutor General’s Office and the judiciary was of particular concern.

Other problems reported during the year included abuse of persons in custody, in particular beatings and alleged torture of detainees and prisoners; harsh conditions in prisons and detention facilities; societal violence against women and abuse of children; societal discrimination against and harassment of ethnic and religious minorities; trafficking in persons; discrimination and harassment against lesbian, gay, bisexual, transsexual, and intersex (LGBTI) persons; and discrimination against persons with HIV/AIDS. There also were limitations on workers’ right to strike; forced labor; and failure to enforce effectively labor laws and occupational safety and health standards for the workplace.

The government generally failed to take adequate steps to prosecute or punish most officials who committed abuses, resulting in a climate of impunity. Investigations into the 2014 Euromaidan shootings in Kyiv and riots in Odesa remained incomplete more than a year later. Investigations into human rights abuses related to the Russian occupation of Crimea and the conflict in the Donbas region were also incomplete. Although the country is not a signatory to the Rome Statute, in September the government granted jurisdiction to the International Criminal Court (ICC) under Article 12(3), which allows nonmembers states to grant authority to the ICC to investigate crimes against humanity committed on their territory.

Neither Russia nor Russian-backed separatists conducted investigations of the above-mentioned human rights abuses in Crimea or separatist-controlled areas.

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

a. Arbitrary or Unlawful Deprivation of Life

There were several reports that the government or its agents committed arbitrary or unlawful killings. In the Donbas region, there were numerous reports of killings in
parts of Luhansk and Donetsk oblasts in territory controlled by Russia-backed separatists related to Russian aggression (see section 1.g.).

According to media reports and local authorities, on May 8, three military personnel summarily executed a civilian with pro-Russian political views in the village of Talakivka, near Mariupol, after holding an impromptu, unlawful “court” proceeding. Authorities arrested the men, and they faced trial, but the status of the case was unknown at year’s end.

According to the UN Human Rights Monitoring Mission in Ukraine (HRMMU), on January 28, Ministry of Internal Affairs troops allegedly abducted Volodymyr Kulmatytskiy, the former deputy mayor of Slovyansk, and his driver. Authorities found them shot and killed on January 31. Security forces killed one alleged perpetrator while being apprehended. Authorities convicted three others on weapons charges and released them.

There were several reports during the year of politically motivated killings by nongovernment actors.

On February 22, a bomb killed four persons and wounded 10 at a march in Kharkiv promoting national unity. Authorities arrested four individuals who they claimed were armed and trained in Russia. The investigation continued through year’s end.

On August 31, demonstrators protesting outside the Verkhovna Rada against passage of a constitutional amendment on decentralization beat law enforcement officers and sprayed tear gas. One protester threw a grenade at National Guard forces, killing four persons and wounding 141. Law enforcement authorities detained 30 persons, including the suspected attacker. An investigation into the incident continued through year’s end.

Human rights organizations and media reported deaths in prisons or detention centers due to torture or negligence by police or prison officers (see Prison and Detention Center Conditions).

Law enforcement agencies continued their investigation of crimes committed during the Euromaidan protests in Kyiv from November 2013 to February 2014. On February 24, authorities arrested Oleksandr Marynchenko and Serhiy Tamtura, two former Berkut riot police officers, and accused them of involvement in the death of 39 Euromaidan activists. Additionally, authorities arrested Oleksandr Shchehovlev, the former head of the Kyiv branch of the SBU. On December 2,
authorities found Ramil Islamli and Aziz Tahirov guilty and sentenced them to four years of imprisonment for kidnapping and assaulting Euromaidan activists. As of year’s end, authorities had charged nine individuals with crimes related to the Euromaidan protests. Human rights groups remained critical of the perceived slow pace of the investigations.

Law enforcement agencies also continued their investigation into the events in May 2014 in Odesa in which 48 persons died, including six supporters of the Ukrainian government and 42 persons who supported more autonomy for regions. Those who supported autonomy died in a fire at the Trade Union Building; authorities largely failed to investigate these deaths, focusing on alleged crimes committed by individuals seeking more autonomy. A Council of Europe (COE) report from November 4 found that the government’s investigation lacked independence and that the Prosecutor General’s Office and the Ministry of Internal Affairs failed to conduct a thorough, coordinated investigation. The COE also expressed concern that authorities released some suspects.

b. Disappearance

There were multiple reports of politically motivated disappearances. In the Donbas region, there were numerous reports of disappearances and abductions related to the conflict between the Ukrainian government and Russian-backed separatists (see section 1.g.).

Media and human rights experts from both domestic and international organizations recorded cases of progovernment paramilitary or volunteer military units kidnapping individuals on government-controlled territory. For example, on June 17, authorities arrested a commander and seven members of the Tornado volunteer battalion, charging them with the kidnapping, unlawful detention, rape, and torture of local residents of government-controlled territory in the Luhansk Oblast. An investigation into the case continued at year’s end.

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

Although the constitution and law prohibit torture and other cruel punishment, there were reports that law enforcement authorities engaged in such abuse. While courts cannot legally use as evidence in court proceedings confessions and statements made to police by persons in custody under duress, there were reports that police and other law enforcement officials abused and at times tortured
persons in custody to obtain confessions. Amnesty International (AI) and other human rights organizations reported violation of rights of detained persons.

In the Donbas region, there were reports that government forces and progovernment battalions engaged in military operations at times committed human rights abuses, including torture. Separatist forces in the self-proclaimed “people’s republics” of Donetsk and Luhansk systematically committed numerous abuses, allegedly including torture, to maintain control. According to international organizations and nongovernmental organizations (NGOs), abuses included beatings, forced labor, psychological and physical torture, public humiliation, and sexual violence (see section 1.g.).

According to the HRMMU, in March a resident of Slovyansk, Donetsk Oblast turned to the Office of the Ombudsperson in connection with the abduction of her husband in February and filed a complaint with police. On March 26, she received a response from the SBU that her husband had been detained by the Dnipropetrovsk SBU office. The detainee informed the Ombudsperson’s Office that after his abduction, authorities took him to a bomb shelter for 26 days, where he was held incommunicado and systematically tortured to confess to illegal activities in support of separatists in Donetsk Oblast. The man remained in pretrial detention at year’s end.

Abuse of prisoners and detainees by police and prison authorities remained a widespread problem. For example, according to media and NGO reports, in late October, authorities beat Andriy Danylyuk to death in a Khmelnitsky pretrial detention center. Although authorities initially informed his wife that he died of a heart attack, observers later established that authorities had handcuffed Danylyuk and beaten him to death with a hammer—as evidenced by severe trauma to his body and head. Danylyuk’s wife alleged he was killed because of his intention to expose the involvement of prison leadership in drug trafficking and corruption. The Khmelnitsky prosecutor’s office launched criminal proceedings against two officers of the penitentiary service. The investigation continued at year’s end.

On April 10, the Kharkiv military prosecutor informed the HRMMU of allegations that a secret detention facility existed on the premises of the Kharkiv SBU. According to the HRMMU, a number of persons claimed to have been held and abused in this facility, and described how, prior to the visit of the military prosecutor, they had been removed by SBU officers from their cells and placed in the basement or other places within the building. In November the HRMMU
received reports that authorities detained 27 persons at the facility, where authorities allegedly subjected them to torture and mistreatment.

There were also multiple reports by the HRMMU, the Organization for Security and Co-operation in Europe (OSCE), and human rights groups of a detention facility at the Mariupol Airport operated by the SBU, where security officials allegedly hold prisoners incommunicado and subjected them to abuse without accountability. Authorities denied the UN special rapporteur on summary executions access to the airport in September.

During the first eight months of the year, the Prosecutor General’s Office opened criminal investigations into alleged torture or degrading treatment by police. Of that number authorities forwarded cases 24 cases specifically alleging torture or degrading treatment involving law enforcement officers.

According to the Ministry of Internal Affairs, during the first nine months of the year, authorities launched 153 criminal cases against police officers for crimes including torture, illegal arrests and searches, and illegal confiscation of property. Of these instances of abuse, seven cases were for alleged torture. Authorities imposed disciplinary actions against an additional 84 officers and fired 26 from the law enforcing bodies.

**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. Physical abuse, lack of proper medical care and nutrition, poor sanitation, and the lack of adequate light were persistent problems.

The Ukrainian Helsinki Human Rights Union (UHHRU) reported correctional officers conducted a mass beating of convicts who arrived at Penal Colony 77 in Berdyansk, Zaporizhzhia Oblast, on February 27. A UHHRU investigation determined that a mass beating occurred, and authorities subjected inmates to inhuman treatment, failed to provide sufficient medical care, and attempted to conceal their actions.

**Physical Conditions:** 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.
Conditions in police temporary detention facilities and State Penitentiary Service pretrial detention facilities were harsher than in low- and medium-security prisons. Overcrowding decreased, as there was a reduction in the number of inmates, however, overcrowding remained a problem in pretrial detention facilities. Temporary detention facilities often lacked adequate sanitation and medical facilities.

As of October 1, 375 individuals had reportedly died in the facilities of the State Penitentiary Service. Of this number 35 committed suicide and 321 died of diseases. On January 25, a 21-year-old convict died in Lukyanivska remand facility in Kyiv. Prison authorities stated he died of an electrical injury. Inmates claimed authorities ignored requests for medical help and refused to enter the prisoner’s cell. The penitentiary service conducted an investigation of the incident.

On April 29, the Council of Europe’s Committee for the Prevention of Torture (CPT) released a report based on visits to penal colonies 25 and 100 in Kharkiv Oblast in September 2014. The committee found an “atmosphere of fear” in the penal colonies and noted the reluctance of prisoners to talk to the committee. The committee heard allegations that authorities used severe physical mistreatment or torture to maintain internal order, including by senior prison staff members, and that prisoners who cooperated with the committee could expect to be punished.

According to the Association of Independent Monitors and the Ombudsman’s Office, authorities failed to protect adequately the lives and human rights of prisoners in areas close to the zone of operation against separatists in eastern Ukraine and also failed to evacuate staff and inmates in a timely fashion. According to the OSCE, approximately 340 prisoners escaped Penal Colony 23 in Chornukhyne on or about February 10 to flee heavy fighting at Debaltseve. According to the OSCE, only 30 inmates remained in the facility, while 83 returned in the following days; another 23 turned themselves in to Ukrainian military units. The whereabouts of the remainder was unknown.

The condition of prison facilities in separatist held areas was poor, and there were reports of lack of food, water, heat, sanitation, and proper medical care.

**Administration:** Authorities kept records of prisoners in detention, but they were occasionally incomplete. Authorities lacked central record keeping, leading to difficulties for prisoners held in separatist areas. Human rights groups reported instances in which authorities confiscated prisoners’ passports and failed to return them upon their release. Prisoners released by separatists often had no
identification or passports. Alternative sentencing, such as fines or community service, was available for some nonviolent offenders. There was no prison ombudsman. Prisoners could file complaints with the Office of the Parliamentary Ombudsman for Human Rights, which conducted prison monitoring. As of December 1, the ombudsman’s office received 1,695 complaints from prisoners.

The most common complaints regarded cruel, inhuman, and degrading treatment; public humiliation; limited communication with family members and relatives; denial of the right to legal consultation; and denial of the right to submit a complaint on actions of the administration. Prisoners also complained about inadequate medical treatment and precautions. For example, authorities did not isolate prisoners with contagious tuberculosis from other patients. Prisoners also complained about the lack of appropriate living space and poor sanitary conditions.

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

Officials generally allowed prisoners to receive visitors, with the exception of those in disciplinary cells. Prisoner rights groups noted some families had to pay bribes to obtain permission for prison visits to which they are entitled by law.

**Independent Monitoring:** The government generally permitted independent monitoring of prisons and detention centers by international and local human rights groups, including the CPT. During the year the ombudsperson’s office together with representative of civil society made monitoring visits to 17 penitentiary facilities located in nine oblasts.

**Improvements:** The government responded to concerns raised by the CPT in letters dated February 11 and 23. Authorities reported that the government had dismissed the directors of Colonies 25 and 100, initiated criminal proceedings regarding allegations at Colony 100, and the minister of justice had issued detailed instructions to all prison directors to prevent mistreatment of prisoners.

**d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention, but serious problems remained.
The HRMMU and other international groups reported numerous unauthorized detentions in areas of the Donbas controlled by separatists (see section 1.g.).

**Role of the Police and Security Apparatus**

The Ministry of Internal Affairs is responsible for maintaining internal security and order. The ministry oversees police and other law enforcement personnel. The SBU is responsible for all state security, nonmilitary intelligence, and counterintelligence. The Ministry of Internal Affairs reports to the Cabinet of Ministers, and the SBU reports directly to the president. The State Fiscal Service exercises law enforcement powers through the tax police and reports to the Cabinet of Ministers. The State Migration Service implements state policy regarding border security, migration, citizenship, refugee registration and other registering other migrants; the Ministry of Internal Affairs oversees it.

Civilian authorities generally had control over law enforcement agencies but rarely took action to investigate and punish abuses committed by security forces.

Impunity for abuses by law enforcement remained a significant problem. During a September visit to the country, the UN special rapporteur on extrajudicial, summary or arbitrary executions recommended that the government establish a system of independent overview of the conduct of law enforcement, with a particular focus on allegations of mistreatment by the SBU.

Human rights groups expressed concern that authorities have not properly investigated crimes committed by Ukrainian forces and have not punished them. In particular human rights groups noted that alleged crimes committed by the Aidar Battalion remained unsolved, including the killing of two persons in Shchastya in February.

While authorities sometimes brought charges against members of the security services, cases often remained under investigation without being brought to trial, while authorities allowed alleged perpetrators to continue their work. The HRMMU noted the case of Oleksandr Agafonov, allegedly beaten to death by SBU officers after officers stopped him at a government checkpoint in Kharkiv in November 2014. It took investigators more than a year to identify the alleged perpetrators; authorities released both on bail.
Additionally, human rights groups criticized the lack of progress in investigations of alleged separatist crimes in areas retaken by Ukrainian forces. In particular, investigations of alleged crimes committed by separatists in Slovyansk and Kramatorstsk in 2014 appeared stalled. Human rights groups believed that many of the local law enforcement personnel in both cities collaborated with separatists when they controlled these cities.

Under the law members of Verkhovna Rada have authority to conduct investigations and public hearings into law enforcement problems. The parliamentary ombudsman for human rights may also initiate investigations into abuses by security forces.

Security forces generally prevented or responded to societal violence. At times, however, they used excessive force to disperse protests and, in some cases, failed to protect victims from harassment or violence. For example, on June 11, approximately 30 persons attacked a group of international students in Kharkiv. Human rights groups claimed that police failed to protect the students; the attackers wounded nine, and six were hospitalized (see section 6, National/Ethnic/Racial Minorities).

**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. Authorities, however, in some cases detained persons without a warrant.

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. Persons have the right to consult a lawyer upon their detention. According to the law, prosecutors may detain suspects accused of terrorist activities for as long as 30 days without charges or a bench warrant. Under the law citizens have the right to be informed of the crimes brought against them and 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. Police at times failed to keep records or register detained suspects, and courts often extended detention to allow police more time to obtain confessions. Authorities kept suspects under house arrest and occasionally held incommunicado, in some occasions for several weeks.
In April and May, the HRMMU interviewed detainees in an Odesa pretrial facility arrested on suspicion of terrorism. According to the HRMMU police carried out searches without warrants and used excessive force; authorities did not inform detainees of their rights; and officials delayed access to legal aid. Detainees claimed authorities subjected them to mistreatment and torture, including beatings, administration of electric shocks, and deprivation of food and water.

Under the law the government must provide attorneys for indigent defendants. Compliance was inconsistent because of a shortage of defense attorneys or because attorneys, citing low government compensation, refused to defend indigent clients. According to the Ministry of Justice, free legal aid centers throughout the country assigned 65,983 retainers to lawyers to provide free legal aid during the first 10 months of the year. There are 100 local centers to provide free legal aid in all the regions of the country, except for Russian-occupied Crimea and the territories controlled by Russia-backed separatists. The ombudsman’s office estimated that 70 percent of the population did not understand their right to 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 criminal procedure code, prosecutors need a court order to impose travel restrictions on persons awaiting trial. Prosecutors must prove the restrictions are the minimum possible to ensure suspects will appear at hearings and will not interfere with criminal proceedings.

Arbitrary Arrest: A September HRMMU report stated that there was a “persistent pattern” of arbitrary detention by authorities, in particular by the SBU.

The HRMMU reported that there was a persistent pattern of arbitrary detention by authorities, in particular by the SBU. It its 10th report the HRMMU discussed a case where a woman reported her husband missing in Slovyansk on February 28. On March 26, the SBU informed her that authorities held her husband in Dnipropetrovsk where they allegedly tortured him.

Additionally, human rights groups reported that members of the Ukrainian armed forces arbitrarily detained and held incommunicado individuals. A report by the International Partnership for Human Rights in conjunction with Ukrainian human rights groups reported instances of arbitrary detention, including a case where authorities seized an individual on a bus and held him incommunicado for a month. A separate report by the International Federation for Human Rights, in conjunction with the Center for Civil Liberties, discussed an instance where troops from the
Ministry of the Interior arbitrarily detained a man in Dzerzhynsk on May 6 and held him incommunicado for five days.

There were reports from human rights NGOs that authorities subjected Romani individuals to arbitrary arrest. For example, on October 29, police officers raided a Romani settlement in Zolotonosha, Cherkasy Oblast. According to human rights groups, police entered homes and arrested Roma without just cause, beating and humiliating them in the process. An OSCE ODIHR mission visited the settlement in November, and the case remained under investigation by authorities at the end of the year.

In an October 22 monitoring report on the effects of the civil blockade of Crimea, the Crimean Human Rights Group (CHRG) noted that progovernment battalion members had arbitrarily arrested Crimean residents with Russian passports attempting to cross the administrative boundary from mainland Ukraine to Crimea. For example, on October 5, Azov Battalion members reportedly arrested and beat Rostislav Stetsenko, a Crimean resident with a Russian passport, and posted a recording of the incident on social media. Stetsenko reported to the CHRG that battalion members had beaten him and threatened sexual violence during the arrest.

Pretrial Detention: As of September law enforcement bodies registered 515,648 charges against suspected criminals. According to the Ministry of Internal Affairs, approximately 12,000 were in pretrial detention facilities, compared with 10,000 in 2014 and 18,000 in 2013.

Protracted Detention of Rejected Asylum Seekers or Stateless Persons: Authorities frequently detained asylum seekers for extended periods without court approval. They also regularly detained asylum seekers prior to their deportation (see section 2.d.).

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, courts remained vulnerable to political pressure and corruption and were inefficient. Confidence in the judiciary remained low.

On February 12, the Verkhovna Rada adopted the Law on Ensuring the Right to Fair Trial, which provides for a competitive selection in hiring judges, review of rulings, and background checks of all judges. Under the new law, any person can
videotape courts hearings without special permission, and all court rulings are to be made public in a unified state register. The law came into effect on March 28.

The law also provides for an interim commission to investigate complaints about judges. As of December the Prosecutor General’s Office was conducting investigations of 20 criminal proceedings against 19 judges, and 16 criminal cases with indictment against judges had been brought to court.

Judges continued to complain about deterioration of 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. Other factors also impeded the right to a fair trial, such as lengthy court proceedings, particularly in administrative courts, inadequate funding, and the inability of courts to enforce rulings. According to the human rights ombudsman, authorities fully executed only 40 percent of court rulings.

**Trial Procedures**

There is no 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. The law provides for cross-examination of witnesses by both prosecutors and defense attorneys and for plea bargaining.

The law presumes defendants are innocent, and they cannot be compelled to testify or confess, although high conviction rates called into question the legal presumption of innocence. Defendants have the right to be informed promptly and in detail, with interpretation as needed of charges against them, the right to a public trial without undue delay, to communicate privately with an attorney of their choice (or one provided at public expense), and to have adequate time and facilities to prepare a defense. The law also allows defendants also access to government-held evidence, to confront witnesses against them, present witnesses and evidence, and the right to appeal. Defendants have the right not to be compelled to testify or confess guilt. Appeals courts cannot dismiss convictions or order new trials based on missing documents, nor may they coerce defendants to sign copies of missing documents. The law applies to the rights of all defendants regardless of ethnicity, gender, or age.

Trials are open to the public, but some judges prohibited the media from observing proceedings. While trials must start no later than three weeks after filing of
charges, prosecutors seldom met this legal requirement. Human rights groups reported that officials occasionally monitored meetings between attorneys and their clients.

**Political Prisoners and Detainees**

Human rights groups called arrested blogger Ruslan Kotsaba a political prisoner. On February 7, authorities charged Kotsaba, a blogger from Ivano-Frankivsk, with state treason and obstructing the lawful activities of the armed forces and other military formations, based on a video in which he opposed military mobilization in the country. The investigation continued at year’s end. AI called him the first Ukrainian “prisoner of conscience” in five years. Authorities gave him the same protections as other prisoners, and they permitted him access to human rights organizations.

**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 they believe may violate basic rights and freedoms. Individuals may appeal to the parliamentary ombudsman for human rights at any time and to the European Court of Human Rights after exhausting domestic remedies.

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

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

By law the SBU may not conduct surveillance or searches without a court-issued warrant. In practice, however, searches are sometimes committed without a proper warrant. In an emergency authorities may initiate a search without prior court approval, but they must seek court approval immediately after the investigation begins. Citizens have the right to examine any dossier in the possession of the SBU that concerned them and the right to recover losses resulting from an investigation. Because there was no implementing legislation, authorities generally did not respect these rights, and many citizens were not aware of their rights or that authorities had violated their privacy.
Use of Excessive Force and Other Abuses in Internal Conflicts

Combined Russian-separatist forces, armed, trained, and supplied by the Russian Federation, continued a violent, armed conflict against the Ukrainian government, despite two ceasefires signed in Minsk by Russian and Ukrainian officials in September 2014 and on February 12. Military activity was the most intense in the first two months of the year, as combined Russian-separatist forces launched offensives near Mariupol, the Donetsk Airport, and Debaltseve. Combined Russian-separatist forces continued attacks on Ukrainian positions using heavy weaponry throughout the year despite the declaration of two subsequent ceasefires.

International organizations and NGOs, including AI, Human Rights Watch (HRW), and the UN high commissioner for human rights issued periodic reports of human rights abuses committed in the Donbas region by separatist and government forces. As of November 1, the OSCE fielded 937 persons supporting a special monitoring mission, which issued daily reports on the situation and conditions in most major cities.

According to the UN’s HRRMU, fighting and violence in the Donbas region deprived more than five million residents of the ability to access education, health care, and housing, and the opportunity to earn a living. As of November 15, the HRMMU reported that fighting had killed at least 9,078 persons, including civilians, Ukrainian armed forces, and armed groups. This figure included the 298 passengers and crew on board Malaysian Airlines flight MH17, shot down in July 2014 over Donbas. Additionally, more than 2.5 million residents left separatist-controlled areas of Donetsk and Luhansk Oblasts since the start of the conflict. As of November 15, the Ukrainian Ministry of Social Policy had registered 1,578,925 IDPs, although civil society groups believed the actual number of IDPs was much higher. According to UNHCR there were approximately 1.1 million Ukrainian refugees in other countries, including approximately 912,000 in the Russian Federation.

Media and human rights groups continued to report widespread human rights abuses in separatist held area. In a report issued in May, the HRMMU stated there was a “collapse of law and order” in separatist-held areas and that “serious human rights abuses” occurred, including killings, torture, looting, and extortion.

Killings: International monitors and the media reported arbitrary and unlawful killings in the Donbas region. International and human rights organizations noted
the government took steps to investigate abuses by its forces but claimed it was hampered by a lack of resources and access to crime sites.

The HRMMU, OSCE Special Monitoring Mission (SMM), and human rights groups did not cite any instances of extrajudicial killings committed by Ukrainian or progovernment forces during the year in connection with the conflict in the Donbas region. Several cases from 2014 remained under investigation, however, including the discovery of the bodies of two separatists that had been bound and shot in the head in autumn 2014.

During the first two months of the year, combined Russian-separatist forces launched sustained attacks against Ukrainian positions, in particular at the Donetsk Airport, in the area near Mariupol, and at Debaltseve. As a result both sides shelled civilian areas. On February 10, a rocket attack launched from separatist held areas near Kramatorsk killed seven civilians and injured at least 16 in government-controlled Kramatorsk. Following the withdrawal of Ukrainian forces at Debaltseve on February 20, shelling subsided somewhat. Civilians continued to be killed and injured by mines and unexploded ordinance.

Separatists and Ukrainian authorities accused each other of indiscriminate shelling of civilians, in particular killing 13 civilians and injuring 12 in a mortar attack on a bus stop in the southwestern part of the city of Donetsk on January 22. An artillery attack killed eight civilians and injured 19 in Horlivka on January 29. Combined Russian-separatist forces targeted civilian populations while launching artillery attacks from civilian areas. For example, on January 13, combined Russian-separatist forces launched a rocket attack on a Ukrainian checkpoint at Volnovakha, hitting a bus, killing 13 civilians and injuring 18.

Between January 16 and February 20, separatists launched a protracted assault on the city of Debaltseve during which separatists and elements of the Russian military continuously and indiscriminately shelled the city. According to the UN, the shelling killed more than 500 civilians. Of a preconflict population of approximately 25,000, only 7,000 persons remained in the city after the assault. On January 24, combined Russian-separatist forces attacked residential neighborhoods in Mariupol using Grad and Urgan rockets, killing 30 civilians and injuring 108. The high representative of the EU for foreign affairs and security policy, Federica Mogherini, condemned the attack.

In a May report, AI documented summary executions of captured Ukrainian soldiers by separatists. For example, according to AI, separatist commander
Arseny Pavlov, also known as “Motorola,” executed Ukrainian soldier Ihor Branovytzky after a battle at the Donetsk Airport on January 21. Witnesses reported Branovytzky was alive after the battle and heard Pavlov admit to shooting Branovytzky. A Ukrainian death certificate stated that Branovytzky died of two gunshot wounds to the head. In an April interview with the Kyiv Post, Pavlov bragged that he had executed 15 Ukrainian soldiers.

There were no reports by the HRMMU or human rights organizations of extrajudicial killings of civilians by separatists during the year. Observers, however, identified previously unreported cases of extrajudicial killings from 2014 that authorities have not yet investigated. For example, the HRMMU reported that in August 2014, separatists in Peremozhne, Luhansk Oblast, kidnapped and executed a man and woman accused of aiding Ukrainian soldiers. Authorities discovered their bodies in January and performed an autopsy in June. Combatants reportedly summarily executed an additional four persons in the same town also in August 2014. Russian-backed separatists have not conducted investigations into any of these killings.

According to a September report by the Justice for Peace in Donbas Coalition of Human Rights, a coalition of human rights NGOs, 33 percent of military personnel and 16 percent of civilians interviewed told human rights monitors they had witnessed extrajudicial killings and deaths resulting from torture at the hands of separatists.

Abductions: Separatists, government forces, and criminal elements engaged in abductions. Human rights groups reported that separatists routinely kidnapped persons to settle vendettas or for ransom.

The HRMMU noted a persistent pattern of arbitrary and incommunicado detention by Ukrainian law enforcement (mainly by the SBU) and by military and paramilitary units (first and foremost by the former volunteer battalions now formally incorporated into the security services). A May report by AI documented several abductions of civilians by progovernment battalions that took place in 2014, including a case in which three building contractors were detained by militia members and transferred to an SBU detention facility, where they were allegedly beaten, suffocated, and subjected to mock burial and other abuses.

A September HRMMU report cited an interview with a woman abducted twice by separatist groups, once from July to October 2014 and again from February to July.
During her periods of captivity, she reported severe beatings, threats against her relatives, and an attempted gang rape.

Separatists also abducted journalists attempting to cover the conflict. On January 9, separatists detained Maria Varfolomeyeva, a pro-Ukrainian journalist from Luhansk. According to Reporters without Borders, her captors subjected her to series of carefully staged and videoed confessions.

On January 5, separatists released journalist Serhiy Sakadinsky, seized in August 2014. Sakadinsky was the editor of *Politika 2.0*. His wife reported that his captors beat him and broke his hand during his captivity.

The politically motivated trial of military pilot and member of the Verkhovna Rada Nadezda Savchenko, abducted from eastern Ukraine in 2014, continued in Russia as of year’s end (see section 1.e., Political Prisoners and Detainees, of the *Country Reports on Human Rights* for Russia).

Physical Abuse, Punishment, and Torture: Government and separatist forces reportedly abused and tortured civilians and soldiers in detention facilities. Reported abuses included beatings, physical and psychological torture, mock executions, sexual violence, deprivation of food and water, refusal of medical care, and forced labor.

The HRMMU reported a “persistent pattern” of physical abuse and torture by government forces. Throughout the year the HRMMU and AI interviewed individuals who claimed to have been tortured, beaten, and subjected to mock executions during the course of the “antiterrorist operation.” A December HRMMU report documented “recurrent allegations” of mistreatment during arrest and interrogations by the SBU, including interviews with several individuals detained on suspicion of taking part in terrorist acts. SBU authorities beat them heavily, restrained them in painful poses for long periods, and subjected them to suffocation while in custody.

According to data presented in a September report by Justice for Peace in Donbas, a coalition of human rights NGOs, captors abused 86 percent of military men and 50 percent of civilians captured by the separatists, while captors subjected 50 percent of women, including pregnant and elderly, detained by pro-Russian rebels to physical abuse or torture. Their report stated that detainees lacked any safeguards against abuse and detention centers lacked clean water, adequate sanitation, heat, and bomb shelters to protect from an attack.
Separatists repeatedly beat Lieutenant-Colonel Serhiy Kuzminykh and eight Ukrainian soldiers captured on January 20 following fighting at the Donetsk Airport. One video from January 21 showed Ukrainian soldiers being thrown from a tank and beaten by Mikhail Tolstykh, also known as “Givi.” In the video Tolstykh forced the soldiers to eat the epaulettes he cut from their uniforms.

The Russian-backed separatists particularly targeted certain religious groups for abuse. According to the HRMMU, in February a Ukrainian Orthodox priest who was delivering food to soldiers and civilians in the government-controlled town of Artemivsk (Donetsk region), mistakenly drove to a checkpoint controlled by separatists. The separatists forced him to lie on the ground, and several fighters started jumping on his body. They also shot at the asphalt near his head. They then transferred him to a nearby village for interrogation, which lasted several hours and during which his captors beat him. Separatists detained him for 50 days in various places, along with approximately 70 other detainees.

On May 17, separatists reportedly detained four members of Jehovah’s Witnesses, blindfolded them, and took them at gunpoint to the local military headquarters, where separatists severely beat them and subjected them to mock executions. They demanded that the youngest member join combined Russian-separatist forces and that all of the members confess the Orthodox faith as the only true religion. The separatists released the four detainees the following day.

Women reported attempted rape and sexual abuse at the hands of separatists. Women IDPs who left separatist control reported they fled principally because they feared they or their children would be sexually abused.

Both sides employed land mines without measures to prevent civilian casualties. The UNHRMM report from December 10 noted an increased numbers of deaths from exploding ordinance, including land mines. More than half of the civilian deaths recorded between August 16 and November 15 were due to mines. Due to an order by separatist forces for humanitarian aid groups to cease social programing, mine education programs have been sharply limited there.

**Child Soldiers:** There were no media reports of child soldiers serving with Ukrainian forces, and the UN Children’s Fund (UNICEF) could not confirm the presence of child soldiers in the country. There were, however, media reports that children as young as 12 served as soldiers with separatists. On May 28, OSCE SMM observers noted a child between the ages of 12 and 14 wearing camouflage
and holding a rifle at a separatist checkpoint at Makiivka, Donetsk Oblast. On June 17, a spokesman for the OSCE SMM stated that monitors had seen child soldiers in separatist-controlled areas near Shyrokyne. There were multiple instances where child soldiers in separatist-controlled territory posted pictures online of themselves on patrol or supporting combat operations, as well as reports in separatist-controlled and Russian media outlets documenting use of child soldier. On November 10, the German television station ZDF broadcast interviews of two 16-year-olds who had fought on the side of separatists.

Other Conflict Related Abuses: On October 13, the Dutch Safety Board concluded its investigation into the crash of Malaysia Airlines Flight MH17 from Amsterdam to Kuala Lumpur in July 2014 in separatist-controlled Donetsk Oblast. All 298 passengers and crew died. According to the report, a Russian-built 9M38-series surface-to-air missile with a 9N314M warhead shot down the plane. According to the report, the missile was fired from a 125-square-mile area within separatist-controlled territory. At the time of the crash, separatists and Russian media reported that it had shot down a Ukrainian AN-26 but quickly retracted and deleted these reports once it became clear that a civilian airliner had been shot down. Russian authorities and separatists continued to deny that a missile launched from inside separatist territory with a Russian missile system had shot down the plane.

In June, Ukrainian authorities began expediting the delivery of humanitarian aid to separatist held areas through so-called “green corridors.” Beginning on June 29, however, separatists in the Donetsk Oblast ordered humanitarian organizations, including the UN and the International Committee of the Red Cross (ICRC), to “register” with “authorities.” Starting on July 21, separatists in Donetsk Oblast began restricting the delivery of humanitarian aid to areas they controlled. On September 25, separatists in Luhansk Oblast ordered all humanitarian aid organizations except for the ICRC to cease operations. Separatists displayed increasing hostility towards humanitarian aid groups. According to the UN Office for the Coordination of Humanitarian Affairs, due to the disruption of humanitarian aid, approximately 150,000 persons were not receiving food aid and 1.3 million lacked access to clean water.

On March 4, a shell struck a hospital in the city of Donetsk, killing four persons and injuring 25. During the year the UNHRMM reported that fighters had attacked hospitals in Adiivka, Luhansk, Donetsk, and Horlivka and that it was concerned medical facilities were hit by shelling. On September 25 and October 12, separatists prohibited the international medical aid group Doctors without Borders from operating in the separatist-controlled areas of Luhansk and Donetsk Oblasts.
This prohibition led to a sharp restriction in medical assistance to persons suffering from diabetes, kidney failure, and tuberculosis. In a report released on December 10, the UNHRMM noted that separatists intimidated and harassed employees of hospitals and medical facilities.

Separatists continued to allow convoys of Russian “humanitarian aid,” which Ukrainian government officials believed contained weapons and supplies for separatists. In September the government opened “service centers” close to separatist-held territory where civilians could access banking services and purchase food and medicine.

Residents of Luhansk and Donetsk Oblasts under separatist control were unable participate in the October 25 local elections held country-wide, since elections could not be held under Ukrainian law and in accordance with international standards.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provides for freedom of speech and press, but authorities did not always respect these protections. Although the government took some positive steps to improve freedom of expression, it also introduced measures that banned or blocked information, media outlets, or individual journalists deemed a threat to national security or who expressed positions that authorities believed undermined the country’s sovereignty and territorial integrity. Other problematic practices continued to effect media freedom, including self-censorship, so-called “jeansa” payments to journalists for favorable news reports disguised as objective journalism, and slanted news coverage by media whose owners had close ties to the government or who supported opposition political parties.

In the Donbas region, separatists suppressed freedom of speech and the press through harassment, intimidation, abductions, and assaults on journalists and media outlets. Separatists prevented the transmission of Ukrainian and independent television and radio programming in areas under their control. Domestic human rights NGOs and media watchdogs, such as Telekritika and the Institute of Mass Information, documented cases of abuses against journalists and media outlets in separatist-controlled areas of Luhansk and Donetsk (see section l.g., Abductions).
Freedom of Speech and Expression: With some exceptions, individuals in areas not under Russian occupation or Russian-backed separatist control could generally criticize the government publicly and privately and discuss matters of public interest without fear of reprisal.

On May 15, the country adopted a law prohibiting the display of communist and National Socialist (Nazi) symbols. The law prohibits an exhaustive list of communist and Nazi symbols and criminalizes their use and dissemination when used to justify or deny the “criminal nature” of the Soviet and Nazi regimes, with penalties running to five to 10 years in prison. Human rights defenders, historians, and the wider expert community criticized the law for legal and factual shortcomings as well as the lack of a genuine public discussion before its passage. There have been no prosecutions under the statute; however, on December 16, a Kyiv court banned the Communist Party for continuing to display such symbols.

Press and Media Freedoms: Independent media and internet news sites were active and expressed a wide range of views. Privately owned media, the most successful of which wealthy and influential “oligarchs” generally owned, often presented viewers a “biased pluralism,” representing the views of their owners. Both independent and state-owned media periodically engaged in self-censorship when reporting stories that might expose political allies to criticism. According to the NGO Freedom House, the press in the country was “partly free.”

On April 2, the Verkhovna Rada passed a law prohibiting the broadcasting of content produced in an “aggressor state” after January 2014 as well as any content produced between August 1991 and January 2014 that promotes state agencies of an “aggressor state” or that promote aggression against the country. As of November authorities declared only Russia an “aggressor state” for purposes of implementing the law. While authorities adopted the law to combat Russian propaganda, human rights groups criticized it as overly broad because of its blanket restrictions regardless of the nature of the content.

The government continued the practice of banning specific works by pro-Russian actors, film directors, and singers. On August 8, authorities banned the works of 13 actors and singers from television and radio broadcasts, including the films of French actor and Russian citizen Gerard Depardieu. On August 11, the government announced that, in the previous year, it had banned 376 films and television episodes for an array of national security-related reasons.
On September 16, President Poroshenko signed a decree sanctioning 388 individuals and 105 organizations deemed to be a threat to national security. The list included 41 foreign journalists, banned from travelling to the country for a year. The OSCE representative on freedom of the media, Dunja Mijatovic, protested the decision, stating that, “introducing overly broad restrictions that curb free movement of journalists is not the way to ensure security.” Authorities removed six journalists, including three journalists working for the BBC, from the list the day after it was announced.

The government continued to block 14 Russian television channels from broadcasting in the country, citing the perceived dangerous effects of Russian propaganda. On March 3, a court in Melitopol fined a local television provider 2,000 hryvnias ($83) for broadcasting Russian channels.

Authorities took steps to search and prosecute several local media outlets suspected of supporting separatism. For example, on May 14 in Odesa, authorities searched the homes of journalists and administrators of the newspaper “Timer” related to charges of “undermining the country’s territorial integrity.” According to the editor in chief, the investigation continued at the end of the year, although there had been no further contact with authorities.

The practice of jeansa continued, especially during local elections in October. According to the Institute for Mass Information, the October elections produced “the largest pre-election jeansa campaign” it had witnessed. Freedom House reported the problems were worst in Dnipropetrovsk, Zaporizhzhia, and Mykolaev oblasts.

According to the Institute for Mass Information, authorities investigated and brought charges in only 4 percent of recorded infringements of the rights of journalists during the year, a number that, nonetheless, represented a significant increase over the 2014 figure of 1 percent.

Violence and Harassment: On May 14, the Verkhovna Rada passed a law strengthening criminal penalties against individuals who threaten or use violence against journalists. Authorities have not prosecuted any cases under the new law, and government officials occasionally harassed journalists.

There were reports that separatists abducted journalists in separatist-controlled areas of eastern Ukraine (see section 1.g., Abductions).
According to the Institute of Mass Information, during the year there were 58 assaults on journalists and two killings. This represented a significant decrease in attacks from previous years (286 attacks in 2014 and 97 in 2013) and, unlike in prior years, private citizens, not law enforcement and officials, committed the majority of the attacks on journalists.

On April 16, assailants shot and killed journalist Oles Buzina in Kyiv. Buzina had espoused pro-Russian views in the press. Authorities detained two suspects; in December authorities released Denys Polishchuk from pretrial detention under house arrest. Authorities ordered Andriy Medvedko to remain in custody until January 31, 2016. Both were allegedly members of right-wing political groups. The investigation into the case continued at year’s end.

There were multiple reported attacks on journalists investigating corruption. For example, on April 29, in the village of Lesniki in Kyiv Oblast, unknown men attacked a crew from ZIK TV who were filming an expose about lavish property allegedly owned by Deputy Minister of Internal Affairs Serhiy Chebotar. The attackers beat the men and damaged their equipment. The prosecutor’s office investigation of the incident continued at year’s end.

Censorship or Content Restrictions: Authorities took measures to regulate and occasionally censored information deemed a national security threat. The Institute for Mass Information recorded 12 incidents of censorship, down from 138 incidents in 2014.

On January 17, authorities detained blogger Ruslan Kotsaba after he published a video opposing mobilization (see section 1.e., Political Prisoners and Detainees).

Privately held media sometimes practiced self-censorship. Notably, an episode of the television program “Shuster Live” was removed from Channel 1+1 shortly before its scheduled broadcast. Journalist Savik Shuster and others alleged that the government removed the show because the government opposed certain guests appearing on the episode. According to the station, it canceled the show because of the “intense” and “ politicized” nature of the evening’s guests.

In May the Committee to Protect Journalists (CPJ) released a statement expressing concern that the signal for the television channel Inter had been intermittently jammed nationwide since August 2014, specifically during news broadcasts and political shows. According to the CPJ, despite the channel making multiple requests for an investigation, law enforcement authorities claimed they had not
identified the source of the jamming. In March, Vitaliy Naida, head of the security service’s cybercrime department, told reporters that the department was investigating, but it was hard to identify the source because “the [jamming] equipment is mobile and not set in a single spot.” Inter’s content included programming that was critical of the government. The investigation continued at the end of the year.

**Libel/Slander Laws:** Libel is a civil offense. While the law limits the amount of damages a plaintiff can claim in a lawsuit, local media observers continued to express concern over high monetary damages awarded for alleged libel. Government entities, and public figures in particular, used the threat of civil suits, sometimes based on alleged damage to a person’s “honor and integrity” to influence or intimidate the press and investigative journalists.

**National Security:** Authorities took measures to regulate and occasionally censored information deemed a national security threat. On February 26, authorities arrested two Russian journalists, Elena Makarova from Channel One and Andrei Grigoriev from NTV, in Kyiv, deported them, and banned both from the country for five years. A spokesperson for the SBU stated that the deportation and ban was in response to “the anti-Ukrainian propaganda” carried out by journalists.

**Nongovernmental Impact:** Separatists in eastern Ukraine harassed, arbitrarily detained, and in some cases continued to hold journalists (see section 1.g., Abductions).

In Crimea the Russian occupation authorities significantly restricted freedom of speech and press (see the section on occupied Crimea at the end of this report).

**Actions to Expand Press Freedom:** The government took several steps to increase press freedom. On March 19, President Poroshenko signed a law creating an independent, national public television network. The measure combines 32 state-owned broadcasters into a single institution that offers viewers an alternative to commercial television, which often reflected the viewpoint of the station’s owners. OSCE representative on freedom of the media Dunja Mijatovic described the measure as an “assertive and important step made by the authorities,” adding that “independent public broadcasting has great potential to deter hostile propaganda by setting the standards of truth, pluralism, and openness.”
On May 15, President Poroshenko signed a law opening pre-1991 state archives to the public, including those of the SBU. The law makes KGB files in the country available to journalists and researchers.

On October 1, President Poroshenko signed a law to provide for transparency of media ownership that requires outlets to file detailed information about ownership structure with authorities.

**Internet Freedom**

Authorities did not restrict or disrupt access to the internet or censor online content. Law enforcement bodies monitored the internet, at times without appropriate legal authority. Authorities did not restrict content or censor websites or other communications and internet services.

Human rights groups that were critical of Russian involvement in the Donbas and Crimea reported that opponents subjected their websites to cyberattacks, such as coordinated denial-of-service incidents and unauthorized attempts to obtain information from computers.

Users of social media, particularly Facebook and VKontakte, sometimes had their access temporarily blocked for innocuous or straightforwardly political posts that other users (assumed by many internet users in the country to be agents of the Russian government) mischaracterized as “hate speech” and flagged as terms of service violations. In one case a post in support of a blocked user that simply read, “we’re with you,” led to a block of that Facebook user. Popular outrage at what many internet users perceived as a bias toward Russia among Russian-language Facebook administrators led some users to call for Facebook to open a branch office in the country. Some Facebook users whose primary online language was Russian began writing their posts in Ukrainian to avoid being blocked.

**Academic Freedom and Cultural Events**

There were several reports of government restrictions on academic freedom or cultural events. For example, in August an Odesa nightclub cancelled a concert by Russian rap artist Timati, after Odesa Governor Mikheil Saakashvili called on the border police to prohibit his entry into the country because of disparaging remarks he had made about Ukraine.

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

The constitution provides citizens with the right to freedom of assembly, and the government generally respected this right. There are no laws, however, regulating the process of organizing and conducting events to provide for freedom of peaceful assembly. Authorities have wide discretion under a Soviet-era directive to grant or refuse permission for assemblies on grounds of protecting public order and safety. Organizers are required to inform authorities in advance of plans for protests or demonstrations.

During the year citizens generally exercised the right to peaceful assembly without restriction in areas of the country under government control. Most of the assemblies that took place were peaceful and at times accompanied by a very large police presence to maintain order.

In some instances peaceful rallies ended in violence. For example, on August 31, a member of the right-wing Freedom party threw a grenade at police during a protest outside the Verkhovna Rada. The attack killed four police officers and injured several others. An investigation of the incident continued at year’s end.

Despite protection by security services, right-wing activists violently disrupted peaceful events supporting LGBTI rights. On June 6, persons claiming to belong to Right Sector attacked an LGBTI equality march in Kyiv, injuring nine police officers (one seriously) and 10 marchers. Authorities charged the alleged attackers with hooliganism, placed five attackers under house arrest, and released two on bail. The investigation continued at the end of the year.

On August 13, an Odesa court prohibited an LGBTI march at the request of the city council, citing a potential for “real danger and threat to public order in the city, as well as to the health and lives of participants and other citizens.” On August 15, in Odesa persons claiming to belong to the Freedom Party attacked the LGBTI meeting held in lieu of the march with firecrackers. Authorities charged the attackers with hooliganism.

Freedom of Association

The constitution and law provide for freedom of association, and the government generally respected this right.
c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).


The constitution and law provide citizens with freedom of internal movement, foreign travel, emigration, and repatriation. The government, however, restricted these rights, particularly in the eastern part of the country. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. International and domestic organizations reported the system for protecting asylum seekers, stateless persons, and other persons of concern did not operate effectively.

**In-country Movement**: The government strictly controlled the freedom of movement between government- and separatist-controlled territories in the Donbas. On January 11, the SBU introduced a temporary order controlling movement, which went into effect on January 21. The order imposed significant hardships on persons crossing into government-controlled territory, in particular those who sought to receive pensions and government benefits, which had ceased in separatist territory in November 2014. Those who wished to enter needed to apply in person at a checkpoint, and then return several days later to obtain a pass. By April individuals needed to wait up to a month to obtain a pass. Those who lacked a pass reportedly paid bribes of up to 1,000 hryvnias ($42) to cross.

On June 16, the government amended its procedures, introducing electronic passes that applicants could apply for online. Authorities first offered the passes on July 7. The amended procedures simplified crossing for those who had lost documents or were fleeing an emergency and allowed children to cross into government-controlled territory with notarized statements from parents. These actions reduced the time to obtain a pass and opportunities for corruption, but the government prohibited commercial bus service to separatist-controlled areas, requiring persons to pay for a taxi ride or walk several miles. Additionally, OSCE monitors reported waits at checkpoints of up to 24 hours, potentially exposing civilians to shelling. To avoid lines persons attempted to cross via unauthorized (and sometimes mined)
routes. On March 25, four persons died after a mine blew up a bus trying to circumvent a checkpoint near Artemivsk.

Authorities subjected individuals crossing from Russian-occupied Crimea to the mainland to strict passport controls at the administrative border between the Kherson oblast and Crimea. Authorities prohibited rail and commercial bus service across the administrative boundary, requiring persons either to cross on foot or by private vehicle. On June 4, the Cabinet of Ministers adopted a resolution regulating entry and exit from Crimea, imposing travel restrictions on individuals crossing between the Kherson Oblast and Crimea. Children under the age of 16 required the permission of both parents to cross. Authorities did not announce the decision in advance, and children on summer holidays in Russian-occupied Crimea, whose parents were in government-controlled territory, were unable to return as scheduled. The government did not permit foreigners to cross the administrative boundary without permission. After complaints from civil society, authorities amended these rules in September.

On September 29, Crimean Tatar activists along with volunteers from paramilitary groups began a blockade of commercial goods entering Crimea from government-controlled territory at the administrative border between Kherson oblast and the Autonomous Republic of Crimea. Human rights groups and the UNHRMM reported instances of members of paramilitary groups illegally detaining individuals, performing illegal searches, and destroying and confiscating property.

**Internally Displaced Persons**

According to the Ministry of Social Policy, as of August 15, there were more than 1.4 million internally displaced persons (IDPs) due to the conflict in the Donbas and occupation of Crimea. NGOs believed the actual number may exceed two million, as many IDPs have not registered. The largest number resided in areas immediately surrounding the conflict zones, in government-controlled areas of Donetsk and Luhansky Oblasts, as well as in the Kharkiv, Dnipropetrovsk, and Zaporizhzhia Oblasts. Many resided in areas close to separatist control in hope that they would be able to return home.

By law IDPs are provided 880 hryvnias ($37) per month for children and persons with disabilities and 440 hryvnias ($18) per month for those able to work. Families may receive no more than 2,400 hryvnias ($100) per month. According to the law, the government should provide IDPs with housing, but the government has not taken effective steps to do so. During the year the country improved the
IDP registration process and distribution of assistance. Humanitarian aid groups have good access to areas under government control.

Local civil society organizations and international humanitarian organizations provided the bulk of assistance for IDPs on a temporary basis. NGOs reported that their ability to support IDPs was limited and nearing exhaustion. UN agencies reported that the influx of IDPs led to tension in the form of competition for resources. Critics accused internally displaced men who moved to western Ukraine of evading military service, while competition rose for housing, employment, and educational opportunities in Kyiv and Lviv.

NGOs reported employment discrimination against IDPs. Some IDPs, particularly those in government-controlled Donetsk and Luhansk Oblasts, lacked sufficient sanitation, shelter, and access to potable water. IDPs continued to have difficulty obtaining education, medical care, and necessary documents. Romani activists expressed concern that some Roma in eastern Ukraine could not afford to flee the conflict areas, while others had no choice but to leave their homes.

On September 1, the Kyiv Administrative Court of Appeal overturned a National Bank decision that Crimean IDPs were nonresidents. The bank decision had restricted access to banking and financial services by Crimeans who had fled the Russian occupation. Nonetheless, media reports indicated that banks continued to restrict banking services for Crimean IDPs even after the court decision.

Protection of Refugees

The country is a transit and destination country for refugees, principally from Afghanistan, Somalia, and Syria. Refugees were especially vulnerable due to the ongoing conflict in the Donbas. In September, UNHCR advised concern regarding returning asylum seekers to Ukraine due to the security situation.

Access to Asylum: The law provides for asylum or refugee status, and the government has established a legal system to protect refugees. Protection for refugees and asylum seekers was insufficient, 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. 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. Asylum seekers have five days to appeal an order of detention or deportation.

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

During the first nine months of the year, the State Migration Service reported a slight increase in applications for asylum compared with the same period in 2014. A total of 1,115 persons applied for asylum during the first nine months of the year. Of these authorities rejected 462 applicants and granted refugee status to 24. They granted complementary protection to 84. The International Organization for Migration noted a steady although not critical increase in transit migration flow through Ukraine during the year.

Refoulement: The government did not provide for protection against the expulsion or return of asylum seekers 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. 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.

Human rights groups noted the law offers legal protection against forcible return.

Refugee Abuse: Authorities frequently detained asylum seekers for extended periods without court approval.

Employment: Authorities did not provide employment assistance, and most asylum seekers were unable to obtain a work permit as required by law. Authorities only provided language instruction for asylum seekers in Kyiv, Kharkiv, and Odesa. During a six-month period, only three asylum seekers obtained official status as an unemployed person and only one secured
employment. Some attempted to work illegally, increasing their risk of exploitation.

**Access to Basic Services:** Although during the year the government adopted a national plan on the integration of refugees, it did not allocate resources for its implementation. Human rights groups reported that authorities did not provide social and economic support to asylum seekers or assist them. Authorities did not provide language courses or social assistance. A UNHCR report indicated all newly recognized refugees received a one-time grant of approximately 30 hryvnias (less than two dollars).

Two temporary accommodation centers had a reception capacity of 320 persons and could accommodate approximately 20 percent of asylum applicants. Asylum seekers living outside a center often experienced difficulties obtaining residence registration, and authorities regularly fined them more than 500 hryvnias ($21) because they lacked this registration. According to the State Migration Service, refugees and those seeking complementary protection could receive residence registration at homeless shelters for a period of up to six months.

UNHCR noted an improvement in the quantity and quality of food provided in the migrant custody centers as well as a lack of educational programs and vocational activities for those in detention for extended periods. According to UNHCR gaps in housing and social support for unaccompanied children left many without access to state-run accommodation centers or children’s shelters. As of September 1, there were 221 unaccompanied migrant children. Authorities registered 53 during the year, of whom 12 expressed a desire to apply for refugee status. Many children had to rely on informal networks for food, shelter, and other needs and remained vulnerable to abuse, trafficking, and other forms of exploitation.

**Stateless Persons**

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

According to the State Migration Service, at the end of the year there were 69,890 foreigners and stateless persons residing in the country. During the first nine months of the year, the government naturalized 9,308 stateless persons, 61 of them through a simplified process.
The law requires establishing identity through a court procedure, which demanded more time and money than some applicants had. UNHCR reported Roma were at particular risk for statelessness, since many did not have birth certificates or any other types of documentation to verify their identity.

**Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections based on universal and equal suffrage, and citizens exercised that ability. During the year local elections were held on October 25.

**Elections and Political Participation**

**Recent Elections:** In May 2014 citizens elected Petro Poroshenko president in an election considered free and fair by international and domestic observers. In October 2014 the country held early legislative elections that observers also considered free and fair.

Observers largely considered the first round of local elections held on October 25 in areas of the country under government control free and fair, although authorities delayed voting until November 29 in Mariupol and Krasnoarmeysk due to a dispute about alleged irregularities. Authorities held the second round of elections on November 15. According to the OSCE observer mission, the elections were well organized and democratic, but influenced by economic interests. According to OPORA, a human rights NGO that monitors elections in the country, some parties started campaigning prematurely, leading to unfair advantages for certain candidates and parties. OPORA recorded numerous technical errors by candidates and local election boards, leading to registration delays. Observers from the OPORA network and the Committee of Voters of Ukraine repeatedly recorded conflicts between candidates and local election commissions over registration. In most cases the courts ruled in favor of candidates, and election commissions registered them. In several instances the Central Election Commission dismissed local election commissions that refused to comply with these obligations.

Authorities delayed elections in Mariupol and Krasnoarmeysk due to concerns that ballots were printed improperly. The Verkhovna Rada set November 29 as an alternate date for elections. According to the OPORA, the elections were free and fair with only minor electoral irregularities.
At year’s end the mayoral election in Kriviy Rih remained disputed as Opposition Bloc candidate Yuriy Vilkul won by several hundred votes in the second round of a closely contested race. Samopomich candidate Yuriy Myloboh claimed Vilkul’s election was fraudulent and appealed to the Central Election Commission, which found in Vilkul’s favor. The Verkhovna Rada passed legislation to hold an additional by-election in March 2016.

IDPs were unable to vote in the local elections.

Political Parties and Political Participation: On July 24, the Ministry of Justice blocked three communist parties from running in the October local elections: the Communist Party of Ukraine, the Communist Party of Ukraine’s Workers and Peasants, and the Reformed Communist Party of Ukraine. On December 16, authorities banned the Communist Party of Ukraine for continuing to employ symbols of the Soviet Union and communism in violation of the law.

Several parties, most notably Opposition Bloc, encountered difficulties registering in Kharkiv Oblast, allegedly due to deficiencies in paperwork and because registration was late, although some observers suspected political motives for the refusal. This delay interfered with Opposition Bloc’s ability to wage an effective election campaign. On August 3, approximately 50 persons throwing stones, smashing windows, and damaging a bus attacked offices of the Opposition Bloc in Kharkiv

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption, although authorities did not effectively implement the law, and some officials engaged in corrupt practices with impunity. While the number of reports of government corruption was low, it remained pervasive at all levels in the executive, legislative, and judicial branches of government and in society. During the year the country made some progress on establishing anticorruption institutions mandated in 2014 legislation and appointed a special anticorruption prosecutor, but these newly established institutions had yet to become fully functioning by year’s end, sparking widespread public criticism.

Corruption: While the government publicized several attempts to combat corruption, it remained a serious problem for citizens and businesses alike. While authorities tried a large number of corruption cases, they were almost exclusively minor violations. Despite reports of cases initiated against high-level officials, authorities did not bring any such cases to trial or formally lay charges. For
example, on January 29, the State Financial Monitoring Service blocked $1.5 billion (36 billion hryvnias) in accounts linked to officials in former president Yanukovych’s regime; however, prosecutions of these officials remained delayed. The government has received significant criticism for its lack of progress in bringing these cases to court, or in some cases allowing the alleged perpetrators to travel to Russia.

Members of the Verkhovna Rada are immune from prosecution. Judges may not be arrested or detained before courts convict them, unless the Verkhovna Rada rescinds their immunity.

On January 25, a 2014 anticorruption law took effect that provides for the formation of two new governmental bodies, the National Agency for Prevention of Corruption and the National Anticorruption Bureau. The National Agency for Prevention of Corruption (the National Agency) is responsible for implementing the development of national anticorruption policies, monitoring national compliance with anticorruption legislation, and verification of asset declarations of high officials. The 2016 budget, however, contained provisions that delayed the requirement for public officials to declare assets until the start of 2017.

The selection process for the National Agency or the Prevention of Corruption continued at the end of the year. The law designates the National Anticorruption Bureau as the lead investigator of allegations of corruption by senior government officials at all levels, including the president, members of the Cabinet of Ministers, members of the Verkhovna Rada, and local governors. Many observers criticized the government for the lengthy process of constituting the bureau. On December 1, authorities appointed Nazar Kolodnitskiy as lead anticorruption prosecutor, which observers called a step towards establishing the bureau’s capacity to prosecute high-level corruption.

On December 9, the president signed the law on National Agency of Ukraine for Detection and Management of Assets Obtained through Corruption and Other Crimes, regulating asset confiscation and recovery procedures. The law intends to create a single-source for the detection, investigation, and management of assets derived from corruption and other crimes. The government tasked the agency to search for illegally gained assets and to manage the assets after their seizure. The law envisions the agency maintaining its operations from the proceeds of asset management. The public council and the commission for external control would supervise the agency in a manner similar to the National Anticorruption Bureau of
Ukraine. The law requires these entities to publish an annual report on the work of the agency’s work.

On April 26, a law came into effect requiring companies to have internal compliance programs. The law applies to almost all companies that participate in public tenders and to state-owned enterprises that are above a specified size. The law requires companies to appoint a compliance officer who reports to shareholders and also has responsibility for implementing company compliance programs. The law also encourages companies to: define the responsibilities of shareholders and employees with respect to anticorruption compliance, establish procedures for reporting misconduct and protecting whistleblowers, develop programs to raise employee awareness of anticorruption efforts, establish mechanisms for holding employees liable for violations, and include compliance provisions in contracts with third parties.

Implementation of a 2014 law on lustration resulted in dismissal of large numbers of state officials in some institutions during the year, in particular 42 percent of the employees of the State Fiscal Service (SFS) central office and 15 percent of regional SFS offices in October.

Financial Disclosure: The law mandates the filing of income and expenditure declarations by public officials and a special review process, allows for public access to declarations, and sets penalties for either not filing or for filing a false declaration. Previously, regulations required public servants to file income declarations, but there was no mechanism for review or penalties for filing false declarations.

By law the National Agency on Corruption Prevention is responsible for reviewing financial declarations and monitoring the income and expenditures of high-level officials, but the process of declaration verification has not started and will only begin after the National Agency of Corruption Prevention is operational.

The country made several steps to enable asset declaration verification by the public. In particular, during the year the government opened the Real Estate Registry, the Land Cadaster, and the Registry of Vehicle owners for public access, enabling public verification of property declarations of government officials.

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 and
within 20 days to requests for large amounts of data. Requesters can appeal denials within agencies and ultimately to the court system. Instructions for filing information requests are now a common and conspicuous component of government websites. The implementation and training of officials on the regulations on public access to information requirements remained inadequate.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The government invited human rights groups to participate in monitoring, drafting legislation, and adopting administrative rules. The government cooperated with international organizations such as the OSCE, the COE, and the HRMMU as well as the investigation into the downing of flight MH 17.

International and domestic human rights groups collaborated with the government to draft the National Human Rights Strategy, which came into force with a presidential proclamation on August 25. More than 250 organizations participated in drafting the plan, including the UN Development Program, the UN Office of the High Commissioner for Human Rights, and the Ukrainian Helsinki Human Rights Union. Some human rights groups expressed concerns about a lack of transparency, that the text of the document was unknown, and there was no information about next steps.

The United Nations or Other International Bodies: On September 8, the country accepted the jurisdiction of the International Criminal Court over crimes against humanity and war crimes committed on its territory since February 2014.

Government Human Rights Bodies: The constitution provides for a human rights ombudsman, officially designated as the parliamentary commissioner on human rights. The ombudsman’s office frequently collaborated with NGOs through civic advisory councils on various projects for monitoring human rights practices in prisons and other government institutions (see sections 1.c. and 1.d.).

Valeriya Lutkovska served as the parliamentary ombudsman for human rights during the year, and observers considered her office an effective promoter of human rights. The Ombudsman’s Office was a partner with leading domestic human rights groups and an advocate on behalf of IDPs, Roma, persons with
disabilities, LGBTI, and prisoners. Her office was involved in the transfer of inmates in prisons in separatist-controlled territory with the help of the ICRC.

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

While the constitution and law prohibit discrimination based on race, sex, political opinion, national origin or citizenship, social origin, disability, sexual orientation or gender identity, age, language, HIV-positive status, or other communicable diseases, the government lacked effective legal instruments to enforce the prohibitions, and both governmental and societal discrimination persisted. The law covers discrimination, although experts raised concerns the definition of discrimination was too narrow and the law lacked meaningful enforcement mechanisms.

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 526 registered reports of rape or attempted rape of which authorities brought 113 to court.

Domestic violence against women remained a serious problem. Spousal abuse was common. Advocacy groups asserted the percentage of women subjected to physical violence or psychological abuse at home remained high. Human rights groups noted the ability of agencies to detect and report cases of domestic violence was limited, and preventive services remained underfunded and underdeveloped. Additionally, human rights groups stated that law enforcement authorities did not consider domestic violence to be a serious crime but rather a private matter to be settled between spouses.

According to the Kyiv-based international women’s rights center La Strada, Russian aggression in the Donbas led to a dramatic surge in violence against women across the country. Human rights groups attributed the increase in violence to post-traumatic stress experienced by IDPs fleeing the conflict and by soldiers returning from combat. IDPs reported instances of rape and sexual abuse; many
claimed to have fled because they feared sexual abuse. There were no special social services available to women IDPs. According to the Ministry for Social Policy, police issued almost 41,000 domestic violence warnings and protection orders during a six-month period. According to the ministry, approximately 68,000 persons were under police monitoring in connection with domestic violence. Punishment included fines, administrative arrest, and community service.

La Strada operated a national hotline for victims of violence and sexual harassment. Through September, 683 individuals called the hotline for assistance related to domestic or sexual violence, accounting for 42 percent of all calls. According to La Strada, 48 percent of calls related to psychological violence. The NGO reported that expanded public awareness campaigns increased the number of requests for assistance it received each year.

Although the law requires the government to operate a shelter in every major city, it did not do so, in part due to lack of municipal funding. During the year officials reported 18 centers for social and psychological help and nine centers for psychological and legal help for women who suffered from domestic violence. There were concerns that government austerity measures implemented during the year could lead to the elimination of some services provided by these centers.

According to the Ministry of Social Policy, as of July 1, government centers provided domestic violence-related services, in the form of social-psychological assistance, to 285 families with children and 3,868 individuals. Social services centers monitored 4,000 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 many nongovernment shelters closed due to lack of funding.

According to women’s advocacy groups, municipal 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 not registered as local residents. Government centers offered only limited legal, psychological, and economic assistance to survivors of domestic violence. On average each center could accommodate approximately 30 women and children, which was often inadequate.
Sexual Harassment: The law puts sexual harassment in the same category as discrimination, but 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 because courts declined to hear their cases and rarely convicted perpetrators. Women’s groups also cited a persistent culture of sexism and harassment.

While the law prohibits coercing a “materially dependent person” to have sexual intercourse, legal experts stated that safeguards against harassment were inadequate.

Reproductive Rights: The government recognized the right of couples and individuals to decide the number, spacing, and timing of their children, manage their reproductive health, and have the information and means to do so, free from discrimination, coercion, and violence.

Discrimination: Under the law women enjoy the same rights as men, including under family, labor, property, nationality, and inheritance laws, and entitled to receive equal pay for equal work. Women received lower salaries than men (see section 7.d.).

Children

The Office of the Parliamentary Ombudsman for Human Rights includes a representative for children’s rights, nondiscrimination, and gender equality. As of September 30, the office received 715 complaints regarding children’s rights.

Birth Registration: Birthplace or parentage determines citizenship. A child born in the country to stateless parents residing permanently in the country is a citizen. The law requires that parents register a child within a month of birth.

Registration of children born in Crimea or born in areas under separatist control remained difficult. Authorities required hospital paperwork to register births. Russian or separatist “authorities” routinely keep such paperwork if parents registered children in territories under their control, making it difficult for the child to obtain a Ukrainian birth certificate. Additionally, authorities do not recognize documents issued by Russian-occupied Crimean or separatist entities and sometimes refuse to issue birth certificates to children born in those areas.
Child Abuse: As of September 30, the Ministry of Internal Affairs reported crimes victimizing 4,482 children. Human rights groups noted that authorities lacked the capability to detect violence against children and refer victims for assistance. Preventive services remained underfunded and underdeveloped. There were also instances of forced labor involving children (see section 7.c.).

Authorities did not take effective measures at the national level to protect children from abuse and violence and to prevent such problems. The Parliamentary Ombudsman for Human Rights noted the imperfection of mechanisms to protect children who survived violence or witnessed violence, in particular violence committed by their parents. According to the law, parents were legal representatives of children, even if they perpetrated violence against them. There is no procedure for appointing a temporary legal representative of a child during the investigation of a case of parental violence.

A major consequence of the violence in Donbas was its effect on children. In October the World Health Organization reported that fighting had killed at least 70 children and wounded 194 since the conflict started in March 2014. According to UNICEF the conflict has affected 1.7 million children. Children living in separatist-controlled territory did not receive nutritional and shelter assistance. Human rights groups reported that children who experienced the war or fled from separatist territory suffered psychological trauma.

Early and Forced Marriage: The minimum age for marriage is 18. If it finds marriage to be in the child’s interest, a court may grant a child as young as 16 years old permission to marry. According to a report funded by UNICEF, in 2013 approximately 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 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 the age of 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 age of consent is 16.

The Ministry of Internal Affairs recorded 253 sexual crimes against children during the year. Sexual exploitation of children, however, remained significantly underreported. Commercial sexual exploitation of children remained a serious problem.
Domestic and foreign law enforcement officials reported a significant amount of child pornography on the internet continued to originate in the country. The International Organization for Migration reported that children from socially disadvantaged families and those in state custody continued to be at high risk of trafficking and exploitation for commercial sexual exploitation 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.

Child Soldiers: There were reports of child soldiers in the conflict in eastern Ukraine (see section 1.g.).

Displaced Children: According to the Ministry of Social Policy, authorities registered more than 190,000 children as IDPs. Human rights groups believed this number was low, as children who fled without their parents cannot register as IDPs unless another relative officially files for custody, which can be a lengthy process. The majority of IDP children were from Donetsk and Luhansk Oblasts.

Institutionalized Children: The child welfare system continued to rely on long-term residential care for children at social risk or without parental care. The number of such residential care institutions continued to drop. During the year some 7,500 orphans and other children deprived of parental care lived and studied in various types of boarding schools.

In recent years the government implemented policies to address the abandonment of children or their reintegration with their biological families. As a result the number of children deprived of parental care decreased. Human rights groups and the media reported that the deteriorated economic situation and government inaction created unsafe, inhuman, and sometimes life-threatening conditions in some institutions.

Authorities evacuated children’s institutions in separatist-controlled territory in 2014, except for three boarding schools for children with significant disabilities in Rovenky and Krasnodon, Luhansk Oblast, and Shakhtarsk, Donetsk Oblast. According to the Ministry of Social Policy, 20 group homes with 187 adopted children remained in areas controlled by separatists. According to UNICEF these facilities relied on donations and volunteer assistance and did not receive necessary supplies. As of June the staff of the facility in Krasondon had not been paid in months.
Observers noted the judicial system lacked the expertise to work effectively with minors, and the legal process for juveniles emphasized punishment over rehabilitation. Supportive social services were often lacking, and children in custody or under supervision faced bureaucratic and social barriers to reintegration. Authorities viewed imprisonment as a form of supervision and punishment rather than correction and education.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State’s report on compliance at travel.state.gov/content/childabduction/en/legal/compliance.html and country-specific information at travel.state.gov/content/childabduction/en/ukraine.html.

Anti-Semitism

According to census data and international Jewish groups, an estimated 103,600 Jews lived in the country, constituting approximately 0.2 percent of the population. According to the Association of Jewish Organizations and Communities (VAAD), there were approximately 300,000 persons of Jewish ancestry in the country, although the number may be higher. Before Russian aggression in eastern Ukraine and the attempted annexation of Crimea by Russia, approximately 30,000 Jewish persons lived in the Donbas and 10,000 lived in Crimea, according to VAAD.

Jewish community leaders reported that societal anti-Semitism was low, and authorities took steps to address problems of anti-Semitism when they arose. Institutional anti-Semitism was rare, and VAAD stated that attacks were isolated and individuals were responsible rather than organized groups. VAAD claimed that negative attitudes towards Jews and Judaism continued to be low, although some individuals continued to espouse anti-Semitic beliefs. VAAD believed that some attacks were provocations meant to discredit the government. In September the Jewish pilgrimage to the Uman burial site of Rabbi Nachman took place without significant incidents.

On March 27, attackers severely beat a Jewish physician in Kharkiv in what he said was an assault with anti-Semitic overtones. Oleksandr Dukhovskoi, a pediatric neurosurgeon, told the media that he believed competitors ordered the assault, but that the attack was anti-Semitic in nature, as the assailants shouted, “Jew face, get out of town and out of the country.” The incident remained under investigation at the end of the year.
According to VAAD there were 16 incidents of anti-Semitic vandalism in the first nine months of the year, slightly more than at the same time in 2014. Graffiti swastikas continued to appear in Kyiv and other cities. For example, in February vandals in Kremenchuk spray-painted swastikas on the grave of Sarah, the daughter of Rabbi Nakhman of Breslov, and attempted to set it on fire. According to police between July 28 and August 1, vandals smashed 19 headstones at a Jewish cemetery in Uzhhorod. On August 28, vandals set fire to tires at a Holocaust memorial in Melitopol. Other Holocaust memorials, monuments, and museums desecrated included ones in Odesa, Nikopol, and Novomoskovsk.

During the year attackers vandalized the Babyn Yar monument in Kyiv six times, a substantial increase over 2014. On four occasions vandals spray-painted swastikas on the monument and on one occasion in August doused it with a foul-smelling liquid. On September 13, vandals set fire to tires at the monument. The government responded by increasing security and posting guards at the site.

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.

In eastern Ukraine pro-Russian separatist leaders made anti-Semitic remarks throughout the year. On February 2, the so-called leader of separatists in Donetsk Oblast, Oleksandr Zakharchenko, stated that “miserable Jews” ran the Ukrainian government. On June 22, Igor Plotnitsky, the so-called leader of separatists in Luhansk Oblast stated that Jews were responsible for the Euromaidan movement and running the Ukrainian government. Separatists also seized a Jewish school in Luhansk.

** Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

**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. The government did not effectively enforce these provisions.
The law requires the government to provide access to public venues, and involvement in public, educational, cultural, and sporting activities for persons with disabilities. The law also requires employers to take into account the individual needs of employees with disabilities. The government generally did not enforce these laws. According to the Ministry of Social Policy, approximately 25 percent of persons with disabilities were employed.

Advocacy groups maintained that, despite the legal requirements, most public buildings remained inaccessible to persons with disabilities, restricting the ability of such persons to participate in society. Access to employment, education, health care, transportation, and financial services remained difficult (see section 7.d.).

Inclusive education remained problematic. Authorities often did not integrate students with disabilities into the general student population. Only secondary schools offered classes for students with disabilities. State employment centers lacked resources to place students with disabilities in appropriate jobs.

NGOs noted 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.

Government policy favored institutionalization of children with disabilities over placement with their families. The state cared for more than 70,000 of the country’s estimated 150,000 children with disabilities, but it lacked the legal framework and funds to deinstitutionalize them. 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 isolated and limited their professional opportunities in adulthood. Persons with disabilities in separatist controlled territory suffer from a lack of appropriate care.

Patients in mental health facilities remained at risk of abuse, and many psychiatric hospitals continued to use outdated methods and medicines. According to the Ukrainian Psychiatric Association, 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.

According to a government report published in 2013, government monitors observed incidents of involuntary seclusion and application of physical restraints to
persons with mental disabilities at psychiatric and neuropsychiatric institutions of
the Ministry of Social Policy. Health-care authorities placed patients in isolated
and unequipped premises or even metal cages, where authorities held them for long
periods without proper access to sanitation.

By law employers must set aside 4 percent of employment opportunities for
persons with disabilities. NGOs noted that many of those employed to satisfy the
requirement received nominal salaries but did not actually work at their companies.

**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 observed 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.
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 of 3,400 to 8,500 hryvni
($142 to $354) or imprisonment for up to five years.

Human rights organizations stated that the requirement to prove actual intent,
including proof of premeditation, to secure a conviction made application of the
law difficult. Through September authorities registered 540 cases of offenses
against foreign citizens, 155 of which were resolved. Authorities did not prosecute
any of the criminal proceedings under the laws on racial, national, or religious
offences. Police and prosecutors continued to prosecute racially motivated crimes
under laws against hooliganism or related offenses.

According to the Prosecutor General’s Office, authorities registered 49 criminal
cases involving racial, national, or religious hatred during the first nine months of
the year. Of these authorities forwarded one case to court. Based on a Democracy
Initiative monitoring report prepared by International Organization for Migration,
as of October 31, there were 10 documented violent cases against racial or ethnic
minorities, with 17 victims. Victims of the attacks were from Afghanistan, the
Democratic Republic of the Congo, Ghana, Jordan, Nigeria, and Syria as well as
Ukrainian citizens of Tajik, Jewish, and Muslim descent. Most of the incidents
occurred in Dnipropetrovsk, Kyiv, Kharkiv, and Odesa. There were 18 cases of vandalism, including arson, targeting Jewish and Romani property in the Dnipropetrovsk, Cherkassy, and Zakarpattya Oblasts and in Kyiv, Lviv, Odesa, and Mykolaev.

On June 11, a group of approximately 30 young men wearing balaclavas and armed with knives and sticks attacked foreign students in Kharkiv, including four from Jordan. The attackers wounded nine students, hospitalizing six. According to witnesses the assailants targeted the victims because they “looked like foreigners.” Law enforcement officers were present but did not attempt to stop the attackers. Later they detained five persons, charging them with hooliganism, attempted murder, and armed assault.

Roma continued to face governmental and societal discrimination, although authorities had 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 in population estimates was due in part to a lack of legal documentation for many 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 were mainly located in Zakarpattya, Poltava, Cherkasy, Volyn, Dnipropetrovsk, and Odesa. Roma experienced significant barriers accessing education, health care, social services, and employment due in part to discriminatory attitudes against them.

In 2013 the government adopted a seven-year action plan to implement a strategy for protecting and integrating the Roma into society. While observers saw the plan as a positive step, the European Roma Rights Center (ERRC) reported it had not led to significant improvements for Roma. The ERRC monitored the plan in collaboration with the International Renaissance Foundation.

According to the Parliamentary Ombudsman for Human Rights, 24 percent of Roma have never had any schooling, and only 1 percent of the Romani population had a university degree. Approximately 31 percent of Romani children did not attend school. According to the ERRC, more than 60 percent of Roma were unemployed, creating a vicious cycle leading to social exclusion and marginalization. According to the ombudsman, securing employment was the main problem for the Romani minority. Approximately 49 percent of Roma named it as their most significant challenge.
According to the Romani women’s foundation Chiricli, local authorities erected a number of barriers to prevent issuing passports to Roma. Authorities hampered access to education not only by a lack of documents, but also due to segregation of Romani children into special schools or lesser-quality classrooms.

During the year many Roma fled settlements in areas controlled by separatists and moved elsewhere in the country. According to Chiricli approximately 10,000 Roma fled separatist-controlled territory and were among the most vulnerable members of the country’s IDP community. Because many Roma lacked documents, obtaining IDP assistance, medical care, and education was especially difficult.

There were several reports during the year that police arbitrarily detained Romani individuals, at times beating or mistreating them (see section 1.c.).

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

During the year the country updated its labor code to prohibit workplace discrimination on the basis of sexual orientation and gender identity. No law, however, prohibits discrimination on this basis in other areas. LGBTI groups, along with international and domestic human rights organizations, criticized the lack of such language in the National Human Rights Strategy.

According to the LGBTI group Nash Mir (Our World), there were both positive and negative developments in the situation of the LGBTI community in the country. The group reported an improvement in social attitudes towards homosexuality and a decline in homophobic rhetoric from churches and leading political figures, and some members of the Verkhovna Rada voiced their support for LGBTI rights. The group reported, however, that the level of homophobic aggression from right-wing nationalist groups increased, and government agencies consistently avoided any discussion of problems facing the LGBTI community.

On June 6, several dozen men, including members of Right Sector, attacked the Equality March in Kyiv, beating protesters and police and throwing firecrackers laced with shrapnel. The attackers injured nine participants and 10 officers. While law enforcement authorities protected the march, the Kyiv City State Administration had initially discouraged march organizers from holding the event. Law enforcement authorities arrested more than a dozen persons on charges of
hooliganism. In July several men attacked two LGBTI activists holding hands in central Kyiv.

On August 13, the district administrative court in Odesa prohibited a march supporting LGBTI rights at the request of the Odesa City Council (see section 2.b.).

Our World stated that violence against LGBTI persons was underreported. During the year the group recorded 16 assaults and four killings related to the victims’ sexual orientation. Our World indicated that victims and families were reluctant to pursue hate crime charges in these cases due to homophobia. They reported an additional 52 cases of discrimination and abuse, mostly in the cities of Kyiv, Dnipropetrovsk, Odesa, and Zhytomir.

According to the Ukrainian Gay Alliance, an assailant killed a man in Odesa on December 12 due to his sexual orientation. The accused killer reportedly confessed to police that he killed his acquaintance due to his hatred for persons of a “nontraditional sexual orientation.”

LGBTI victims also suffered from discrimination in court proceedings. On November 11, a Kharkiv court handed down a sentence of only eight years to a man who murdered another person solely due to his homosexuality.

According to HRW transgender persons in the country faced discrimination. They must undergo mandatory psychiatric treatment and an examination before a state medical board prior to receiving treatment for sexual reassignment. Transgender persons found the process humiliating and claimed to have difficulty obtaining official documents reflecting their gender.

According to Our World, the situation of LGBTI persons continued to deteriorate in Russia-occupied Crimea and the parts of Donetsk and Luhansk Oblasts controlled by Russia-backed separatists (see section 1.g. and the Crimea section).

**HIV and AIDS Social Stigma**

UNICEF reported that children with HIV/AIDS were at high risk of abandonment, social stigma, and discrimination. Authorities prevented many children infected with HIV/AIDS from attending kindergartens or schools, subjected to neglect, 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 its prevention and treatment. Persons with HIV/AIDS faced discrimination and, at times, lacked access to treatment.

**Section 7. Worker Rights**

**a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of most workers to form and join independent unions, to bargain collectively, and to conduct legal strikes. There are no laws or legal mechanisms to prevent antiunion discrimination, although the labor code 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 observers described court enforcement as arbitrary and unpredictable.

The law contains several limits to labor rights. Labor laws and civil codes that apply to worker organizations are excessively complex and contradictory. 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. Independent unions reported multiple incidents of harassment by local law enforcement officials while navigating the registration process, including nonstandard requests for documentation and membership information.

Restrictions on the right to strike include the requirement that a large percentage of a workforce (two-thirds of conference delegates or 50 percent of workers in an enterprise) must vote in favor of a strike before it may be called. Poorly defined legal grounds for striking allowed authorities to deny the right to strike due to national security or to protect the health or “rights and liberties” of citizens. The law also prohibits strikes by specific categories of workers, including personnel in the Prosecutor General’s Office, the judiciary, the armed forces, the security services, law enforcement agencies, transportation-sector workers, and employees in the public-service sector.

The law made it difficult for independent unions to take part in tripartite negotiations, participate in social insurance programs, or represent labor at the national and international levels, while further entrenching the Federation of Trade Unions (FPU) and hindering the ability of smaller independent unions to act as effective representatives of their members’ interests.
Authorities did not effectively or consistently enforce labor laws, particularly where inspections and worker safety were concerned. On the regulatory side, inspectors were limited in number and in funding and faced substantial bureaucratic barriers (also see section 7.e.).

The government generally respected freedom of association and the right to collective bargaining. Observers, however, disputed the independence of unions from government or employer control. Independent trade unions alleged that the country’s largest trade union confederation, the FPU, enjoyed a cozy relationship with employers and members of some political parties. Authorities further denied unions not affiliated with the FPU a share of disputed trade union assets inherited by the FPU from Soviet-era unions.

Statutory worker-management commissions were not always effective. Management, or union representatives co-opted by management, at times dominated the commissions. There were cases of workers, who renounced membership in an FPU-affiliated union and joined a new union, facing loss of pay, undesirable work assignments, and dismissal.

In January, Natalia Skalska, the head of the primary trade union of All-Ukrainian Trade Unions Zakhyst Spravedlivosti, filed a complaint with the Confederation of Free Trade Unions of Ukraine alleging that her employer, the National Depository of Ukraine, discriminated against trade unionists and encroached upon the rights of trade union members. Skalska accused the company’s chairman, Gennadiy Zhurov, of failing to recognize the union and neglecting the rights of its members. Employers subsequently fired Skalska and other trade union members from their positions. Skalska filed an appeal, which remained under consideration.

There were several cases of companies, private and state owned, not honoring collective bargaining agreements during bankruptcies. Wage arrears were common in the country and increased during the year (see section 7.e.).

Oleksandr Abramov, the head of a local branch of the National Independent Trade Union of Miners (NPGU) in Demitrov, Donetsk Oblast, complained in a letter to the NPGU office about alleged violations of the labor law. According to Abramov the administration of the “Krasnoarmiiskvugillia” company forced workers to conclude fixed-term employment contracts after tentatively dismissing them from their jobs. Employers required the workers who took such contracts to do the same amount of work, but without any of the social guarantees provided for by their
previous collective bargaining agreement. The NPGU requested the Ministry of
Energy and Coal Industry to help resolve the situation.

In January, Olga Shkoropad, the head of the primary trade union of the Lviv Coal
Mining Company, complained to the press about the company’s wage arrears,
which totaled 32 million hryvnias ($1.3 million). On her behalf the NPGU wrote
the Ministry of Energy and Coal Industry requesting assistance. To force the
company to take action, workers staged protests and strikes while demanding
payment of back wages. As of October 22, the Lviv Coal Mining Company ceased
operations, further complicating the trade union’s claims.

Labor NGOs operated in the country and focused on compliance with international
labor standards and supporting the independent labor movement. The International
Labor Organization (ILO) had an office in the Ministry of Social Policy, and the
ministry routinely consulted it. An ILO representative served on various boards
and committees. One NGO, the Solidarity Center, focused on fostering
independent unions and provided economic and legal training for union leaders.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. Resources, inspections,
and remediation were inadequate to ensure enforcement. Penalties for violations
ranged from three to 15 years’ imprisonment and were sufficiently stringent to
deter violations. As of July 1, the International Organization for Migration assisted
292 victims of trafficking (160 women and 132 men), 91 percent of whom were
victims of labor exploitation.

There were reports that criminals trafficked women, men, and children for labor.
Traffickers subjected some foreign nationals to forced labor in construction,
agriculture, manufacturing, domestic work, the lumber industry, nursing, and
forced begging. Traffickers subjected some children to forced labor (see section
7.c.).

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

c. Prohibition of Child Labor and Minimum Age for Employment

The law sets 16 as the minimum age for most employment. Children who are 15
years of age may perform “light work” with a parent’s consent, but the law does
not clearly define the term. The law allows children to do some forms of work beginning at age 14 as part of an apprenticeship in the context of vocational training.

The government did not effectively enforce the law. Penalties for violations ranged from small fines for illegitimate employment or other labor law violations to prison sentences for sexual exploitation of a child or involvement in illicit activities or pornography, and were insufficient to deter violations. The penalty for forcing children to beg is imprisonment for up to three years.

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.

A 2012 Office of the Ombudsman for Children’s Rights study on child labor trends found child labor in agriculture (30 percent of all total child labor), sales activities in kiosks and in the distribution of advertising leaflets (25 to 30 percent), construction (19 percent), and other unskilled positions. The survey was not nationally representative and did not include children in the informal sector. Children from socially disadvantaged families and those in state custody remained at high risk of being trafficked or exploited for begging. Commercial sexual exploitation occurred (see section 6, Children). Most child labor in the informal sector occurred in the agricultural and service sectors.

During the year enforcement of child labor laws deteriorated. Due to the reorganization of the inspection services, a complete ban on unplanned inspections (see section 7.e.), and a lack of funding for the State Labor Service, authorities did not conduct a single child labor inspection during the year. Law enforcement bodies in the Luhansk Oblast detected one case of child sexual exploitation, which was under investigation. According to the Ministry of Social Policy, during a three-year period from January 2012 to the end of the year, there were 17 cases of child trafficking, of which eight involved sexual exploitation, five involved labor exploitation, two involved children being sold, one involved both sexual and labor exploitation, and one case involved forced begging.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation
The Verkhovna Rada passed a sexual minorities’ antidiscrimination amendment to the labor code laws on November 12 to meet the requirements of the EU for a visa-free regime. With the incorporation of changes in the amendment, the labor code now prohibits “any discrimination in the workplace, including violation of the principle of equal rights and opportunities; direct or indirect restriction of the rights of workers depending on race, color, political, religious and other beliefs, sex, gender identity, sexual orientation, ethnic, social and foreign origin, age, health, disability, suspicion or existence of HIV/AIDS, family and property status, family responsibilities, location, membership in trade union or other association of citizens participating in the strike, appeal or intent to apply to the courts or other bodies for protection of their rights, or providing support to other workers in defense of their rights, linguistic or other grounds not related to the nature of the work or the context of its implementation.”

The government did not effectively enforce the law, and discrimination in employment and occupation reportedly occurred with respect to gender, disability, nationality, race, minority status, sexual orientation or gender identity, and HIV-positive status.

Industries dominated by women workers had the lowest relative wages. Women received lower salaries than men did due to limited opportunities for advancement and the types of industries that employed them. According to the Ombudsman’s Office, men earned on average of 29.5 percent more than women earned. Domestic and international observers noted women held few elected or appointed offices at the national and regional levels.

e. Acceptable Conditions of Work

As of January 1, the national monthly minimum wage for all sectors was 1,218 hryvnias ($50). The government based the minimum wage on a set monthly subsistence income level. Prior to local elections in October, the government stated it would raise the minimum wage by 13.1 percent, to 1,378 hryvnias ($57). The subsequent budget law passed by the administration envisaged that such an increase would begin in December. There were cases of workers in the informal sector receiving wages below the established minimum.

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 agreement between employers and the respective local trade union
organization on all overtime work and sets limits on the number of overtime hours allowed.

Wage arrears increased 34 percent from January through October 1. According to the State Statistics Committee, arrears stood at approximately two billion hryvnias ($83 million) as of October. Most arrears accumulated in industry but also significantly affected companies in the construction, transportation, communications, real estate, and agricultural sectors.

The law requires employers to provide safe workplaces. While the law and associated regulations contain occupational safety and health standards, employers frequently ignored them because of the lack of enforcement mechanisms and the government’s failure to hold employers accountable for unsafe conditions. The law provides workers the right to remove themselves from dangerous working conditions without jeopardizing their continued employment. 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.

The government did not effectively enforce minimum wage, hours of work, and occupational safety and health standards. Penalties for violations ranged from 510 to 1,700 hryvnias ($21 to $71), which were insufficient to deter violations. The State Labor Inspectorate was responsible for enforcing labor laws. Inspectors were limited in number and funding. By November 2014 the latest year for which such data were available, the number of inspectors had dropped to 457 from 616, in large part due to a 70 percent funding cut in 2014.

The government imposed a moratorium on surprise inspections from July 2014 through the end of the year, purportedly to cut the number of required inspections and certifications, deregulate the economy, and prevent corruption. The moratorium further constrained the government’s ability to enforce labor laws effectively.

During this period authorities required the State Labor Service and its predecessor, the State Labor Inspectorate, to go through a lengthy interagency process to obtain permission from the Cabinet of Ministers to conduct an inspection. The labor inspections could also occur on the company’s own request or on the formal request of the investigator in the framework of criminal proceedings against the company.
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.

Mineworkers, particularly in the illegal mining sector, faced very serious safety and health problems. Through September there were 13 mining fatalities, or approximately 86 percent fewer than in the same period in 2014. In the same period, authorities reported 489 coal miners injured, almost 73 percent fewer than in the same period in 2014. Observers attributed the sharp decrease in fatalities and injuries to the fact that many mines in the areas in eastern Ukraine affected by Russian aggression were closed, ruined, or had suspended operation, while others in areas not under government control did not provide statistics to authorities. In the first nine months of the year, there were 3,067 work-related injuries across all employment types, or 38 percent fewer than during the same period in 2014. There were 275 work-related fatalities during the period, a 37 percent decline from the same period in 2014. Workers faced unsafe situations in areas of conflict in Donetsk and Luhansk Oblasts.

Despite armed conflict taking place close to industrial areas in the Donbas region, enterprises largely continued to operate through September. Fighting resulted in physical damage to mines and plants by causing loss of power, destroyed transformers, physical damage from shelling, and reportedly intentional flooding of mines by separatists. Miners were especially vulnerable, as loss of electrical power could strand them underground. Additionally, loss of electrical power threatened the operability of mine safety equipment that prevented the buildup of explosive gases.

Raids by combined Russian-separatist forces made workplaces in Donbas unsafe. For example, in April armed pro-Russian militants took control of the Donetsk office of the mobile telephone operator KyivStar, stealing its equipment and occupying its offices. Many coalmines in conflict areas halted operations (see section 1.g.). According to the government, approximately 70 percent of the coalmines in the Donetsk Oblast were ruined, flooded, cut off from electricity, or had other dangerous conditions.

CRIMEA

In February 2014 Russian forces entered Ukraine’s Crimean Peninsula and occupied it militarily. In March 2014 Russia announced the peninsula had become part of the Russian Federation following a sham referendum that violated
Ukraine’s constitution. On March 27, 2014, the UN General Assembly adopted Resolution 68/262 on the “Territorial Integrity of Ukraine,” which called on states and international organizations not to recognize any change in Crimea’s status and affirmed the commitment of the UN to recognize Crimea as part of Ukraine. In April 2014 Ukraine’s legislature (Verkhovna Rada) adopted a law attributing responsibility for human rights violations in Crimea to the Russian Federation as the occupying state. The United States does not recognize the attempted “annexation” of Crimea by the Russian Federation. Russian law has de facto applied in Ukraine’s Crimea since the Russian occupation and purported “annexation” of the peninsula in March 2014. For detailed information on the laws and practices of the Russian Federation, see the Country Reports on Human Rights for Russia.

EXECUTIVE SUMMARY

A local authority installed by the Russian government and led by Sergey Aksyonov as “prime minister” of the “state council of the republic of Crimea” administered Occupied Crimea. The “state council” was responsible for day-to-day administration and other functions of governing. In September 2014 Russian occupation authorities held “parliamentary elections” in which only Russia-based political parties won seats. Authorities closed the election to independent observers; it was not free and fair and was held in contravention of the Ukrainian constitution. Russian authorities maintained control over Russian military and security forces deployed in Crimea.

During the year security services worked to consolidate control over Crimea and continued to restrict human rights by imposing repressive federal laws of the Russian Federation on the Ukrainian territory of Crimea.

The most significant human rights problems in Crimea during the year related directly to the Russian occupation:

First, Russian security services engaged in an extensive campaign of intimidation to suppress dissent and opposition to the occupation that employed kidnappings, disappearances, physical abuse, and deportations. Russian security forces routinely detained individuals without cause and harassed and intimidated neighbors and family of those who opposed the occupation.

Second, Occupation authorities deprived certain groups, in particular Ukrainians and Crimean Tatars, of fundamental freedoms, particularly regarding expressions
of nationality and ethnicity, and subjected them to systematic discrimination. Continuing their policy of imposing Russian citizenship on all residents of Crimea, occupation authorities subjected persons who refused Russian citizenship to discrimination in accessing education, health, and employment. These authorities interfered with the rights to expression and assembly, criminalizing the display of cultural and national symbols, preventing groups of private individuals from celebrating their national and cultural heritage, and restricting access to education in the Ukrainian and Crimean Tatar languages.

Third, Russian authorities engaged in a widespread campaign to suppress free speech and media in Crimea. They refused to register Crimean media and news organizations, preventing them from operating legally. In particular, Russian authorities denied ATR television and the QHA Crimean News Agency licenses, forcing them to close. Security services also detained and abused journalists and threatened them with prosecution for opposing the occupation.

Other problems included poor conditions in prisons and pretrial detention facilities; political interference in the judicial process; limitations of freedom of movement; the internal displacement of thousands of individuals to mainland Ukraine; failure to allow residents of Ukraine’s region of Crimea to exercise the ability to vote in periodic and genuine elections to choose their leaders; official corruption; discrimination and abuse of ethnic and religious minority groups; discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; kidnapping and transport of orphans to Russia by occupation authorities; and employment discrimination against persons who did not hold a Russian passport.

The Russian-installed authorities took few steps to investigate or prosecute officials or individuals who committed human rights abuses, creating an atmosphere of impunity and lawlessness. Occupation and local “self-defense” forces often did not wear insignia and committed abuses with impunity.

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

a. Arbitrary or Unlawful Deprivation of Life

Russian occupation authorities did not adequately investigate cases of abductions and killings of Crimeans from 2014. For example, in January occupation authorities suspended their investigation of the March 2014 killing of Crimean Tatar activist, Reshat Ametov, who observers noted being forced into a car by members of “self-defense” paramilitaries. His body was later found with signs of
torture, including his eyes gouged out. Despite video footage of the abduction, police suspended their investigation due to “lack of evidence.”

Occupation authorities did not investigate other suspicious deaths and disappearances, occasionally marking them up as suicide. Human rights observers reported that families frequently did not challenge findings in such cases due to fear of retaliation.

b. Disappearance

There were numerous reports of disappearances and abductions that domestic and international observers attributed to Russian occupation authorities. In many cases the whereabouts of individuals were unknown for extended periods of time. Human rights groups reported that police often refused to register reports of disappearances while intimidating and threatening with detention those who tried to report a disappearance.

In March, Fyodor Kostenko disappeared shortly after crossing from Kherson Oblast into Crimea. Kostenko is the father of Euromaidan activist Oleksandr Kostenko, who was convicted in Crimea in May for protesting against the Yanukovych government in Kyiv. The last report concerning Fyodor Kostenko was on March 4, shortly after he crossed into Crimea and after he appeared at a press conference in Kyiv, where he protested his son’s detention, which he characterized as illegal. Russian occupation authorities have not investigated his disappearance.

On August 27, men in police uniforms reportedly seized Mekhtar Aislanov, a Crimean Tatar, and threw him into a minivan; there has been no subsequent communication from him. On September 3, Russian authorities opened an investigation into his disappearance.

On December 24, Tatar leader Mustafa Jemilev noted that at least 20 Crimean Tatars have disappeared since the occupation of Crimea began. There was no information on at least eight individuals reported as abducted and missing in 2014. Russian occupation authorities did not adequately investigate the disappearances, and human rights groups believed Russian security forces kidnapped the individuals by for opposing Crimea’s occupation.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
There were reports that Russian authorities in Crimea abused residents who opposed the Russian occupation.

Security services reportedly tortured Oleksandr Kostenko prior to his May 15 “conviction” for allegedly injuring a member of the Ukrainian antiriot Berkut force in Kyiv in February 2014. Kostenko accused his captors of beating him, subjecting him to a mock execution, and depriving him of food and water during his detention. A court sentenced Kostenko to four years and two months in prison. Observers noted the conviction was unique because the alleged crime took place outside of both Russia and Crimea and occurred before Russia’s occupation of Crimea.

Human rights monitors reported that Russian occupying forces subjected Crimean Tatars in particular to physical abuse and beatings but pressured them not to file complaints. For example, according to Tatar leaders, on December 16, Federal Security Service (FSB) officers detained and allegedly tortured Tatar Ehnver Krosh with electric shock, in an attempt to coerce his cooperation with an FSB operation. Authorities released him the next day, reportedly after having threatened his family.

Human rights monitors reported that occupation authorities also threatened individuals with violence or imprisonment if they did not testify in court against individuals the authorities considered to be in opposition to the occupation.

**Prison and Detention Center Conditions**

Prison and detention center conditions reportedly remained harsh and overcrowded. According to a September report on Crimea by the OSCE/ODIHR and the OSCE high commissioner on national minorities, persons incarcerated during the Russian occupation did not have the opportunity to retain their Ukrainian citizenship. The report also noted that health care in prisons had deteriorated. Human rights groups reported that prisons suffered from overcrowding and poor conditions.

**Independent Monitoring:** Occupation authorities did not permit monitoring of prison or detention center conditions by independent nongovernmental observers or international organizations.

**d. Arbitrary Arrest or Detention**
Authorities arbitrarily detained protesters, activists, and journalists for opposing
the Russian occupation.

**Role of the Police and Security Apparatus**

Russian occupation authorities applied and enforced Russian law in occupied
Crimea. Russian government agencies, including the Ministry of Internal Affairs,
the FSB, the Federal Investigative Committee, and the Office of the Prosecutor
General, enforced the “law.” The FSB also conducted security,
counterintelligence, and counterterrorism activities and combatted organized crime
and corruption. A “national police force” operated under the aegis of the Russian
Ministry of Internal Affairs.

In addition to abuses committed by Russian forces, “self-defense” forces, largely
consisting of former Ukrainian Ministry of Interior officers allegedly linked to
local organized crime, reportedly committed many abuses. These forces often
acted with impunity in intimidating opponents of the occupation and were involved
in beatings, kidnappings, detentions, and arbitrary confiscation of property. While
the “law” places the “self-defense” forces under the authority of the “national
police,” members of the forces continued to commit abuses while receiving state
funding for their activities as well as other awards, such as beachfront property and
service medals.

**Arrest Procedures and Treatment of Detainees**

Arbitrary Arrest: There were reports Russian-imposed authorities made arbitrary
arrests, in particular targeting Crimean Tatars.

Authorities arrested persons involved in competing protests by pro-Russian and
pro-Ukrainian groups on February 26, 2014, in Simferopol, which resulted in the
deaths of two individuals. The event occurred prior to Russia’s purported
annexation of Crimea. Occupation authorities, nevertheless, subsequently
prosecuted individuals alleged to have participated in the protest, although Russia
did not exercise control over Crimea at the time. Human rights groups reported
that authorities reviewed video of the incident and selectively brought charges
against leading Crimean Tatar and Ukrainian individuals who subsequently
opposed the occupation, in particular members of the Crimean Tatar Mejlis. The
occupation authorities refused to investigate acts of violence committed by pro-
Russian “protesters,” some of whom observers believed to have been working for Russian security services.

On January 28, police arrested Akhtem Chiygoz, a Crimean Tatar leader and deputy head of the Mejlis, and charged him with participating in the February 26 Simferopol protests. During a hearing in May, authorities extended his detention by three months. While Chiygoz was in detention, occupation authorities held him in solitary confinement, only returning him to the normal prisoner population after he began a hunger strike. In July occupation authorities extended Chiygoz’s detention to November 19; authorities extended it again until January 29, 2016. On December 28, the Kharkiv Human Rights Protection Group cited complaints by Chiygoz’s lawyers that authorities deprived them of enough time and access to case materials to provide an adequate defense during the trial, set to start in early 2016.

Following Chiygoz’s arrest authorities arrested several other Crimean Tatars, accusing them of participating in the February 26, 2014 protests, including Asan Chebiyev (on February 4), Eskender Knemirov (on February 7), Eskender Emirvaliyev (on February 18), Talyat Yusonsov (on March 11), Ali Asanov (on April 15), and Mustafa Degirmindzhy (on May 10). Human rights groups believed that occupation authorities made the arrests to pressure them to testify against Chiygoz.

On April 14, police detained Mustafa Asaba, head of the Belgorod regional Mejlis, and accused him of participating in the February 26 Simferopol protests. Human rights observers believed that Russian security services planted ammunition in his home during a search in September 2014.

Security services also arrested persons involved in a protest on May 3, 2014, when several thousand Crimean Tatars protested at the administrative boundary between Crimea and Kherson Oblast against the occupation authorities’ forced expulsion of Crimean Tatar leader Mustafa Jemilev. Following the protests authorities fined more than 200 individuals for conducting an “unauthorized meeting.” In 2014 occupation authorities indicted four individuals for rioting and violating a state border in connection with the May 3, 2014 events, targeting Crimean Tatar leaders Musa Apkerimov, Rustam Abdurakhmanov, Edem Ebulisov, and Tair Smedlyaev. On January 17, authorities arrested Edem Osmanov, son of Euromaidan activist Mustafa Osmanov, and accused him of using force against the Russian occupation in connection with the May 3, 2014 events. On May 28, Apkerimov received a suspended sentence of four years and four months. On August 4, authorities fined
Edem Ebulisov in exchange for a plea of guilty for assaulting a state official. The status of the other investigations and trials was unknown.

e. Denial of Fair Public Trial

Under the Russian occupation regime, the “judiciary” was neither independent nor impartial and remained susceptible to political interference.

Trial Procedures

See the *Country Reports on Human Rights* for Russia for a description of the relevant Russian laws and procedures that the Russian government applied and enforced in occupied Crimea.

Political Prisoners and Detainees

Russian occupation authorities together with local “self-defense” forces detained and prosecuted individuals for political reasons (see section 1.d.). Occupation authorities also transferred Crimean cases to Russia’s legal system and changed the venue of prosecution for some detainees. On August 25, a Russian court sentenced film director Oleh Sentsov and activist Oleksander Kolchenko to 20 and 10 years in prison, respectively, on politically motivated charges. Occupation authorities had transferred them from Crimea to Russia for trial in 2014 (see *Country Reports on Human Rights* for Russia).

On June 2, a Russian court found Khaiser Jemilev, son of exiled Crimean Tatar leader Mustafa Jemilev, guilty of manslaughter, sentencing him to five years, later reduced to three and a half, in prison. Occupation authorities had transferred him from Crimea to Russia for trial in 2014. Human rights groups asserted that Russian authorities charged him with murder and later transported him to Astrakhan to put pressure on his father, Mustafa Jemilev, who opposed the occupation of Crimea (see *Country Reports on Human Rights* for Russia).

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

There were reports that occupation authorities and others engaged in electronic surveillance, entered residences and other premises without warrants, and harassed relatives and neighbors of perceived opposition figures.
Russian occupation forces regularly conducted paramilitary exercises with the aim of intimidating residents of Crimea, especially Crimean Tatars. On April 2, Internal Affairs Ministry soldiers entered the town of Zhuravli, searching homes for weapons and “banned materials.” Occupation authorities conducted similar searches in Lenino and Fontany. In both cases armed men in uniform without identification conducted extensive searches of houses without a warrant or pretext, accompanied by dogs and helicopters after setting up checkpoints with machine guns at the outskirts of the towns. There were reports that occupation authorities conducted similar searches in Simferopol.

Occupation authorities harassed family members of a number of political opponents. For example, they indicted Oleksandr Kostenko’s brother, Felix Kostenko, for “insulting a judge.” Occupation authorities also indicted Kostenko’s friend, Stabislav Kransov, for “inciting hatred or enmity through mass media” and fled Crimea; security services frequently visited Kostenko’s mother, who still resided in Crimea.

Following the sabotage of electrical lines from government-controlled territory to occupied Crimea, Russian officials cut power and natural gas to family members of members of the Crimean Tatar Mejlis in retaliation. Human rights monitors reported that occupation authorities harassed family and friends of Crimean Tatar leaders and placed them under surveillance.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Occupation authorities significantly restricted freedom of speech and press. Occupation authorities refused to register independent print and broadcast media outlets, forcing them to cease operations. Threats and harassment against international and Ukrainian journalists were common.

Freedom of Speech and Expression: Individuals could not publicly criticize the Russian occupation without fear of reprisal. Human rights groups reported that the FSB engaged in widespread surveillance of social media, telephones, and electronic communication and routinely summoned individuals for “discussions” for voicing or posting opposition to Russian occupation.
On April 21, occupation authorities detained Emir-Usein Kuku, a member of the Contact Group on Human Rights, and seized his laptop and mobile phone, allegedly on suspicion that he was involved in inciting ethnic hatred.

Occupying authorities considered the Ukrainian flag and other Ukrainian symbols to be illegal and arrested and harassed anyone publicly displaying these symbols. On August 24, Ukrainian Independence Day, occupation authorities arrested three men in Kerch for flying a Ukrainian flag and wearing T-shirts with Ukrainian symbols on them. The court sentenced one of the men to 15 days in jail for “disrupting public order.” On the same day in Sevastopol, police arrested a small group of Ukrainian activists for laying flowers at a monument to Ukrainian writer Taras Shevchenko.

Press and Media Freedoms: Independent print and broadcast media could not operate freely. Occupation authorities refused to register most independent media outlets, forcing them to close during the year.

In 2014 occupation authorities required all Crimean media organizations to register with the Russian state media regulator Roskomnadzor by January 1. Occupation authorities extended that deadline to April 1. The authorities subsequently refused to issue licenses to independent news organizations or those that published articles opposing Russia’s occupation of Crimea.

In February, Roskomnadzor refused to issue a license to QHA Crimean News Agency, which ceased operations in Crimea on April 1 and moved to Kyiv. Roskomnadzor also refused to register the Tatar language outlets 15 Minut and Avdet.

On April 1, the Crimean Tatar television station ATR stopped transmitting after occupation authorities refused to issue it a license. ATR submitted four applications between October 2014 and April, but occupation authorities refused it each time due to “lack of documents,” despite the fact that an experienced Moscow law firm prepared its last two applications. The occupation “prime minister,” Sergei Aksyonov stated ATR was an “enemy element” that had no role to play in Russian-occupied Crimea. AI and other human rights groups condemned Russia’s decision to close ATR.

On April 29, the Committee to Protect Journalists (CPJ) appealed to Russian president Vladimir Putin to improve press freedom, criticizing raids, and detentions, while noting that, of the 3,121 press organizations registered in
Ukraine, only 232 had obtained registration from Roskomnadzor. In particular, the CPJ criticized occupation authorities for singling out Crimean Tatar publications for closure.

On March 2, Russian occupying authorities warned Nariman Dzhelyal, first deputy head of the Mejlis, not to organize any protest against ATR’s closing. On March 31, occupation authorities detained eight students after creating a video supporting ATR. On April 15, occupation authorities fined two of them the equivalent of $200 (14,800 rubles) for participating in an unsanctioned public event.

Occupation authorities took steps to replace independent, Tatar-language media with state-controlled alternatives. On September 22, the Millet television station began broadcasting in the Crimean Tatar language. The occupation authorities closely controlled its content. Millet received approximately 177 million rubles ($2.4 million) in Russian government funding and does not report on issues such as disappearances of Crimean Tatars.

Violence and Harassment: There were numerous cases of Russian security forces or police harassing independent media and detaining journals in connection with their professional activities. On January 26, armed members of the Russian security services raided the headquarters of ATR, and demanded that it surrender any footage it had of the February 2014 protests. During a seven-hour search, the security services seized hard drives, video footage, and data. The occupation authorities threatened to arrest and fine individuals who gathered to protest the search.

On March 13, police detained independent journalist Natalya Kokorina for six hours and searched the home of the mother of Anna Andrievska, who wrote an article about the Crimea Battalion in December 2014. Both were independent journalists affiliated with the Center for Investigative Journalism. In separate incidents police also detained independent journalist Anna Shaidurova and former ATR Television cameraman Eskender Nebiyev.

Censorship or Content Restrictions: Following Russia’s occupation of Crimea, journalists resorted to self-censorship to continue reporting and broadcasting. Russian occupation authorities banned most Ukrainian and Crimean Tatar-language broadcast programming, replacing the content with Russian programming.
In September occupation authorities directed media outlets not to mention the word “Mejlis” in reporting and not make any mention of its leader Refat Chubarov or former leader Mustafa Jemilev. The Russian-installed “prosecutor general” of Crimea ordered media outlets “to stop using the name or parts of the name of nonexistent organizations in news, articles, and interviews.”

National Security: Occupation authorities used national security laws to restrict the work of journalists critical of the Russian occupation.

Internet Freedom

Russian occupation authorities restricted free expression on the internet by imposing repressive laws of the Russian Federation on Crimea (see section 2.a. of the Country Reports on Human Rights for Russia). Security services routinely monitored and controlled internet activity to suppress contrary opinions. According to media accounts, Russian occupation forces interrogated residents of Crimea for posting pro-Ukrainian opinions on Facebook or on blogs. On April 11, occupation authorities detained former ATR cameraman Amet Umerov and searched his house for allegedly posting remarks critical of the Russian occupation leadership on a social network. The search came days after Roskomnadzor, Russia’s media regulator, was granted broad powers to search correspondence on social networking and e-mail systems.

On April 4, during a daylong raid and search of houses in Zhuravki for alleged extremist materials, occupation authorities reportedly cut the town off from internet, telephone, and electrical services.

Academic Freedom and Cultural Events

Russian authorities in Crimea engaged in a widespread campaign to suppress the Crimean Tatar language. While Crimean Tatar is an official language, occupation authorities dramatically reduced instruction in schools, and the language was offered only as an optional language at the end of the school day. Occupation authorities closed the Crimean Tatar school in Bakhchysarai. Additionally, there were reports of authorities pressuring Crimean Tatars to use the Cyrillic, as opposed to the Latin, alphabet.

After the Russian occupation, authorities pressured teachers and parents to discourage Ukrainian language education. In 2014 authorities closed the Ukrainian Philology Department at the V.I. Vernadsky University, creating a shortage of
teachers and discouraging Ukrainian instruction. Prior to the occupation, 8.2 percent of Crimean children received instruction in Ukrainian in seven Ukrainian language schools and 165 bilingual Ukrainian and Russian schools. During the year only 1.2 percent of Crimean residents received Ukrainian language instruction and only two Ukrainian language schools remained open. In 2013 some 12,694 students received instruction in Ukrainian; during the year only 949 did. Occupation authorities expunged courses on the history and literature of Ukraine from educational materials in Crimea, and punished teachers found using Ukrainian materials and dismissed some.

Occupation authorities imposed Russian laws regarding “banned” books and materials and reportedly removed Ukrainian language material from libraries in Crimea. In January occupation authorities fined the director of the Feodosia library 2,000 rubles (approximately $27) because the library contained 12 books about the Holomodor (a man-made famine that occurred in Ukraine in the 1930s), which were deemed to be “extremist materials” because of its supposedly anti-Russian content.

In September occupation authorities threatened Vladimir Kazarin, chair of the Russian and Foreign Literature Department at the Tauride Tauris Academy, with dismissal after he stated that “the arrival of Russia absolutely devastated the educational field of Crimea” at a conference in Prague.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

Organizations representing minority communities reported gross and widespread harassment and intimidation by Russian occupation authorities to suppress their ability to assemble peacefully. Abuses included arbitrary searches, interrogations, threats of deportation, and unsubstantiated accusations of possessing “extremist” literature.

On January 17, approximately 30 titushki, or hired thugs, attempted to break up a meeting of the Second All-Crimean Conference on Crimean Tatar Rights in Simferopol by assaulting and harassing participants. Police and security officers at the scene did nothing to prevent the disruption.

On May 18, Russian occupation authorities detained approximately 60 Crimean Tatars commemorating the 71st anniversary of the Soviet deportation of Crimean
Tatars, for displaying Ukrainian and Crimean Tatar flags. Prior to the march, authorities warned members of the Crimean Tatar Mejlis not to hold such a demonstration. Occupation authorities detained protesters for more than six hours without access to lawyers and released them without formal charges.

Occupation authorities criminalized the display of Ukrainian flags and symbols as extremist activity. On March 9, security services arrested Leonid Kuzmin, Alexander Kravchenko, and Vilidar Shukurdzhiyev in Simferopol after they displayed Ukrainian flags at a public celebration of the 201st birthday of Ukrainian poet Taras Shevchenko. On March 13, the court found all three guilty of holding an illegal rally and sentenced them to 40 hours of community service. Occupation authorities threatened Kuzmin with dismissal from his job as a teacher. On March 14, occupation authorities arrested Kuzmin at a memorial to Shevchenko wearing a blue and yellow ribbon—the Ukrainian national colors. Occupation authorities later issued Shukurdzhiyev an administrative warning for doing the same. On April 17, two unknown individuals assaulted Kuzmin, leaving him with a concussion.

Occupation authorities forbade any assembly marking Crimean Tatar Flag Day on June 26.

**Freedom of Association**

Russian occupation authorities required all social, religious, and media groups to reregister by January 1, 2016. There was concern that occupation authorities would abuse this process to hinder freedom of association by preventing legitimate associations from reregistering, thereby making their actions illegal.

Security services repeatedly arrested, detained, and searched members of the Mejlis, the recognized, elected representative body of Crimean Tatars. On March 30, occupation authorities subjected Nariman Dzhelyal to a five-hour search of his home following his election to the Mejlis. In September occupation authorities threatened to prohibit the Crimean Tatar Mejlis within the Russian Federation.

The Russian Federation Council’s July 8 proposed a “patriotic stop list” of 12 foreign NGOs operations it considered to be a potential threat to the internal political situation of Russia; the list included the Crimean Human Rights Field Mission (CHRFM), which conducts monitoring of human rights abuses committed in Crimea. The CHRFM reported that officials and individuals were afraid to discuss human rights with them after they were placed on the “patriotic stop list.”
c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).


Russian occupation authorities did not respect rights related to freedom of movement and travel.

**In-country Movement:** There were reports that occupation authorities selectively detained and at times abused persons attempting to enter or leave Crimea. On January 17, Russian occupation authorities detained without cause Emine Avamileva, a member of the Crimean Tatar Mejlis and Kurultai, for more than two hours at the administrative boundary between Kherson and Crimea. On January 23, occupation authorities detained Eksender Bariyev and Abmedzhyt Suleymanov, members of the Crimean Tatar Rights Committee, as they traveled from Crimea to Kherson Oblast.

**Foreign Travel:** In July occupation authorities prohibited Nariman Dzhelyal and Ilmi Umerov from the Crimean Tatar Mejlis as well as Zair Smedlyaev, head of the Central Election Commission of the Kurultai, from traveling to Ankara, Turkey, to attend the Second World Congress of Crimean Tatars.

**Exile:** On January 23, occupation authorities expelled Sinaver Kadyrov, a Crimean Tatar activist, although he had not formally refused Russian citizenship and had been compelled to accept it.

Mustafa Jemilev and Refat Chubarov, members of the Verkhovna Rada and the former and current chairman of the Crimean Tatar Mejlis, respectively, and Ismet Yuksel, general director of the Crimean News Agency, remained banned from entering Crimea by Russian occupation authorities on the pretext that they would incite radicalism. Occupation authorities have banned them since 2014.

**Citizenship:** In 2014 Russian occupation authorities imposed a Russian citizenship requirement on all residents of Crimea. Those who refused Russian citizenship became subject to arbitrary expulsion. Authorities announced that it would issue only 5,000 Russian “permanent residence permits” to Crimean residents during the year. Additionally, authorities denied those who refused Russian citizenship
access to government employment, education, and health care, as well as the ability to open bank accounts and buy insurance, among other limitations. According to media sources, Russian authorities prosecuted private employers who continued to employ Ukrainians.

In some cases authorities compelled residents of Crimea to surrender their Ukrainian passports. Loss of their Ukrainian passports made it potentially difficult for Crimeans to travel internationally, since many countries did not recognize passports issued to them by Russian occupation authorities.

Occupation authorities announced that, as of January 1, 2016, all individuals who retained Ukrainian citizenship must register their passports or be subject to fines or imprisonment.

**Internally Displaced Persons**

Approximately 30,000 residents of Crimea registered with Ukraine’s State Emergency Service as IDPs on the mainland, according to the UN Office for the Coordination of Humanitarian Affairs. Local NGOs, such as KrymSOS and the Mejlis, believed the actual figure could be as high as 50,000 because the majority of IDPs remained unregistered. Many individuals fled out of fear occupation authorities would target them for abuse because of their work as political activists or journalists. Muslims and Evangelical Christians who left Crimea said they feared discrimination due to their religious beliefs.

Crimean Tatars, who made up the largest number of IDPs, said they were concerned about pressure on their community, including an increasing number of arbitrary searches of their homes, surveillance, and discrimination. Additionally, many professionals left Crimea because Russian occupation authorities required them to apply for Russian professional licenses and adapt to Russian procedures in their work.

**Section 3. Freedom to Participate in the Political Process**

**Recent Elections:** Russian occupation authorities prevented residents from voting with other Ukrainian citizens in the October 25 local elections by prohibiting the establishment of legitimate district and precinct election commissions and polling places in Crimea.
Participation by Women and Minorities: Russian occupation authorities harassed, detained, and denied freedom of movement to members of the Crimean Tatar Mejlis (see section 2.d.). The Russian-installed “prime minister,” Sergey Aksyonov, stated occupation authorities no longer recognized the Mejlis as an official institution. Under Ukrainian law the Mejlis is the official, recognized, representative council of Tatars in the country.

Section 4. Corruption and Lack of Transparency in Government

There were no known requirements for Russian occupation authorities or their agents to file, verify, or make public any income or asset disclosure statements, nor is there a mechanism to provide for public access to information about their activities.

There were multiple reports during the year of rampant corruption among Crimean “officials,” including reports of embezzlement of Russian state funds allocated to support the occupation. For example, in June the FSB opened corruption cases against three prominent officials: Andrei Skrynnik, the peninsula’s “minister of industrial policies”; Nikolai Kochanov, the region’s “tax inspection chief”; and Dmitri Petrov, the “port chief of Yalta.”

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

Most independent human rights organizations ceased activities in Crimea following Russia’s occupation. Occupation authorities refused to cooperate with independent human rights NGOs and ignored their views, and they harassed human rights monitors and threatened them with fines and imprisonment.

An unofficial Turkish delegation visited Crimea on April 27-30. Its June 5 report stated that occupying authorities placed the delegation under surveillance, attempted to prevent the delegation from having meetings, and criticized the delegation when it did so. According to the report, Russian media engaged in a coordinated campaign to discredit the delegation. The Turkish delegation thanked “Crimean Tatars who agreed to meet with them despite pressures, fear, and threats to the safety of their lives.”

From July 6-18, the OSCE conducted a human rights assessment mission on Crimea. Russian occupation authorities refused to meet with the mission and denied the mission entry to Crimea. The mission’s report detailed allegations of
potentially serious human rights violations, emphasizing the need for independent human rights monitoring.

The CHRFM attempted to monitor the human rights situation in Crimea, but authorities sharply curtailed its activities after placing it on a “patriotic stop list” by the Russian Federation Council. The council recommended that the Russian Prosecutor General’s Office, in coordination with the Russian Ministry of Foreign Affairs, determine whether the group was an “undesirable foreign organization.” Should Russian authorities find the CHRFM “undesirable,” members and anyone cooperating or associating with the group would be subjected to fines or imprisonment.

Additionally, Russian laws regulating NGOs prohibit any group that receives foreign funding and engages in vaguely defined “political activity” to register as a “foreign agent,” a term that connotes treason or espionage. During the year authorities had not included any Crimean NGOs on the list; however, the law has had a chilling effect on their activities (see sections 2.b. and 5 of the Country Reports on Human Rights for Russia).

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

Occupying Russian forces created an atmosphere of impunity, creating a hostile environment for members of ethnic and religious minorities, and fostering discrimination and hostility against LGBTI persons.

Children

Birth Registration: Under both Ukrainian law and “laws” imposed by Russian occupation authorities, birthplace or parentage determines citizenship. Russia’s occupation and purported annexation of Crimea complicated the question of citizenship for children born after February 2014, since it was difficult for parents to register a child as a citizen with Ukrainian authorities. Registration in Ukraine requires a hospital certificate, which is retained when a birth certificate is issued. Under the occupation regime, new parents could only obtain a Russian birth certificate and do not have access to a hospital certificate. The situation was further complicated because Ukrainian border guards did not recognize Russian birth certificates, so bringing a newborn child to Ukraine would be difficult.

Institutionalized Children: There were reports that Russian authorities continued to permit kidnapping orphans in Crimea and transporting them across the border
into Russia for adoption. The Ukrainian government did not know the whereabouts of the children.

**Anti-Semitism**

According to international Jewish groups, an estimated 15,000 Jews lived in Crimea, primarily in Simferopol. There were no reports of anti-Semitic acts.

**National/Racial/Ethnic Minorities**

Since the beginning of Russia’s occupation, authorities singled out Crimean Tatars and Ukrainians for discrimination, abuse, deprivation of religious and economic rights, and violence, including killings and abductions.

Crimean Tatars are an ethnic group native to Crimea, dating to the Crimean Khanate of the 15th century. In 1944 Soviet authorities forcibly deported more than 230,000 Tatars to the Soviet Far East for allegedly collaborating with the Nazis during World War II. Following the dissolution of the Soviet Union, many surviving Crimean Tatars returned to Crimea. Prior to the Russian occupation, there were approximately 300,000 Crimean Tatars living in Crimea.

Occupation authorities systematically targeted members of the Crimean Tatar Mejlis, an elected, representative body of Crimean Tatars that the Ukrainian government legally recognizes. Russian occupation authorities formally banned its leader, Refat Chubarov, from Crimea for five years. Many of the individuals targeted in the cases regarding February 26 protests in Simferopol and March 3 at the administrative border between Crimea and Kherson oblasts were Mejlis members.

Occupation authorities harassed Crimean Tatars for speaking their language in public and forbid speaking it in the workplace. There were reports that teachers prohibited schoolchildren from speaking Crimean Tatar to one another.

Occupation authorities placed restrictions on the Spiritual Administration of Crimean Muslims, which is closely associated with Crimean Tatars. While the Spiritual Administration of Crimean Muslims has registered under Russian law, occupation authorities prohibited individual Muslim mosques associated with Crimean Tatars from doing so. Authorities routinely demanded information on any meeting held at a mosque outside of regular services and required that they be informed if an imam changed mosques.
Russian occupation authorities also targeted ethnic Ukrainians. On May 21, a group of ethnic Ukrainians met in public to celebrate “embroidery day” in honor of traditional Ukrainian dress. Security forces arrested four persons as well as three journalists from TV Inter. According to reports authorities arrested the group for having “prohibited items” and detained them for five hours. According to the Kharkiv Human Rights Monitoring Group, when the group asked why they were being fingerprinted, a security official told them that it was in case “something happens to you tomorrow…headless bodies get found here.”

Occupation authorities have not permitted churches linked to ethnic Ukrainians, in particular the Ukrainian Orthodox Church-Kyiv Patriarchate (UOC-KP) and the Ukrainian Greek Catholic Church to register under Russian law. Occupation authorities harassed and intimidated members of the churches. According to Bishop Kliment of the UOC-KP, parishes in Saki, Krasnoperekopsk, and Kerch closed for financial reasons after authorities threatened the economic interests of business persons who supported the churches. Bishop Kliment reported regular and systematic surveillance of UOC-KP churches and parishioners.

Russian occupation authorities targeted businesses and properties belonging to ethnic Ukrainians and Crimean Tatars for expropriation and seizure. In particular, they prohibited Crimean Tatars affiliated with the Mejlis from registering businesses or properties.

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

Human rights groups and local gay rights activists reported most of the LGBTI community fled Crimea after the Russian occupation began. LGBTI individuals were verbally and physically assaulted for their sexual orientation, and members of the LGBTI community reported that they were “completely underground.” Russian occupation authorities prohibited any LGBTI groups from holding public events in Crimea. LGBTI individuals faced increasing restrictions on their right to peaceful assembly as occupation authorities enforced a Russian law that criminalizes the so-called propaganda of nontraditional sexual relations to minors (see section 6 of the *Country Reports on Human Rights* for Russia).

**Section 7. Worker Rights**
Russian occupation authorities announced both the labor laws of Ukraine and those of the Russian Federation were to remain in effect until January 1. Russian occupation authorities have stated that, after that time, conditions specified in employment agreements that do not meet the requirements of federal laws and other normative legal acts of the Russian Federation containing the norms of labor law would no longer be applicable after that date (see section 7 of the Country Reports on Human Rights for Russia).

Russian occupation authorities imposed labor laws and regulations of the Russian Federation on Crimean workers, limited worker rights and created barriers to freedom of association, collective bargaining, and the ability to strike. The NGO Freedom House reported that pro-Russian authorities threatened to nationalize property owned by labor unions in Crimea. Ukrainians who did not accept Russian citizenship faced job discrimination. Only Russian passport holders could continue to work in “government” and municipal positions.
Tab 6
Office of the United Nations High Commissioner for Human Rights

Report on the human rights situation in Ukraine
16 November 2017 to 15 February 2018
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Ukraine: Civilian casualties along the contact line, 16 November 2017 - 15 February 2018

Civilian Deaths
- 1
- 2

Civilian Injuries
- 1
- 2
- 3 - 7
- 8 - 9
- 10 - 12

Feedback: Ukraineinfo@unhcr.org

The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

Date: 28 Feb 2018  Source: OHCHR & SSPE “Mapographia”  Author: UNHCR - Kyiv  Filename: UNHCR_East_Contact_Line_OHCHR_A3P_EN

OHCHR HRMMU office locations in Ukraine

Non-operational checkpoint
Operational checkpoint
Contact line
Settlement
Neighbouring country
Locations in eastern Ukraine mentioned in this report
I. Executive summary

We are human beings, not animals. We only want peace!!
- Resident of a village near the contact line.


2. This report is based on data collected by OHCHR through 276 in-depth interviews with victims and witnesses of human rights violations and abuses, and visits in both government-controlled and armed-group-controlled territory. OHCHR also carried out 546 activities to facilitate the protection of human rights connected with the cases documented, including trial monitoring, visit of places of detention, advocacy with duty-bearers, humanitarian organizations and non-governmental organizations (NGOs), and cooperation with United Nations human rights mechanisms.²

3. During the period under review, OHCHR documented 205 cases involving violations and abuses of the right to life, deprivation of liberty, enforced disappearance, torture and ill-treatment, sexual violence, fair trial rights, fundamental freedoms, and economic and social rights. In 66 out of these 205 cases, the alleged violation or abuse occurred within the reporting period; the Government of Ukraine bore responsibility for 38 of these cases, and armed groups for 28 cases. The overall continuation of human rights violations and abuses suffered by the civilian population in the conflict area, Crimea and across Ukraine, underscores the cumulative impact and the human cost of the ongoing conflict.

4. Out of the total 205 documented cases, 121 cases involved credible allegations of torture, ill-treatment and/or sexual violence, committed in the context of unlawful or arbitrary detention. Fifteen of these cases occurred during the reporting period, on both sides of the contact line. OHCHR interviewed 113 persons held in 13 detention facilities in government-controlled territory.³ While OHCHR continued to enjoy unimpeded access to official places of detention and conflict-related detainees in government-controlled territory, it continued to be denied such access in territory controlled by the armed groups of the self-proclaimed ‘Donetsk people’s republic’ and the self-proclaimed ‘Luhansk people’s republic’.⁴ This persistent denial of access raises serious concerns regarding detention conditions and possible further human rights abuses, including ill-treatment and torture. First-hand information received from a number of former detainees, including some individuals released as part of a simultaneous release on 27 December 2017, supports these concerns.

5. OHCHR also documented a total of 73 conflict-related civilian casualties, namely 12 deaths and 61 injuries. While this represents an overall decrease of 16 per cent compared with the previous reporting period, the number of civilian casualties resulting from shelling and light weapons fire increased by 66.7 per cent, indicating that the armed hostilities continued endangering the population on a daily basis. OHCHR was not able to attribute all civilian casualties to a specific party to the conflict. Yet, of the 47 civilian casualties resulting from shelling and small arms/light weapons fire, 35 (2 killed and 33 injured) were recorded in territory controlled by armed groups, and are likely attributable to the Government, and 12 (1 killed and 11 injured) were recorded in territory controlled by the Government, and are likely attributable to armed groups. Twenty-six civilian casualties could not be attributed to any party.⁵

6. OHCHR noted a lack of significant progress in achieving accountability for grave human rights violations in the killing of protestors at Maidan and the 2 May 2014 violence in
Furthermore, in conflict-related investigations and proceedings, OHCHR observed an unwillingness, both within law enforcement institutions and politically, to effectively investigate human rights violations alleged to have been perpetrated by State actors.

7. During the reporting period, under the framework of the “all for all” simultaneous release foreseen in the Minsk agreements, the Government of Ukraine released 234 conflict-related detainees while armed groups released 75 individuals. As of 15 February 2018, OHCHR had interviewed 64 of these individuals, on both sides of the contact line. All of those interviewed described having been subjected to inhumane conditions of detention, torture or ill-treatment, sexual violence, threats of violence, and/or violations of fair trial guarantees. These violations and abuses (most of which occurred prior to the reporting period) are emblematic of systemic human rights issues which have been further exacerbated by the conflict. Furthermore, the ad hoc procedures applied for the simultaneous release raise concerns regarding accountability and access to justice.

8. Mindful of the approaching commencement of the campaign year ahead of 2019 parliamentary and presidential elections, OHCHR has been monitoring the situation regarding freedoms of opinion and expression, and of peaceful assembly, as well as non-discrimination, as essential foundations of any functioning democratic system. OHCHR documented nine cases involving physical attacks or use of force against journalists and media professionals, and ten attacks on individuals, peaceful assemblies and social events. These attacks were either perpetrated by State actors or members of extreme right-wing groups acting with impunity. OHCHR notes that the proliferation of intolerance threatens constitutional democracy, rule of law and inclusiveness.

9. Restrictions on freedom of movement further isolated residents in villages located close to the contact line, cut off their access to basic goods, services, such as markets, education and healthcare facilities, and humanitarian aid, which has further intensified the general hardship for the population. While conditions at the Stanytsia Luhanska crossing route improved due to ramp repairs made by the International Committee of the Red Cross (ICRC), the average 35,000 daily crossings of the contact line registered created long queues at the five official crossing routes, with people exposed to a dangerous environment due to shelling nearby the checkpoints and mine-contamination, amid freezing temperatures and with inadequate access to basic hygiene, heating and medical facilities.

10. Freedom of religion or belief continued to be infringed upon in territory controlled by armed groups, with particular targeting of Jehovah’s Witnesses. OHCHR has been monitoring the implementation of a ‘law’ adopted in territory controlled by ‘Luhansk people’s republic’ on 2 February, which bans all “religious groups” not directly linked to “traditional” religions.

11. The cumulative effects of the armed hostilities, infringements on freedom of movement and the declining socio-economic situation continued to further cement hardship, particularly for people living in conflict-affected areas close to the contact line. Villages situated in these zones remained isolated, with limited or no access to basic goods and services, including essential medical and emergency services. Furthermore, as we move towards the fifth year of the conflict, there was no progress in establishing a restitution and compensation mechanism for destroyed or damaged property remained one of the most pressing unaddressed socio-economic issues deriving from the conflict. Such a mechanism will be crucial for peace, stability and reconciliation.

12. Pensioners residing in territory controlled by armed groups continued to face restrictions in accessing their pensions due to the Government policy of linking pension payments with internally displaced persons (IDPs) and residence registration. In this respect, OHCHR welcomes recent Supreme Court decisions invalidating the termination of pension payments in individual cases, that had been based on Cabinet of Ministers resolution no. 365. OHCHR also welcomes the decision of the Kyiv Circuit Administrative Court recognizing the resolution as unlawful and
providing for its cancellation, and is hopeful that this leads to a change in policy so as to ensure equal access to pensions by all Ukrainian pensioners.

13. OHCHR continued monitoring the human rights situation in the Autonomous Republic of Crimea and the city of Sevastopol despite lack of access to the peninsula, on the basis of United Nations General Assembly resolutions noting the territorial integrity of Ukraine and Crimea being under the temporary occupation of the Russian Federation. The Russian Federation authorities in Crimea continued to restrict fundamental freedoms, disproportionately affecting the Crimean Tatar community, and to forcibly conscript male residents of Crimea into the Russian Federation armed forces. OHCHR also noted a dramatic decrease, by 97 per cent, of the number of students receiving education in Ukrainian language since the occupation of the peninsula in 2014.

14. On 18 January 2018, the Parliament of Ukraine adopted a law describing the conflict in the east as an armed aggression and providing a new legal framework to re-establish control over certain areas of Donetsk and Luhansk regions, considered to be occupied by the Russian Federation. While several key recommendations jointly made by OHCHR and the United Nations High Commissioner for Refugees (UNHCR) were integrated into the law, it retains elements that may adversely impact human rights, notably the possibility for the Government and military authorities to use “special powers” restricting fundamental freedoms in “security zones” adjacent to the “area of hostilities”.

15. Parliament also adopted legislative amendments granting stronger social protection to participants in the Maidan events who sustained injuries which did not qualify as disabilities, and to civilians who acquired disability in connection to the conflict in eastern Ukraine. While welcoming this development, OHCHR notes that this protection only extends to individuals in territory not controlled by the Government who sustained injuries before 1 December 2014.

16. As part of its human rights promotion mandate, and in addition to a range of advocacy measures undertaken to address human rights protection needs, OHCHR participated in 12 capacity-building and awareness-raising events for representatives of Government ministries, prosecution offices, the Security Service, National Police, the State Border Guards Service, the Ombudsperson’s office, military personnel and chaplains, and the Pastoral Care Council, as well as for civil society.

II. Rights to life, liberty, security and physical integrity

A. Conduct of hostilities and civilian casualties

> Our only dream was to survive this night and sleep in our house, not in the dark and cold basement.

- Resident of a village near the contact line.

17. The ongoing armed conflict in eastern Ukraine continued to severely impact the lives of civilians during the reporting period. From 16 November 2017 to 15 February 2018, OHCHR documented 73 conflict-related civilian casualties (12 killed and 61 injured), reflecting a 16 per cent decrease compared with the previous reporting period, when it recorded 87 civilian casualties (15 killed and 72 injured). This is due to fewer civilian deaths and injuries resulting from mine-related incidents and incautious handling of explosive remnants of war (ERW) (see para. 22 below). At the same time, the number of civilian casualties caused by shelling and small arms and light weapons (SALW) fire has increased (see para. 19 below).
18. Despite the slight reduction in civilian casualties, OHCHR remains concerned about the persistent use of heavy weapons and small arms fire by parties to the conflict, combined with the widespread presence of unexploded ordnance, mines, and booby traps. This situation continued to pose serious risk to civilians residing near or attempting to cross the 457 km contact line between Government and armed group-controlled areas.

19. Most civilian casualties continued to be caused by the use of indirect and/or explosive weapons systems. OHCHR documented 40 civilian casualties (2 killed and 38 injured) caused by shelling from various weapons systems – including mortars, howitzers and multiple launch rocket systems (MLRS) – and light weapons fire. This represents a 66.7 per cent increase compared with the previous reporting period (16 August to 15 November 2017), when OHCHR recorded 24 civilian casualties caused by shelling and light weapons fire (2 killed and 22 injured). In addition, small arms fire caused seven civilian casualties (one killed and six injured). Of the total of 47 casualties from shelling, light weapons and small arms fire, more than two thirds – 35 (2 killed and 33 injured) occurred in territory controlled by armed groups, and are likely attributable to the Government, based on the geographic location where they occurred. Twelve civilian casualties (1 killed and 11 injured) were recorded in territory controlled by the Government, and are likely attributable to the armed groups, based on the geographic location where they occurred.

20. The parties to the conflict continued to employ indirect and/or explosive weapons with wide area effects, including MLRS, in areas populated and used by civilians. This may constitute a violation of international humanitarian law prohibitions on indiscriminate attacks and the obligation to take all feasible precautions to avoid harm to the civilian population and damage to civilian objects. For example, on 18 December, shelling hit the central area of Novoluhanske – a town in government-controlled territory, with approximately 3,500 residents – injuring eight civilians and damaging numerous civilian homes. At least two shells landed close to a school, and a third in the school yard, while 20 children were present. Another shell hit a kindergarten which was empty at the time. Both educational facilities are situated 120 metres from a dormitory used by the Ukrainian Armed Forces, raising additional concerns about the placement of military objectives in proximity to civilian facilities (discussed below).

21. Civilians continued to be killed and injured by explosive remnants of war, with leftover devices causing more fatalities than shelling during the reporting period. Between 16 November 2017 and 15 February 2018, OHCHR documented 23 civilian casualties (9 killed and 14 injured) due to civilians handling ERW, mostly abandoned explosive ordnance in the form of hand grenades. This accounted for almost one third (31.5 per cent) of all civilian casualties during the reporting period.

22. Moreover, the detonation of booby traps injured three civilians (all men). The use of victim-activated devices – which cannot distinguish between civilians and persons taking active part in hostilities – may amount to an indiscriminate attack, in violation of international humanitarian law, particularly when placed in areas known to be used by civilians. In addition, these devices limit freedom of movement for civilians. While OHCHR observed and received reports of signs warning of the presence of mines, these did not always clearly indicate where the mines may be, and were often not considered as reliable by the local population.

23. Shelling and SALW fire exchanges also damaged civilian homes, schools and medical facilities. OHCHR observed the presence of military personnel and weapons in residential areas on both sides of the contact line, including in proximity to education and health-care facilities. OHCHR emphasizes that even where military equipment or soldiers are present in areas used by civilians, attacks that do not distinguish civilians and civilian objects from military objectives or cause disproportionate civilian casualties and damage to civilian objects are prohibited and may amount to war crimes. Further, OHCHR documented cases in which Ukrainian Armed Forces used civilian homes for lengthy periods, sometimes without the consent of the owners, and left the properties in a damaged condition. The use of civilian homes by parties to the conflict increases the risk of being targeted in the hostilities and endangers civilian lives. It also contributes to the displacement of civilians and prevents returns.
24. Moreover, damages to key critical water and electricity infrastructure, and delays in negotiating “windows of silence” for repairs and maintenance, disrupted the supply of water and electricity to conflict-affected areas.\textsuperscript{26} The Donetsk Filtration Station, in particular, was shelled on eight occasions, with potentially devastating consequences for the population and the environment given the toxic chlorine gas stored in that facility.\textsuperscript{27} On 18-19 December, the Donetsk Filtration Station came under shelling and heavy machine gun fire for over 24 hours, forcing the evacuation of staff without security guarantees.\textsuperscript{28} In this context, OHCHR remains concerned by the withdrawal, as of 18 December 2017, of Russian Federation representatives from the Joint Centre for Control and Coordination. It has continued to monitor the potential implications regarding the ability of parties to the conflict to negotiate “windows of silence” to enable maintenance and repairs of critical civilian infrastructure as well as the safe provision of humanitarian assistance.\textsuperscript{29}
B. Deprivation of liberty, enforced disappearance and abduction, torture and ill-treatment, and conflict-related sexual violence

It is very difficult... Not just for him, but for us too...
You never know how to behave around him now.
He does not tell me anything about what happened to him there.
Maybe they beat him, maybe they did not.
I can’t know for sure what exactly happened to him there,
but they surely broke my son’s soul.
- Mother of torture victim.

1. Access to places of detention

25. OHCHR continued to enjoy unimpeded access to official places of detention in government-controlled territory. It conducted 113 confidential interviews with individuals in pre-trial detention facilities (SIZOs), in Bakhmut, Kharkiv, Kherson, Kyiv, Mariupol, Mykolaiv, Odesa and Starobilsk, as well as with convicts in penal colonies in Kharkiv, Kherson and Odesa regions.

26. In both the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’, OHCHR continued to be denied access to places of deprivation of liberty to meet with detainees, despite repeated requests. This persistent denial continued to raise serious concerns regarding detention conditions and possible further human rights abuses, including torture and ill-treatment. First-hand information received by OHCHR from a number of detainees, including some of those released by armed groups within “all for all” simultaneous release under the Minsk agreements (see Annex II), supports these concerns.

27. In the absence of access to places of deprivation of liberty in the areas controlled by the armed groups, this report cannot reflect the actual number of cases of deprivation of liberty, enforced disappearance and abduction, torture, ill-treatment and sexual violence.

2. Unlawful/arbitrary deprivation of liberty, enforced disappearance and abduction, torture, ill-treatment and sexual violence

28. Within the reporting period, OHCHR documented 115 cases of credible allegations of unlawful or arbitrary detention, torture, ill-treatment and/or sexual violence committed on both sides of the contact line. Fifteen of these cases involve human rights violations or abuses which were allegedly committed during the reporting period. Three cases involved the State Security Service (SBU), and twelve involved armed groups.

29. In four cases, which occurred between September and December 2017 in government-controlled territory, the victims were allegedly abducted by a group of unidentified, masked individuals, either in civilian clothes or camouflage without insignia or emblems, in a public space, during daytime. These cases illustrate a pattern re-emerging since September 2017 (previously identified in 2014-2015) of arbitrary deprivation of liberty, torture and ill-treatment of individuals detained in government-controlled territory, in a manner which prevents victims from effectively raising complaints and thus precludes official investigations into allegations of human rights violations. One victim noted about his abductors: “I thought they were bandits – the whole scene just looked like that”. The victims reported being blindfolded or hooded, handcuffed and transported to an unknown location (building, basement, garage) where they were allegedly subjected to beatings, violent threats (including of rape), mock execution, or rape, while being coerced into confessing to cooperating with the Federal Security Service of the Russian Federation (FSB) or armed groups. This lasted from a few hours to a few days or weeks,
during which the victim remained blindfolded or the perpetrators covered their faces. The victim would then either be transferred to SBU or “released” on a public street where they would be immediately arrested by SBU. At that point, the detention would reportedly be properly registered, relatives were notified of the detention, and the detainee was notified of suspicion and interrogated. The victims, who remain in detention, did not allege being subjected to torture or ill-treatment during official detention.

30. The victims reported that once handed over to an official place of detention, they went through a medical examination, as required by law and existing regulations; however, in three cases they were not asked in detail how they received bruises or other visible injuries. In one case, the medical staff simply accepted the “explanation” that the detainee sustained injuries prior to apprehension by “falling from a tree” or “stairs”, not questioning the credibility of this statement. The failure of medical staff to inquire about injuries and probe further for explanations has been consistently documented by OHCHR, as well as detainees’ reluctance to tell medical staff the true nature of their injuries for fear of repercussions. These cases highlight the need to develop the capacity of medical staff, particularly in detention facilities, to conduct examinations in accordance with the Istanbul Protocol standards.

**Territory controlled by armed groups**

31. OHCHR documented a rising number of cases of civilians arbitrarily deprived of their liberty by armed groups - a trend observed since summer 2017. OHCHR registered seven new cases which occurred within the reporting period in territory controlled by ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, and 18 cases that occurred earlier. The victims were mainly detained by the ‘ministry of state security’ (‘MGB’) or ‘department of combating organized crime’ (‘UBOP’) at checkpoints, in their home, or at their workplace. Detentions at checkpoints were often followed by house searches and seizure of property.

32. On 15 January 2018, ‘MGB’ of ‘Donetsk people’s republic’ recognized that in 2017 it detained 246 individuals under “suspicion of espionage and state treason”, 148 of whom were living and working in armed-group-controlled territory. There is no data available for territory controlled by the ‘Luhansk people’s republic’.

33. Detention by ‘MGB’ and ‘UBOP’ of ‘Donetsk people’s republic’ commonly started with a 30-day ‘administrative arrest’, during which individuals were held incommunicado. After the 30 days expire, access to a lawyer would then usually be granted, and relatives would more likely to be notified of the detention. However, after the initial 30-day ‘administrative arrest’, the ‘prosecutor’ would often issue an ‘order’ with new ‘grounds’ for ‘administrative arrest’ and detention.

34. Individuals detained by ‘MGB’ of ‘Luhansk people’s republic’ were also held incommunicado for an initial period. In most cases, despite appeals from relatives, ‘MGB’ did not confirm the detention and/or provide information about the place of detention. OHCHR reiterates that such practices amount to enforced disappearance. Furthermore, in the absence of access to detainees by international organizations, incommunicado detention raises serious concerns that detainees may be subjected to torture or ill-treatment.

35. Of concern, on 2 February 2018, the ‘people’s council’ of the ‘Luhansk people’s republic’ amended the ‘martial law’ to introduce the notion of ‘preventive arrest’, which can be applied for up to 30 days and then extended to 60 days. It is worrisome that such ‘arrest’ can be applied on the basis of a decision of the ‘minister of state security’ or the ‘minister of the interior’, in agreement with the ‘prosecutor general’, and may be based on allegations that a person may have been involved in crimes against the security of the ‘republic’.

3. **Situation of pre-conflict prisoners**

36. OHCHR welcomes the transfer, on 7 February 2018, of 20 pre-conflict prisoners from seven penitentiary facilities located in territory controlled by ‘Donetsk people’s republic’ to government-controlled territory. Since August 2015, 186 people (including four women) have
been transferred to government-controlled territory. To date, these transfers have been undertaken under the auspices of the Office of the Ombudsperson of Ukraine through a dialogue with representatives of the ‘Donetsk people’s republic’, representing an example of a human rights confidence-building measure. OHCHR is aware of at least 104 current prisoners who have requested to be transferred to government-controlled territory.

37. As pre-conflict prisoners previously transferred, the recently transferred individuals reported the overall conditions of detention as poor, with insufficient food of substandard quality and electricity cuts during the day. Medical care was also reported as insufficient due to shortage of medical staff or staff’s reluctance to provide medical care. Some detainees alleged that they had to receive permission from prison ‘administration’ prior to receiving treatment. Lack of medication (particularly specialized treatment for diabetes), was the biggest challenge; the only way to obtain the required medication was to find another prisoner who had a similar diagnosis and ask his/her relatives to bring additional supplies. Given these conditions, parcels from relatives were of particular significance to prisoners. The main reason that pre-conflict prisoners request to be transferred is to have easier communication and contact with relatives, including through visits. OHCHR notes that since 11 January 2018, it has become particularly challenging for pre-conflict prisoners to maintain contacts with their families as the service of the main Ukrainian mobile operator, Vodafone, became sporadic in Luhansk or absent in Donetsk (see “Adequate standard of living” below).

38. Criteria used by the armed groups to select individuals for transfer remained unclear. Transferred prisoners reported that ‘authorities’ in territory controlled by ‘Donetsk people’s republic’ continued to deny transfer requests by pre-conflict prisoners officially registered in government-controlled territory of Donetsk region or in Crimea. Several transferred prisoners reported they had been placed in solitary confinement for up to 15 days for repeatedly requesting to be transferred to government-controlled territory.

39. As of 15 February 2018, ‘Luhansk people’s republic’ had not taken practical steps to transfer pre-conflict prisoners, disregarding the appeals to the ‘authorities’ of at least 64 prisoners, as confirmed to OHCHR. This is of particular concern considering the reports about deteriorating medical care provision in the penitentiary institutions. Furthermore, crossing the contact line in Luhansk region is arduous (there are no direct vehicle crossings – only a footbridge), making family visits very challenging.

40. Particular attention should be given to prisoners that remain in custody in either the ‘Donetsk people’s republic’ or ‘Luhansk people’s republic’ who, after the conflict started, were either acquitted by a court in government-controlled territory, have served their sentence, or have appealed the sentence of the first-instance court. Additionally, OHCHR was informed of a few pre-conflict detainees who were never sentenced but were transported to Donetsk city for forensic expertise in early 2014, before the outbreak of the conflict. They have remained trapped in SIZOs for almost four years, which amounts to an arbitrary deprivation of liberty.

41. In government-controlled territory, OHCHR continued following ongoing penitentiary reform. While it is a welcome step that all medical professionals are to be shifted from the subordination of the penitentiary administration to the Ministry of Health, it has not yet been completed. Due to uncertainty of employment contracts, medical professionals working in SIZOs have started leaving their jobs, which may negatively affect the provision of healthcare in these facilities. Furthermore, it remains difficult to provide specialized medical services to detainees/prisoners due to a lack of necessary transportation and guarded wards in general hospitals. At the same time, the procurement of medication for prisoners with HIV and multi-resistant tuberculosis has improved.
III. Accountability and administration of justice

A. Accountability for human rights violations and abuses committed in the east

42. There have been a few positive developments in efforts to investigate and prosecute State actors responsible for various human rights violations. Yet, a large number of investigations remain to be undertaken into human rights violations allegedly perpetrated by military and security forces. OHCHR has observed that some cases that occurred in the earlier stages of the conflict have still not been investigated or adequately investigated.

B. Fair trial rights

43. Individuals standing trial on criminal charges related to the armed conflict continued to experience violations of judicial safeguards and procedural guarantees.

44. Individuals charged with affiliation or links with armed groups are remanded in custody following their arrest. Yet courts often failed to carefully examine the circumstances of arrest, including the possible use of torture. OHCHR monitored some of the trials and observed a lack of equality of arms in a number of cases, with courts disregarding arguments of the defence counsel and relying solely on article 176(5) of the Criminal Procedure Code, thereby avoiding the requirement to assess whether pre-trial detention is reasonable and necessary, and amounting to arbitrary detention. This was also observed when courts determined extensions of pre-trial detention.

45. International human rights law requires that any detention related to criminal charges be subject to judicial control. This includes appearance before a judge immediately after arrest, as well as periodic judicial review of the lawfulness of continuing detention pending trial. Pre-trial detention must be based on an individualized determination of the reasonable and necessary nature of the measure. Furthermore, individuals remanded in custody must be tried as expeditiously as possible, to the extent consistent with their rights of defence, to prevent prolonged pre-trial detention, which may jeopardize the presumption of innocence.

46. At least 25 individuals arrested on suspicion of affiliation with, or links to, armed groups were deprived of access to a lawyer of their choice. The right of an accused to defend him/herself and to have the assistance of counsel of his/her choice is one of the minimum guarantees to which every accused person is entitled.

47. OHCHR continued to monitor conflict-related cases where undue pressure was exerted against the judiciary. The case against Nelia Shtepa, former mayor of Sloviansk, is a particularly egregious example. In its monitoring of her trial, OHCHR observed intimidation and pressure on the judges from law enforcement as well as right-wing groups. Consequently, judges in Kharkiv courts were reluctant to deal with the case, and at least 19 judges either recused themselves, were disqualified or dismissed, took sick or paternity leaves under the prosecution’s pressure or quit their career entirely. This has resulted in a fourth re-trial, in violation of the right to be tried without undue delay.

48. OHCHR is concerned about attempts by law enforcement agencies to preclude the release of conflict-related detainees who have served their sentences. OHCHR documented a case of four police officers facing reprisals from the SBU for permitting Serhii Yudaiev to leave.
the court building following his conviction and release under amnesty. The head of the convoy unit was discharged from service for failing to preclude Yudaiev’s release while two other officers present in the convoy received official reprimands. In addition, an officer who escorted Yudaiev out of the courtroom was charged with “abuse of authority” and placed in pre-trial detention.

C. High-profile cases of violence related to riots and public disturbances

49. OHCHR continued monitoring developments in criminal proceedings involving human rights violations committed during the Maidan protests in Kyiv and in the context of the 2 May 2014 violence in Odesa.

1. Accountability for the killings of protesters at Maidan

50. There were few developments in the trial of five former Berkut special police officers accused of killing 48 protesters on 20 February 2014 at Independence square (Maidan), Kyiv. Two accused have been detained since April 2014, and three since February 2015. The Sviatoshynskyi district court of Kyiv continued to examine testimonies of victims and witnesses.

51. The investigations and prosecutions into grave human rights violations perpetrated overnight from 18 to 19 February 2014, at Maidan and in adjacent areas, have suffered from serious shortcomings. Despite apparent coordination between SBU, ‘titushky’ and police regarding attacks on Maidan protesters, this has not been reflected in the criminal charges. A due examination of the nexus could impact the ultimate qualification of the human rights violations. In a separate case, the engagement of ‘titushky’ by (former) senior Government officials is evident from the distribution of Kalashnikov assault rifles from the armoury of the Ministry of Internal Affairs, and raises questions with regards to the individual criminal liability of former senior officials for crimes committed by the ‘titushky’.

52. OHCHR is further concerned with what appears to be special treatment afforded to the ‘titushky’, resulting in denial of justice to victims of their crimes. For example, the Shevchenkivskyi district court of Kyiv released a ‘titushky’ gang leader from custody into house arrest, and then released him from house arrest although he continued committing crimes, including violent acts, endangering public safety. Furthermore, these additional crimes were committed when he was supposedly under the protection of the State Protection Service (on 9 October 2015 and 5 May 2016). On 26 December, in a separate case, the same court released two ‘titushky’ under house arrest (the third defendant was already under house arrest). All are accused of the attempted murder of eight protesters.

53. On a positive note, OHCHR welcomes reported developments in the investigation of the killing of 13 law enforcement officers during Maidan protests. Almost four years after the events, the Prosecutor General’s Office reported that only one individual has been charged with shooting dead two law enforcement officers and injuring a third.

2. Accountability for the 2 May 2014 violence in Odesa

54. The investigation and trials related to the 2 May 2014 violence in Odesa continued to be one-sided, undermining the rights of victims and the accused. The two acquitted defendants (members of ‘pro-federalism’ groups) who were immediately rearrested on 18 September 2017 remained in detention pending trial for new charges. At a meeting with OHCHR on 24 November 2018, the Odesa Prosecution Office confirmed that on 18 October 2017, the Court of Appeal of Odesa region ruled that the detaining authority had failed to provide one of the defendants with access to his contracted lawyer and ordered the prosecutor to launch a criminal investigation into this fact. The prosecutor, however, refused to do so.

55. OHCHR is also concerned with the lack of progress in investigations into harassment of and pressure on judges dealing with the mass disorder cases by ‘pro-unity’ activists, despite the identification of some alleged perpetrators by victims or witnesses.
IV. Simultaneous release of detainees under the Minsk agreements

56. On 27 December 2017, a simultaneous release took place as part of the “all for all” release envisaged by the Minsk agreements\(^79\). 233 individuals were released by the Government of Ukraine and 74 individuals were released by armed groups.

57. The Government released 157 individuals (including 15 women) to the ‘Donetsk people’s republic’ and 76 (including three women) to the ‘Luhansk people’s republic’. All the detainees had been either in the custody of law enforcement agencies (detained under suspicion of being a member of or otherwise affiliated with armed groups and tried in courts) or had already started served their sentences (mostly under article 258-3 of the Criminal Code, aiding terrorist organizations).

58. Of the 74 detainees released by armed groups,\(^80\) 41 were civilians\(^81\) and 33 were members of the Ukrainian forces (Ukrainian Armed Forces and National Guard). The ‘Donetsk people’s republic’ released 58 individuals (including five women) and the ‘Luhansk people’s republic’ released 16 (all men).

59. On 20 January 2018, further releases occurred. The Government of Ukraine released one female civilian, while the ‘Donetsk people’s republic’ released a male member of the Ukrainian Armed Forces,\(^82\) bringing the total of people released under the framework of the simultaneous release to 309. (In addition to the discussion in this chapter, a more detailed description of the simultaneous release and related human rights concerns can be found in Annex II.)

A. Detention in preparation for simultaneous release

60. Before their simultaneous release, all 234 individuals in Government custody were held in various detention facilities across Ukraine, although some had already been officially released from detention on remand by court order.

61. Ahead of the planned simultaneous release, 177 individuals were transported to “Zelenyi Hai” sanatorium near Sviatohirsk (Donetsk region).\(^83\) Guarded by armed SBU officers, they were not allowed to leave the premises, but could move freely inside the building and were allowed up to two hours walk a day on the premises of the sanatorium. Some detainees were not informed where and why they were being taken. Some could not inform their relatives or lawyers of their whereabouts.\(^84\)

62. Other detainees (mainly those held in western Ukraine) were first transported to Lukianivske SIZO in Kyiv, where some 30 of them were put in a cell, with only 18 beds.\(^85\) After 10 days, they were transferred to Kharkiv SIZO where they were joined by other detainees waiting to be released. While approximately 40 of them were in one cell, some reported there was enough space.\(^86\) On the morning of 27 December 2017, they were transported to the Zaitseve checkpoint where they were joined by the group held in “Zelenyi Hai”.

B. Allegations of human rights violations and abuses

63. In order to protect individuals and their families through strict adherence to the principles of confidentiality and informed consent, the report presents an overall analysis of the issues rather than detailed information on individual cases.\(^87\)
64. Of the 234 individuals released by the Government, OHCHR had already been monitoring 142 cases prior to the simultaneous release, having interviewed individuals in detention facilities and observed related court hearings. After the simultaneous release, OHCHR undertook further interviews, and as of as of 15 February 2018, it had interviewed 64 of the released individuals, on both sides of the contact line. All of those interviewed described having been subjected to torture or ill-treatment, sexual violence, threats of violence, inhumane conditions of detention and/or violations of fair trial guarantees. These violations and abuses (most of which occurred before the reporting period) are emblematic of systemic human rights issues which have been further exacerbated by the conflict.

65. The analysis of interviews conducted before and after the simultaneous release suggests that cases of incommunicado detention and torture were more common in 2014 and 2015 than afterwards. During that period, “volunteer battalions” were often involved in apprehensions. Torture was most often reported by detainees held in Kharkiv SBU, particularly in 2015. Methods used included suffocation with a gas mask, dislocation of joints, electric shock and mock execution. Detainees also received death threats and threats of a sexual nature, both against themselves and their families, and were denied access to medical care. The torture would usually continue until the detainees signed self-incriminating statements. Members of armed groups were reportedly usually subjected to more violence. Released detainees also told OHCHR they were subjected to excessive use of force during apprehension and not granted access to legal counsel until they “confessed”.

66. Interviews with released detainees also suggest that individuals (especially women) detained by the Government in late 2016 and 2017 were less likely than before to be subjected to physical violence. At the same time, because the detainees were often blindfolded or hooded, or the perpetrators covered their faces, it was almost impossible to identify the perpetrators, which significantly restricted the possibility of successfully lodging complaints.

**Territory controlled by armed groups**

67. Of the 75 individuals released by armed groups, 41 were civilians: 2 had been arbitrarily detained since December 2014, 13 since 2015, 17 since 2016, and 9 since February-March 2017. OHCHR interviewed 20 of the released civilians. They had been detained either in their homes, or while at work or on the street, usually by armed men wearing no insignia. In 18 cases, they were transferred to ‘MGB’ of ‘Donetsk people’s republic’ or ‘Luhansk people’s republic’, which reportedly ‘investigated’ the cases. During the initial period of detention - at least for one month - each person was held incommunicado, denied access to a lawyer or communication with relatives. During this time, in the majority of documented cases, the detainees were kept either in the basements of ‘MGB’ buildings or in premises generally not intended for detention, and regularly brought to ‘MGB officers’ for interrogation. Detainees were often hooded or blindfolded and handcuffed and/or strapped to a chair. In all documented cases, ‘MGB officers’ threatened severe physical violence or rape against them or their relatives if they refused to “cooperate”. Such threats were usually accompanied by blows to the head or body, making victims believe the threats were imminent and credible.

68. In 15 out of 20 documented cases, physical violence amounting to torture was used during interrogation, until the detainee “confessed” and wrote, signed and/or was videotaped providing self-incriminating testimonies. The most common methods of torture were mock executions, electrocution, beatings and suffocation by placing a bag over the head.

69. During the overall time of detention in territory controlled by armed groups, each individual was held in at least two different places, including premises not intended for detention. Conditions of detention varied from normal to those amounting to inhumane and degrading treatment; facilities most commonly used are described below.

70. In territory controlled by ‘Donetsk people’s republic’, detained civilians were predominantly held in the following places: basement of the ‘MGB’ building on 26 Shevchenka Street, Donetsk city SIZO, unofficial place of detention Izoliatsiia on 3 Svitloho Shliakhu, ‘IVS’ temporary detention facility in Donetsk, penal colony No. 32 in Makiivka.
71. In territory controlled by ‘Luhansk people’s republic’, civilians reported being held in the ‘MGB’ building in Luhansk city, Luhansk SIZO, and the ‘commandant’s offices’ in Luhansk and Stakhanov. In the ‘MGB’ building, detainees were always hooded and handcuffed when interrogated.

72. Thirty-three people released by armed groups on 27 December were members of the Ukrainian forces. One had been detained since August 2014, 15 since 2015, 16 since 2016, and 1 since March 2017. OHCHR interviewed 18 of the released military personnel. Most were captured at military positions or near checkpoints. All those interviewed had been beaten upon capture. Some were interrogated and tortured. Mock executions were also reported as common and often repeated. The members of the Ukrainian armed forces were held in various places and moved among two or three different facilities. Conditions of detention varied, and in most cases amounted to inhumane and degrading treatment.

C. Accountability and fair trial rights

73. OHCHR is concerned that the simultaneous release may have negative consequences on accountability for human rights violations. First, the release of individuals alleged to be perpetrators of human rights violations deprives victims of justice and redress. Second, many conflict-related detainees who were released were subjected to human rights violations during their detention and prosecution. Some who filed complaints faced obstruction from law enforcement, which lacked willingness to duly investigate the allegations while the complainants remained in government-controlled territory. Their release to armed-group-controlled territory may lead to closure of the cases, depriving them of access to justice.

74. OHCHR examined the legal procedures applied by the Government in preparation for the “all for all” simultaneous release on 27 December 2017. Following the release, OHCHR interviewed 26 persons (out of the 234 detainees released by the Government) who stated that the main reason they had agreed to participate in the release was because it was their only option for liberty due to protracted court proceedings during which mandatory pre-trial detention is applied against all individuals charged with affiliation or links with the armed groups under article 176(5) of the Criminal Procedure Code.

75. OHCHR is concerned that the simultaneous release may have been used to compel conflict-related detainees, who saw no prospect of justice or fair hearing, to plead guilty, even in otherwise poorly substantiated cases, thus effectively denying them access to justice. Between 13 and 21 December 2017, at least 39 individuals were convicted by courts prior to the simultaneous release based on inter alia plea bargains and retractions of appeals. Eighteen individuals interviewed by OHCHR stated they were offered plea bargains in order to be included in the release process.

76. Individuals who were released but whose trials were not completed or whose cases were not closed may risk re-arrest should they return to government-controlled territory, or convictions following trials held in absentia. At least four individuals received suspended sentences with a probation period during which they are obliged to report to law enforcement authorities. In addition, they are deprived of the possibility to pursue remedies for alleged human rights violations perpetrated against them by State actors. The ability to travel across the contact line is of importance for both those who received suspended sentences and those with pending trials. However, many individuals did not have their identity documents returned to them upon release. Others may face restrictions on their movement imposed by armed groups.

Territory controlled by armed groups

77. Interviews of individuals detained by armed groups and released to government-controlled territory provided further insight into the system of ‘prosecution’ in the two ‘republics’. ‘Trials’ in conflict-related cases are reportedly carried out in closed sessions, allegedly in order not to disclose ‘classified information’.
Interviews with Ukrainian soldiers and civilians believed to be affiliated with Government forces who were detained in territory controlled by ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ revealed that their cases were often not subject to any review. OHCHR documented 19 conflict-related cases where persons were subjected to indefinite detention in breach of international human rights and international humanitarian law. Those Ukrainian soldiers and civilians detained for over two years reported no periodic review regarding the necessity or appropriateness of their continued detention, nor were ‘charges’ brought against them during this period. Ukrainian soldiers detained in Donetsk for up to over three years were approached by ‘prosecution’ in September 2017 only - a few months before the simultaneous release - when their detention was formalized by a ‘measure of restraint’ of custodial detention imposed by the ‘prosecutor general’s office’.

‘Pre-trial’ detention proceedings of individuals ‘charged’ with espionage or other conflict-related crimes by ‘military tribunals’ in territory controlled by ‘Donetsk people’s republic’ appear to have followed a pro-forma basis. Furthermore, even such perfunctory review of legality of detention was delayed. Time spent in incommunicado detention, to which many were reportedly subjected prior to acknowledged ‘arrest’, seems not to have been taken into account by a ‘military tribunal’ when calculating the ‘sentence’. Such practice contributed to unacknowledged detention during which individuals were exposed to torture, including with a view to force self-incriminating statements which served as basis for subsequent ‘prosecution’.

Accounts by conflict-related detainees suggest that their degree of culpability in the imputed ‘crime’ was already considered established at the time of their ‘arrest’, amounting to a presumption of guilt. Subsequent ‘investigations’ and ‘trials’ seemed to serve merely to create a veneer of legality to the ‘prosecution’ of individuals believed to be associated with Ukrainian military or security forces.

Released detainees informed OHCHR that some appointed lawyers did not make any real effort to present their case. The account of at least one victim suggests that he was intimidated by ‘MGB’ of ‘Donetsk people’s republic’ in the presence of the appointed lawyer, with no reaction from the latter. Some lawyers assigned to detainees advised that only ‘convicts’ were eligible for the simultaneous release under the Minsk agreements, leading at least four detainees to plead guilty even though they had never admitted to committing the charged offences. At the same time, detainees released from ‘Donetsk people’s republic’ who had been ‘prosecuted’ noted that lawyers facilitated contacts with their families.

Deprived of access to the Ukrainian judiciary and of effective ‘legal representation’ in proceedings before ‘courts’ in armed-group-controlled territory, and fearing repercussions for withdrawing statements given under duress, conflict-related detainees have stood ‘trials’ with no chance of presenting their defence. Conflict-related ‘trials’ were heard by a ‘military tribunal’ as a chamber of the ‘supreme court’ of ‘Donetsk people’s republic’, whose ‘verdicts’ entered into force immediately, with limited opportunities to ‘appeal’.

V. Democratic/civic space and fundamental freedoms

A. Democratic/civic space

OHCHR noted developments relating to freedom of opinion and expression and freedom of the media, and discrimination, hate speech and manifestations of intolerance that may result in diminishing democratic/civic and political space throughout Ukraine. The lack of investigation and accountability in cases where there have been infringement of these rights is of particular concern as Ukraine is moving towards the presidential and parliamentary elections, scheduled respectively for March and October in 2019.
1. Freedom of opinion and expression, and freedom of the media

84. Within the reporting period, OHCHR documented 18 cases involving infringements on freedom of opinion and expression and/or freedom of the media. Ten of these cases relate to human rights violations or abuses allegedly committed during the reporting period; in seven cases, State actors either perpetrated the violation or failed to prevent or to investigate the act, while the remaining three cases can be attributed to the armed groups.

85. OHCHR examined nine cases (six occurred within the reporting period) of physical attacks on journalists and other incidents obstructing journalistic activity and the work of media outlets. In five cases, the victims and their legal defenders complained of protracted and ineffective investigations, also noting a lack of transparency. In five of these cases, the attacks were perpetrated by members of extreme right-wing groups\textsuperscript{126} and law enforcement was present but did not prevent or stop the unlawful actions.\textsuperscript{127} In total, in 2017 the National Union of Journalists in Ukraine documented 90 incidents of physical violence against media professionals.\textsuperscript{128}

86. OHCHR is concerned about lack of progress in investigations into acts of violence against journalists, which fosters an atmosphere of impunity and fear. For instance, there has been no accountability for the killing of journalists Oles Buzyna (on 16 April 2015) and Pavlo Sheremet (on 20 July 2016).\textsuperscript{129}

87. The National Police reported no developments in the criminal investigation against the Myrotvorets website, opened for “obstruction of lawful professional activity of journalists” and “violation of personal privacy”.\textsuperscript{130} The web-portal positions itself as the “centre for research of signs of crimes against the national security of Ukraine, peace, humanity and international order”. OHCHR notes that no alleged perpetrators have been identified in the criminal investigation despite public information regarding the head of the centre.\textsuperscript{131} OHCHR further notes that the project was presented in 2015 by a people’s deputy holding a position of adviser to the Ministry of Interior of Ukraine. Meanwhile, the personal data (including home addresses and passport data) of individuals, including media professionals and NGO activists, continued to be published on the Myrotvorets website, in violation of right to privacy and presumption of innocence.\textsuperscript{132} OHCHR notes that a State bank has reportedly refused to provide services for an individual based on information published about the person on the Myrotvorets website.\textsuperscript{133}

88. OHCHR cautions the Government against broad application of legislative provisions aimed at protecting Ukraine’s national security and territorial integrity.\textsuperscript{134} Between 1 January 2017 and 14 February 2018, the State Committee on TV and Radio Broadcasting banned 30 books published in the Russian Federation, including the Russian translation of a book on ‘Stalingrad’ by British historian Antony Beevor.\textsuperscript{135} Though the number of banned books is low compared with the number of publications allowed for import from the Russian Federation (over 10,000), OHCHR cautions the Government against disproportionate restrictions on freedom of expression.

\textit{Territory controlled by armed groups}

89. The space for expressing critical opinion remained highly restricted in territory controlled by armed groups. OHCHR documented three incidents when attempts to express critical opinions were stifled by psychological pressure and threats to physical integrity.\textsuperscript{136}

90. At least five persons released by armed groups in the simultaneous release on 27 December 2017 were being detained \textit{inter alia} for their critical publications on social media.
OHCHR remains concerned that as of 15 February, at least two bloggers remained detained by armed groups in ‘Donetsk people’s republic’.

2. Discrimination, hate speech and manifestations of intolerance

I felt threatened and afraid: I did not trust the police.
- Demonstrator detained by the police for several hours.

91. OHCHR documented 14 cases of discrimination, hate speech and/or violence targeting persons belonging to minority groups or holding alternative, minority social or political opinions. Twelve of these cases occurred within the reporting period; in two cases, law enforcement elements were involved, while in eight cases, perpetrators were members of extreme right-wing groups who appeared to act with impunity, the police being reluctant to properly classify and investigate such crimes. OHCHR notes that the proliferation of intolerance threatens constitutional democracy, rule of law and inclusiveness.

92. In December 2017, during two raids targeting several homes belonging to Roma people in Zolotonosha (Cherkasy region) and Boryslav (Lviv region), police were physically aggressive; beating people, damaging or destroying private possessions, and treating the Roma in a humiliating manner. In Zolotonosha, tensions between Roma and other residents rose from 7 to 9 January, resulting in intimidation and harassment of Roma people, including incitement to violence. In Lviv region, OHCHR was informed of actions by local activists including incitement to violence against Roma, labelling them as criminals.

93. OHCHR also documented ten acts of intolerance including violence by members of extreme right-wing groups against individuals belonging to minority social groups and/or people holding alternative, minority social or political opinions, eight of which occurred during the reporting period. OHCHR documented physical attacks on individuals, peaceful assemblies and social events deemed to be propagating ideas and values contrary to theirs. Such attacks also may extend to those perceived to belong to minority social groups or to hold alternative social opinions. OHCHR is concerned that police did not take appropriate measures to ensure the security of those assemblies or to properly classify these attacks and conduct investigations.

94. On 28 January 2018, National Brigades – a paramilitary formation – held a march in the centre of Kyiv, during which they took an “oath” to “protect” the nation when the government “can’t or won’t”. OHCHR notes with concern the extreme right-wing ideology of this group, its public proclamation to resort to violence when it deems it necessary, and its ties to the political party National Corps. OHCHR is concerned that the proliferation of extreme ideologies propagates discrimination and intolerance and threatens constitutional democracy and rule of law.

95. A “campaign” of intolerance against the Ukrainian Orthodox Church (Moscow Patriarchate) (hereinafter “UOC(MP)”), led by extreme right-wing group C14, began during the reporting period. On 8 January 2018, several dozen members of C14 blocked the entrance and road to the Kyiv Pechersk Lavra to protest against the priests’ refusals to conduct services commemorating fallen Ukrainian soldiers and civilians who were not baptized by UOC(MP). Members of C14 behaved aggressively, inciting violence and physically threatening those expressing opposing views. While the incident continued for over an hour, law enforcement authorities did not intervene. The same day, C14 announced on social media that this action was only the beginning of a protest campaign, and threatened to conduct further, larger “protests” in multiple locations. Since then, C14 and other extreme right-wing groups broke into the Kyiv office of the news website of the Union of Orthodox Journalists, which publishes information on
UOC(MP),\textsuperscript{148} and two arson attempts were committed against Tithes Chapel in Kyiv and St. Volodymyr church in Lviv, both belonging to UOC(MP).\textsuperscript{149} OHCHR is concerned that law enforcement agencies did not take effective measures to prevent such acts, to thoroughly investigate them and to bring those responsible to justice.

96. OHCHR is concerned with expressions of intolerance voiced by some local Government authorities, such as the Ivano-Frankivsk City Council’s resolution on 15 December, calling upon the Parliament of Ukraine to discriminate against the LGBT community.\textsuperscript{150}

97. Such statements not only contravene core obligations of States with respect to protecting the human rights of LGBT persons,\textsuperscript{151} but also violate anti-discrimination provisions set out in national legislation.\textsuperscript{152} OHCHR calls on all members of the Government, including local authorities, as well as on all political parties, to refrain from and sanction calls for any forms of discrimination, intolerance and hatred, and to strenuously adhere to the principle of non-discrimination in word and action.

B. Freedom of religion or belief

98. OHCHR also documented new instances of interference with freedom of religion in territory controlled by armed groups.\textsuperscript{153} OHCHR is concerned with the adoption, on 2 February, in territory controlled by ‘Luhansk people’s republic’, of a ‘law’ which bans all “religious groups” not directly linked to traditional religions, thus limiting freedom of religion.\textsuperscript{154}

99. In territory controlled by the armed groups, Jehovah’s Witnesses continued to be targeted by various actions. OHCHR documented two new instances of “expropriation” of buildings belonging to the community, bringing the total number of expropriated Kingdom Halls to 14.\textsuperscript{155} Two religious publications of Jehovah’s Witnesses were declared “extremist” by the ‘Donetsk people’s republic’\textsuperscript{156} while a ‘court’ in ‘Luhansk people’s republic’ issued a ‘decision’ stating that actions of Jehovah’s Witnesses “infringe the right to religious self-determination of others”.\textsuperscript{157} OHCHR is concerned that such labelling exposes Jehovah’s Witnesses to possible administrative or criminal sanctions and further harassment.\textsuperscript{158}

C. Freedom of movement

My husband will stay in Travneve,
I will come to Holmivskii because I am too scared to stay there.
Because of this conflict, we will end up with a contact line between us and getting divorced.
- Resident of a village near the contact line.

100. The number of crossings of the contact line through five official crossing points remained at the same level as in previous months. A total of 1,042,000 crossings were registered in November 2017, 1,089,000 in December 2017, and 748,000 in January 2018. As of 15 February 2018, 670,000 crossings had been registered.\textsuperscript{159} The drop in the number of crossings in January may be attributed to the New Year/Orthodox Christmas holidays, as observed in prior years.\textsuperscript{160}

101. Basic facilities and services available at crossing routes\textsuperscript{161} were insufficient for the number of people crossing the contact line daily. Entry-exit checkpoints (EECPs) do not hold legal status and do not fall under the authority of any single state agency which would be responsible for maintaining an adequate level of facilities and services. At the end of October 2017, the Prime Minister of Ukraine directed the military-civil administrations in Luhansk and Donetsk regions to hand over assets to designated communal enterprises tasked with maintaining decent conditions at checkpoints. This order has not been implemented.
102. Limited availability of medical assistance at crossing routes is of particular concern. During the reporting period, at least two medical emergencies occurred at crossing routes, both of which resulted in deaths. Furthermore, there are heightened security risks present near the contact line, due to armed hostilities as well as mine and ERW contamination. For example, on 21 January, a bus carrying civilians came under small arms fire near the Olenivka checkpoint (armed-group controlled) along the Novotroitske crossing route, killing one person and injuring another. Thus it is imperative that timely and adequate medical aid is available at crossing routes.

103. The physical challenges of crossing routes remained particularly daunting for persons with disabilities and the elderly, who generally make up a significant proportion of those crossing the contact line. Due to the long queues, civilians must endure these conditions for long periods, sometimes for up to 10 hours, amid freezing temperatures. Following numerous appeals from the international community, the parties to the conflict finally agreed upon conditions which enabled ICRC to repair the wooden ramps connecting the broken parts of the bridge at the Stanytsia Luhanska crossing route, on 10 December 2017. While this is an important improvement, manoeuvring up and down the steep ramps at this sole crossing route in the entire Luhansk region remains difficult for people with disabilities, elderly people and families with children.

104. OHCHR notes that the 14 April 2017 Temporary Order which indefinitely extended the validity of the permits to cross the contact line, remained unimplemented. Individuals must therefore apply for extensions of their electronic permits, creating an unnecessary barrier, especially for persons without access to computers or the internet.

105. On 15 December 2017, the ‘head’ of the ‘Donetsk people’s republic’ adopted a ‘decree’ prohibiting ‘civil servants’ from traveling to government-controlled territory. Despite an ‘explanatory note’ limiting its applicability, implementation of the ‘decree’ remains unclear. OHCHR documented four cases where employees of kindergartens and social institutions were required to sign a declaration that they had read the ‘decree’ restricting the freedom of movement of ‘civil servants’.

106. OHCHR also documented two cases where ‘authorities’ of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ ‘deported’ civilians from territory under their control. OHCHR recalls that international humanitarian law prohibits parties to the conflict from ordering...
the displacement of civilians, in whole or in part, for reasons related to the conflict, unless required for the security of civilians or imperative military reasons.\textsuperscript{172}

\section*{VI. Economic and social rights}

A. Right to an adequate standard of living

\begin{quote}
Please, give us a road, so we can fetch bread!
- Resident of a village near the contact line.
\end{quote}

107. The living conditions of approximately 600,000\textsuperscript{173} civilians (including 100,000 children) who reside close to the contact line, on both sides, worsened due to damages to key civilian infrastructure and private housing, restrictions on freedom of movement, limited access to basic services, the high level of unemployment, lack of public transportation, and a generally deteriorating economic environment.\textsuperscript{174} Moreover, these conditions significantly isolated these communities.

108. Incidents of indiscriminate shelling affecting critical water and power supply systems, as well as sanitation facilities, continued to put staff of these facilities at risk, limit access to safe water, and as a knock-on effect, disrupt heating systems affecting hundreds of thousands of civilians on both sides of the contact line \textit{(see also paragraph 24 above)}. At least 27 incidents affecting water and sanitation facilities were recorded between November and December 2017.\textsuperscript{175} The Donetsk Filtration Station, which supplies water for 345,000 people on both sides of the contact line, comes under fire more than other infrastructure, with 13 security incidents involving shelling and SALW fire occurring during the reporting period.\textsuperscript{176}

109. Access to basic services in isolated communities at the contact line remains a major concern. For example, in Katerynivka village, located between Popasna and Zolote (government-controlled territory, Luhansk region), restrictions on freedom of movement and lack of public transportation aggravated the humanitarian situation of the remaining 310 residents.\textsuperscript{177} There is only one shop in the village, where products are overpriced, and there is no post office. Residents can only leave the village through the Zolote checkpoint.\textsuperscript{178} The electricity supply is regularly disrupted due to the ongoing hostilities, yet electricians are unable to provide full services to the village for security and/or financial reasons.\textsuperscript{179} Ambulances, emergency services, police and other essential services do not have full access throughout Katerynivka due to restrictions on movement imposed by the Ukrainian Armed Forces, and rarely visit.\textsuperscript{180} Residents expressed feeling isolated and forgotten by local authorities who fail to respond to their numerous appeals.\textsuperscript{181}

110. Following the escalation of hostilities in November 2017 in the vicinity of Novoluhanske village (Donetsk region), residents of the affected villages of Travneve, Dolomitne and Hladosove no longer had access to basic facilities and services, and their freedom of movement was restricted by Ukrainian Armed Forces-controlled checkpoints. Residents of Travneve and Hladosove villages lacked electricity from 16 November 2017 to 5 January 2018 due to damaged power lines in territory controlled by armed groups of the ‘Donetsk people’s republic’.\textsuperscript{182} There are no shops or schools in those villages, and access to basic health care is limited. Restrictions on movement hindered residents’ ability to obtain goods and services elsewhere.

111. On 11 January 2018, the only Ukrainian mobile network operating in territory controlled by the armed groups stopped operating due to damages of fibre-optic communication lines.\textsuperscript{183} The breakdown in mobile network services cut off communication between families separated by the contact line, disrupted businesses,\textsuperscript{184} and further prevented access to emergency and medical services.
services. In order to reach mobile reception, people tend to take risks, travelling to areas close to the contact line.

B. Right to social security and social protection

Internally displaced persons

112. Out of 1,492,851 internally displaced persons (IDPs) registered in Ukraine, 185,600 reside in 215 collective centres located throughout the country. Living conditions in many of these centres are inadequate, with limited access to potable water, unsafe electrical wiring, and unresolved issues of legal tenure leaving IDPs at risk of eviction. In addition, due to low income of IDPs, ownership disputes over the buildings between various state institutions, and poor communication between IDPs and local authorities, debts for utility bills accumulate and can lead to disruptions in supply. For example, during the reporting period, electricity to Teteriv sanatorium, in Zhytomyr region, was cut twice by the company supplying electricity due to debts, leaving 188 IDPs (including 88 children) without power, water and heating for up to 24 hours. OHCHR intervention led to restoration of services in both instances, but long-term solutions are needed.

113. OHCHR welcomes the amendments introduced to the Cabinet of Ministers’ decree No. 1085, which expand the lists of settlements located at the contact line and those where State authorities temporarily do not exercise their functions. This will enable over 100,000 IDPs from heavily affected areas to receive financial assistance, of which they had been deprived for almost nine months.

Payment of pensions

114. OHCHR welcomes the Supreme Court decisions issued in January and February 2018 in individual cases concerning termination of IDPs’ pension payments based on the rules established by Cabinet of Ministers resolution no. 365. The Supreme Court underlined that pensions could only be terminated on the basis of an exhaustive list of grounds foreseen in the law, which has a higher legal force than the resolution.

115. OHCHR further welcomes the decision of the Kyiv Circuit Administrative Court on 14 December 2017 declaring resolution no. 365 as unlawful and ordering its cancellation. This judgment, which requires a change of policy, has been appealed by the Cabinet of Ministers.

116. On 13 February 2018, the European Court of Human Rights issued a judgment regarding claims submitted by seven Ukrainian nationals from Donetsk whose pension payments had been suspended. The Court held that the claimants had not been disproportionately restricted in their right of access to a court, and that they had failed to exhaust all domestic remedies available to challenge the suspension of their pensions before Ukrainian institutions. Thus, on the issue of protection of property, the Court did not assess whether the system for payment of pensions put in place by the Government ensured practical and effective access to social benefits for residents of territory not under Government control. Nevertheless, the Court indicated that the existence of such a system, prompted by an objective fact of hostilities in the region, cannot give rise to claims of unfavourable treatment when comparing the treatment of residents of territory controlled by armed groups with that of residents in government-controlled territory.

117. OHCHR reiterates that the current system, which links the right to pension with IDP registration, has led to a significant reduction in the number of people from armed-group-controlled territory receiving pensions. While 1,278,000 pensioners were registered in this territory in August 2014, 956,000 persons were receiving pensions as of January 2016, and only 504,900 people as of November 2017. While some pensioners residing in territory controlled by armed groups may receive financial assistance from the self-proclaimed ‘republics’, this does not replace their right to a pension, which is both a form of property and a type of social insurance provided exclusively by the State.
C. Housing, land and property rights

118. There has been no progress in establishing a restitution and compensation mechanism for property destroyed and/or damaged due to the armed conflict. While a few courts have recognized the right of some property owners to compensation in civil cases brought against the Government, the time prescribed to execute decisions had not yet run\textsuperscript{197} and no compensation had therefore been paid as of 15 February 2018.\textsuperscript{198}

119. OHCHR notes that, due to the high number of houses damaged or destroyed and the costs associated with filing complaints, not all those affected will be able to bring court claims, highlighting the need for an effective and comprehensive administrative mechanism. OHCHR further notes that this need has become even more urgent due to the three-year statute of limitations for civil cases. Thus, in 2018, owners whose property was damaged or destroyed in 2014-2015 may lose one of the avenues to claim restitution or compensation.

120. Furthermore, in villages close to the contact line where there is extensive military presence,\textsuperscript{199} OHCHR documented incidents of looting of private houses and ineffective and/or protracted investigations, particularly when there are reasonable grounds to believe that members of the Ukrainian Armed Forces may have been involved.\textsuperscript{200}

Territory controlled by armed groups

121. OHCHR has previously expressed concerns over the system of ‘external management’ imposed on private enterprises and the ‘nationalization’ of 109 markets in territory controlled by ‘Donetsk people’s republic’.\textsuperscript{201} During the reporting period, OHCHR documented the arbitrary confiscation of private property applied against one individual in ‘Donetsk people’s republic’.\textsuperscript{202} OHCHR reiterates that everyone has the right to the peaceful enjoyment of one’s possessions.\textsuperscript{203}

VII. Human rights in the Autonomous Republic of Crimea and the city of Sevastopol

122. On 19 December 2017, the United Nations General Assembly adopted resolution 72/190 on the “Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine”.\textsuperscript{204} Recalling General Assembly resolution 68/262 (27 March 2014) on the territorial integrity of Ukraine, and echoing resolution 71/205 (19 December 2016), resolution 72/190 urges the Russian Federation to comply with its obligations as an occupying power in Crimea, and to ensure human rights protection and unimpeded access of human rights monitoring missions and NGOs to the peninsula.\textsuperscript{205} The Russian Federation continued to deny OHCHR access to Crimea, not recognizing the above-mentioned General Assembly resolutions. OHCHR therefore continued to monitor the human rights situation in Crimea from mainland Ukraine and through regular fact-finding missions to areas adjacent to Crimea, including the administrative boundary line with the peninsula.

123. During the reporting period, the Russian Federation continued to apply its laws in violation of the obligation under international humanitarian law to respect the legislation of the occupied territory.\textsuperscript{206} Peaceful protest actions initiated by Crimean Tatar activists were sanctioned. OHCHR observed persistent problems in the administration of justice and the enjoyment of fundamental freedoms in Crimea, and was able to document 18 cases of human rights violations.
A. Freedom of peaceful assembly

124. During the reporting period, 78 Crimean Tatar and two other Muslim men were fined for holding one-person pickets, on 14 October 2017, in protest against the arrest of other Crimean Tatar men for alleged membership in terrorist or extremist organizations. They were found guilty of violating Russian Federation law on public assemblies by holding organized actions, requiring pre-authorization for their conduct, portrayed as individual initiatives, which do not require prior authorization. OHCHR notes that the judgments offer no evidence that public actions in the form of single pickets could harm the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others, which are the only permissible grounds to restrict the exercise of the right to peaceful assembly under international human rights law.

B. Freedom of opinion and expression

125. On 18 December 2017, the Supreme Court of Crimea upheld a conviction against freelance journalist Mykola Semena, charged in April 2016 for writing (under a pseudonym) an article alleged to contain calls to violate the territorial integrity of the Russian Federation. The Supreme Court maintained the suspended two-and-a-half year sentence but shortened the period of time during which Mr. Semena is prohibited from working as a journalist from three to two years. OHCHR noted that parts of the article appear to encourage the use of force to return control of Crimea to Ukraine, and that Article 64(2) of Geneva Convention (IV) provides the Occupying Power with the right to subject the population of the occupied territory to provisions which are “essential to ensure the security of the Occupying Power”. At the same time, the verdict was based solely on a linguistic expert’s report, which was endorsed by the court without any assessment. This contravenes the due process principle that “all legal matters must be resolved exclusively by the courts”. Furthermore, an alternative linguistic expertise presented by the defence was dismissed by the court in a formalistic manner without sufficient legal justification, which may amount to a violation of fair trial guarantees.

C. Right to education in native language

126. The number of students taught in Ukrainian language in Crimea has drastically decreased, falling by 97 per cent since 2014. In the current academic year, 318 students (0.2 per cent of children attending public schools in Crimea) are educated in Ukrainian language. In addition, the number of children taught Ukrainian as a subject, a selective course, or within extracurricular activities, has sharply fallen, by approximately 50 per cent (from 12,892 in 2016-2017 to 6,400 in the current academic year).

127. About 5,600 students (3 per cent of students enrolled in public schools) receive education in Crimean Tatar - a number which has remained stable over the years. Currently, 21,600 students study Crimean Tatar as a subject, a selective course, or within extracurricular activities – an increase of 12 per cent, from 19,254 students in 2016-2017.
128. On 28 December, the Russian authorities, through the Ministry of Education of Crimea, disseminated to municipalities a “Road map on the choice of language in education”. This document offers a mechanism for parents to request education in native language for their children. In particular, parents must be informed by school administrations of the right to choose a language of instruction, the possibilities of learning in languages other than Russian, and the availability of appropriate teachers. OHCHR welcomes this step, which has the potential to increase access to education in one’s mother tongue, provided that the roadmap is effectively implemented in public schools.

D. Forced conscription

129. The Russian Federation continued to compel Crimean residents into its armed forces, conscripting at least 4,800 men within two campaigns in 2017, in violation of international humanitarian law. In addition, courts in Crimea started to hear cases on charges of draft evasion. At least two guilty verdicts were passed, sentencing two Crimean residents to a criminal fine of 25,000 RUB each (approximately 430 USD). It should be noted that the Criminal Code of the Russian Federation also prescribes the possibility of incarcerating a person for up to two years for evading the military draft and does not absolve those convicted from the obligation to undergo military service.

E. Access to public services in mainland Ukraine

130. OHCHR noted a persistent pattern of restricted access to some public services in mainland Ukraine, particularly banking services, for people originating from Crimea. In November 2014, the National Bank of Ukraine decreed that people with residence in Crimea had become “non-residents” of Ukraine for the purpose of banking transactions. This restriction affects people living in Crimea - but not registered IDPs – as well as those who had left the peninsula for mainland Ukraine before the Russian Federation occupation. As a result, Ukrainian citizens who were residing in mainland Ukraine before 2014 but had a passport registration...
indicating a locality in Crimea as their place of residence often felt compelled to obtain IDP status to be able to open a bank account for employment purposes. However, the IDP status carries more stringent civil registration requirements, often applied arbitrarily, for example to renew a national passport.

VIII. Legal developments and institutional reforms

A. New legal framework concerning territory not controlled by the Government in certain areas of Donetsk and Luhansk regions

131. On 18 January 2018, Parliament adopted a law providing a new framework to re-establish control over certain areas of Donetsk and Luhansk regions, defining these areas as occupied by the Russian Federation. While outlining the structure of the military operation on countering armed aggression, the law allows the anti-terrorist operation to continue in parallel with the military-led one. It also distinguishes several geographical areas with different applicable regimes relating to the security operation, namely “area of exercise of the security and defence measures” and “area of hostilities” but does not define them. In addition, areas “adjacent” to an “area of hostilities” are defined as “security zones”, to be determined by the military commander, where the Government and defence authorities engaged in the security operation are vested with “special powers”. OHCHR invites the Government to ensure that the principle of proportionality is observed at all times during the exercise of such powers. OHCHR will carefully monitor implementation of the final text of the law.

132. Several key recommendations jointly made by OHCHR and UNHCR were taken into account during the revision. In particular, the law confirms that the provisions of the 2014 law which previously applied exclusively to Crimea, may not apply to the situation in certain areas of the Donetsk and Luhansk regions unless amendments are made. However, there is no timeframe for adopting the amendments to the 2014 law necessary to meet the legal certainty criteria for people to claim rights. As was recommended, the law clarifies that the rules on transfer of jurisdiction of courts will remain regulated by the existing legislation relating to the anti-terrorist operation. Also, the general rule proclaiming null and void acts issued in areas of Donetsk and Luhansk regions which are not under Government control foresees an exception, in line with international jurisprudence, for birth- and death-related documents that “shall be attached to the applications for registration of birth or death”. OHCHR notes that a similar exception should be made for documents issued in Crimea. Furthermore, the law authorizes the Cabinet of Ministers - instead of the military commander - to define the procedure regulating movement of persons and goods across the contact line. It also prevents the authorities from denying individuals entry to government-controlled territory in situations threatening the life of civilians.

133. Despite some positive changes, the law still lacks clarity as to the human rights consequences of the transition from an anti-terrorist legal framework to this new one.

B. Status of civilian victims

134. On 14 November 2017, Parliament amended legislation granting participants in the Maidan events who sustained injuries which did not lead to disability the status of “victims of the Revolution of Dignity” and entitling them to the same social protection guarantees as persons having former combatant status. The amendments also extend to civilians who acquired disability in connection to the conflict in eastern Ukraine the same social guarantees as those applying to war veterans with disabilities. However, these guarantees will apply to civilians in territory not controlled by the Government only if they were injured before 1 December 2014. There are no time limitations for civilians injured in government-controlled territory.
135. OHCHR welcomes the decision to provide strong social protection guarantees to civilian victims of the conflict with disabilities on both sides of the contact line. It regrets, however, that temporal restrictions were imposed on persons residing in territory not under Government control, which will result in the exclusion of hundreds of civilian victims. OHCHR also notes that the situation of civilians who sustained conflict-related injuries which did not lead to disability remains to be addressed, and stresses the need for a comprehensive policy to guarantee the right to remedy and reparation for all civilian victims of the conflict, regardless of the perpetrator and the location where they were injured, in accordance with United Nations Basic Principles.

C. Law on Education

136. On 8 December 2017, following a request by the Government of Ukraine, the Council of Europe’s European Commission for Democracy through Law (Venice Commission) adopted an Opinion on article 7 of the framework Law on Education, which reflects concerns previously raised by OHCHR in relation to minority language education. The Commission noted, in particular, that the law would “considerably reduce” the amount of minority language education and that article 7 treats less favourably minority languages that are not official languages of the European Union, such as Russian. The Commission recommends amending Article 7 as an “appropriate solution” to avoid “discriminatory treatment” of minority languages that are not official European Union languages.

D. Draft legislation on missing persons

137. On 18 January, Parliament adopted in first reading a draft law providing for the establishment of a Commission on Missing Persons for tracing missing persons and identifying human remains. This text, as well as an alternative one, was registered in Parliament in November-December 2016 to address the situation of persons unaccounted for as a result of armed conflict, public disturbances, and natural or man-made disasters. As recommended by the lead Parliamentary Committee and prompted by OHCHR and other actors’ advocacy, the document will be revised in preparation for the second reading to incorporate key aspects contained in the alternative proposal specifically the concept of “enforced disappearance” and provision of financial assistance to family members of missing persons.

138. OHCHR welcomes this significant step toward streamlining relevant national procedures. It stresses the importance of ensuring sufficient capacity for the Commission to be able to deliver its mandate effectively, in line with international standards, and to allow involvement of families of missing persons in the Commission’s work. It is also essential to provide effective remedies for violations of the right of relatives to know the fate of missing persons and to guarantee support, rehabilitation and reintegration of missing persons returning after a prolonged period of absence.

IX. Technical cooperation and capacity-building

139. OHCHR continued engaging with the Government and civil society to support them in the protection and promotion of international human rights standards within Ukraine, as well as the application of international humanitarian law. OHCHR assistance focused on implementation of recommendations dealing with torture from the United Nations Subcommittee on Prevention of Torture and OHCHR past reports, development of the country strategy to prevent and
address conflict-related sexual violence, and equal access of all Ukrainian citizens to pension payments regardless of residence registration or IDP status.

140. Throughout the reporting period, OHCHR promoted the implementation of the Istanbul Protocol and strengthening measures to prevent and address torture and conflict-related sexual violence through various trainings and presentations. OHCHR participated in four workshops\textsuperscript{249} which were part of a series of regional workshops organized by the Office of the Prosecutor General of Ukraine to promote the United Nations Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). OHCHR’s presentations focused on the identification, documentation and investigation of torture and other cruel, inhuman or degrading treatment or punishment, in accordance with international practices and standards. OHCHR also conducted training sessions on international human rights standards and ethical concerns regarding torture and ill-treatment for military personnel deployed to the “anti-terrorism operation” area as part of civil-military cooperation units,\textsuperscript{250} military chaplains who regularly provide pastoral care to soldiers deployed at the contact line,\textsuperscript{251} and members of the Pastoral Care Council (advisory body to the Ministry of Justice).\textsuperscript{252}

141. In November, an international expert on conflict-related sexual violence contracted by OHCHR and UN Women concluded her visit to Ukraine and presented to key stakeholders, including the Vice-Prime Minister, the preliminary draft of a national strategy to prevent and address conflict-related sexual violence.\textsuperscript{253} OHCHR, together with UN Women and the expert, are finalizing the strategy with a view to integrating it into a revised version of the National Action Plan on the Implementation of the United Nations Security Council Resolution 1325.

142. OHCHR continued to raise awareness of and provide consultations to various stakeholders on the issue of payment of pensions to Ukrainian citizens with residence registration in territory controlled by armed groups.\textsuperscript{254} In partnership with other United Nations agencies, and under the auspices of the United Nations Resident Coordinator’s Office, OHCHR developed a briefing note providing an overview of the issue, with statistical data, reflecting the human cost of current Government policies, and highlighting the legal obligations of the Government in this area. The briefing note was shared with the Prime Minister of Ukraine, key State officials, civil society and the international community.

143. In addition, during the reporting period, OHCHR – with the help of Justice Rapid Response – continued to engage and facilitate the assistance of international forensic experts to conduct a forensic re-examination related to the deaths resulting from the fire in the House of Trade Unions in Odesa on 2 May 2014. Such assistance was solicited by the Office of the Prosecutor General.

X. Conclusions and recommendations

These villages (on both sides of the contact line) are tied together like a big ball of yarn.
- Resident of a village near the contact line.

144. As Ukraine is about to enter the fifth year of armed hostilities, civilians continue to pay the costs of this conflict. Families, friends and business ties continue to be artificially divided by the contact line, adding to the hardship borne by the population. The parties involved in hostilities need to adhere to the ceasefire, to protect civilian lives and critical civilian infrastructure, to alleviate hardships caused by the conflict, and to facilitate freedom of movement across the contact line.
145. With the simultaneous release of detainees under the framework of the Minsk Agreements, more information has come to light regarding serious human rights violations and abuses perpetrated on both sides of the contact line - arbitrary deprivation of liberty, incommunicado detention, torture and ill-treatment. These violations and abuses cause grave suffering for victims and their families, feed division and increase the challenges which shall be faced in future peace and reconciliation efforts.

146. Violations and abuses perpetrated in conflict-related cases remain essentially unaddressed, and a systemic lack of accountability deprives victims and the society as a whole of the right to know. It also fuels a climate of impunity.

147. Such a climate is particularly worrisome as Ukraine prepares for the 2019 presidential and parliamentary elections. Ukrainian law enforcement authorities must address with resolve any manifestations of intolerance, threats and violence, including against persons belonging to minority groups and individuals holding alternative, minority social or political opinions. Respect for fundamental freedoms and protection of minorities will serve as a bulwark against extreme ideologies that threaten constitutional democracy ahead of the elections.

148. The residents of the Crimean peninsula continue to be subjected to the legal and governance framework of the Russian Federation, in violation of international humanitarian law. OHCHR recalls the United Nations General Assembly’s request that the Russian Federation comply with its obligations as an occupying power in Crimea.

149. OHCHR notes that most of its past recommendations have yet to be implemented and remain valid. OHCHR therefore reiterates and further recommends:

150. Recommendations to the Ukrainian authorities:

a) Government of Ukraine to investigate all potential violations of international humanitarian law, or at the minimum – and as obligated by international law – of serious violations of international humanitarian law, and ensure accountability through disciplinary or criminal proceedings, as appropriate.

b) Government of Ukraine to ensure that the right to remedy of victims of serious violations of international humanitarian law and gross violations and abuses of international human rights law is fulfilled through equal and effective access to justice and reparations, including restitution, compensation and rehabilitation, without discrimination.

c) Where military presence within civilian areas is justified due to military necessity, Government of Ukraine to take all possible steps to protect the civilian population, including making available adequate alternative accommodation, as well as compensation for the use of property and any damages.

d) Government of Ukraine to ensure investigations, in an effective and timely manner, and prosecute allegations of torture and ill-treatment, arbitrary and incommunicado detention, sexual- and gender-based violence, including those allegedly committed by State actors, persons or groups of persons acting with their authorization, support or acquiescence; and consider establishing an inter-agency group in charge of investigation of such cases, as civilian investigative bodies do not have access to many alleged places of detention or where the victims were last seen.

e) Government of Ukraine to ensure that individuals charged with affiliation or links with the armed groups are remanded in custody pending trial only after individual determination of reasonableness and necessity thereof.

f) Government of Ukraine to ensure that complaints by conflict-related detainees regarding arbitrary arrest and/or detention, torture and ill-treatment, are properly addressed by law enforcement authorities.
g) Government of Ukraine to ensure investigations by the National Police of all allegations of pressure on judges.

h) Government of Ukraine to facilitate the free and unimpeded passage of civilians across the contact line by increasing the number of crossing routes and entry-exit checkpoints; lift unnecessary and disproportionate restrictions on, and ease freedom of movement at all checkpoints, including ‘internal’ checkpoints; and ensure that persons with residence registered in territory controlled by armed groups are not subjected to additional discriminatory checks.

i) Government of Ukraine to allocate sufficient funds to designated enterprises to maintain an adequate level of services and conditions at entry-exit checkpoints with facilities that provide safe and dignified conditions, in particular for persons with disabilities, including access to adequate water, sanitation, shelter, medical services and information.

j) Government of Ukraine to ensure the full implementation of the Temporary Order on Control of the Movement of People along the Contact Line in Donetsk and Luhansk regions introduced on 14 April 2017 allowing for non-expiry of permits.

k) Ensure the Prosecutor’s Office, National Police and Military Prosecutor’s office conduct transparent, timely and effective investigation of attacks on media professionals and media outlets, threats to physical integrity and other criminal actions that can be qualified as preclusion of lawful professional activity of journalists.

l) National Police to ensure prompt, effective and unbiased investigation of alleged violations in connection with the operations of the Myrotvorets website.

m) Security Service of Ukraine to ensure that any restriction on freedom of expression is imposed only as a specific and individualized response to a precise threat to national security, and is both necessary and proportionate.

n) Ministry of Internal Affairs and National Police to ensure that law enforcement officials involved in policing of public assemblies know and apply international human rights standards, and take all appropriate measures to secure such assemblies without discrimination, including gatherings of persons belonging to minority groups.

o) Government of Ukraine to guarantee that residents of all villages adjacent to the contact line can access basic services and receive social payments and pensions.

p) Government of Ukraine to ensure that IDPs living in collective centres enjoy an adequate standard of living, including safe access to drinking water, electricity and heating, as well as appropriate access to basic services and employment opportunities.

q) Government of Ukraine, Parliament and other relevant State bodies to eliminate obstacles preventing all citizens from enjoying equal access to pensions regardless of their place of residence or IDP registration.

r) Government of Ukraine, Parliament and regional authorities to ensure that persons with disabilities residing near the contact line have equal access to quality health services, including by facilitating freedom of movement and providing accessible transportation.

s) Ministry of Temporarily Occupied Territories and Internally Displaced Persons, Ministry of Social Policy and other relevant state bodies to ensure that IDPs with disabilities are provided with adequate accommodation, access to in-home and other services, and means for inclusion in the community.

t) Government of Ukraine to establish independent, transparent and non-discriminatory procedures of documentation and verification of housing, land and property ownership; create a registry of damaged or destroyed housing and other
property; and set up a comprehensive legal mechanism for restitution and compensation.

u) Office of the Prosecutor General and other law enforcement agencies to ensure appropriate classification, investigation and prosecution of crimes committed on the basis of religious affiliation, ethnicity, sexual orientation, gender identity, beliefs, views or opinions, including crimes perpetrated by members of extreme right-wing groups.

v) Government of Ukraine to ensure that the language provision in the Law on Education does not lead to violations of the rights of minorities or discrimination against certain minority groups.

w) Government of Ukraine to simplify access to banking services and IDs in mainland Ukraine for people originating from Crimea and territory controlled by armed groups.

x) Government of Ukraine to develop a comprehensive policy to guarantee adequate, effective, prompt and appropriate remedies, including reparation, to civilian victims of the conflict, especially those injured and the families of those killed, in accordance with United Nations Basic Principles.

y) Parliament to ensure the revision of the procedure for selection and appointment of the Ombudsperson, in line with the recommendations of the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions; in particular the procedure should include requirements to publicize vacancies broadly, assess candidates on the basis of predetermined, objective and publicly available criteria, and promote broad consultation and/or participation in the screening, selection and appointment process.

z) Government of Ukraine to establish an independent and impartial centralized State authority for tracing missing persons and identifying human remains, with sufficient capacity and reach to deliver its mandate effectively, and ensure effective investigation and prosecution of enforced disappearance.

aa) Government of Ukraine to provide effective remedies for violations of the right of relatives to know the fate of missing persons; in particular, introduce guarantees responding to their material, financial and psychological needs; and ensure support, rehabilitation and reintegration of missing persons returning after a prolonged period of absence.

151. To all parties involved in the hostilities in Donetsk and Luhansk regions, including the Ukrainian Armed Forces, and armed groups of the self-proclaimed ‘Donetsk people’s republic’ and ‘Luhansk people’s republic:

a) Bring to an end the conflict by adhering to the ceasefire and implementing other obligations foreseen in the Minsk agreements, in particular regarding withdrawal of prohibited weapons and disengagement of forces and hardware; until such implementation, agree on and fully respect “windows of silence” to allow for crucial repairs to and maintenance of civilian infrastructure in a timely manner.

b) Take all feasible precautions to minimize harm to the civilian population during operations in areas populated by civilians, including by: locating military objectives such as armed forces and weapons systems outside of densely populated areas, or when such relocation of military objects from civilian areas is not feasible due to military necessity, removing civilians – with their consent – from the vicinity of military objects to ensure their safety; immediately ceasing the use of weapons with indiscriminate effects in areas populated and used by civilians, particularly those with a wide impact area or the capacity to deliver multiple munitions over a wide area; and strictly comply with international humanitarian law, in particular, refrain from deliberately targeting civilians or civilian objects, including objects indispensable to the survival of the civilian population, such as drinking water installations and supplies.
c) Investigate any attack that may have caused incidental loss of civilian life, injury to civilians, or damage to civilian objects; establish whether such attack was excessive in relation to any anticipated concrete and direct military advantage; and hold those responsible to account.

d) Armed groups of the self-proclaimed ‘Donetsk people’s republic’ and the self-proclaimed ‘Luhansk people’s republic’ to ensure that all instructions and directives issued in relation to the conduct of hostilities are compliant with international humanitarian law, and provide training in international humanitarian law to its members.

e) Ensure unimpeded access for OHCHR and other independent international observers to all places of deprivation of liberty, and allow private, confidential interviews with detainees; keep a detailed register of every person deprived of liberty and inform their families where they are held.

f) Treat all persons detained, including those held in connection with the conflict and soldiers and fighters, humanely in all circumstances.

g) Enable and facilitate the voluntary transfer of all pre-conflict detainees to government-controlled territory, regardless of their registered place of residence, in order to enable contact with their families.

h) Armed groups of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ to respect freedom of religion or belief in territory under their control, and refrain from infringement upon this right, including by lifting the existing prohibition of Jehovah’s Witnesses, halting seizures of their religious buildings and the harassment of their members.

152. To the Government of the Russian Federation:

a) Implement General Assembly Resolution 72/190 of 19 December 2017, including by ensuring proper and unimpeded access of international human rights monitoring missions and human rights non-governmental organizations to Crimea.

b) Ensure that the right to freedom of peaceful assembly can be exercised by all Crimean residents in any form including single-person pickets, without any restrictions other than those permissible by international human rights law, and without discrimination on any grounds.

c) Refrain from sanctioning free speech and peaceful conduct, and release all persons arrested and charged for expressing dissenting views, including regarding the status of Crimea;

d) Comply with the international humanitarian law obligation not to compel residents of the occupied territory of Crimea to serve in the armed forces of the Russian Federation; quash all guilty verdicts in this regard and discontinue all criminal proceedings initiated against protected persons in Crimea for evading military service in the armed forces of the Russian Federation;

e) Ensure the availability of education in Ukrainian language.

153. To the international community:

a) Encourage the parties to the conflict to pursue all available political and practical avenues to continue simultaneous release of conflict-related detainees pursuant to the Minsk agreements.

b) In light of the upcoming presidential and parliamentary elections, as well as attacks on journalists and other individuals documented by OHCHR, strengthen their engagement in combatting discrimination and manifestations of intolerance towards
ethnic, political, sexual and other minorities in Ukraine, linking prospects of cooperation to progress in this regard.
ANNEX I

Endnotes

1 OHCHR was deployed on 14 March 2014 to monitor and report on the human rights situation throughout Ukraine and to propose recommendations to the Government and other actors to address human rights concerns. For further details, see paras. 7–8 of the report of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine of 19 September 2014 (A/HRC/27/75).


3 The majority of human rights violations documented by OHCHR during the reporting period involve incidents which occurred prior to the reporting period.

4 Hereinafter ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’.

5 Three civilian casualties (all injuries) were caused by booby traps, whilst 23 (9 killed and 14 injured) were caused by imprudent handling of ERW, mostly hand grenades.


7 See U.N. General Assembly resolution 68/262 of 27 March 2014 on the territorial integrity of Ukraine, resolution 71/205 of 19 December 2016 referring to Crimea as being occupied by the Russian Federation and resolution 72/190 of 19 December 2017 urging the Russian Federation to comply with its obligations as an occupying power in Crimea.


9 OHCHR documents civilian casualties by consulting a broad range of sources and types of information which were evaluated for credibility and reliability. In analysis of each incident, OHCHR exercises due diligence to corroborate information from as wide a range of sources as possible, including OSCE public reports, victim and witness accounts, military actors, community leaders, medical professionals, and other interlocutors. In some instances, documentation may take weeks or months before conclusions can be drawn, meaning that numbers on civilian casualties may be revised as more information becomes available. OHCHR does not claim that the statistics presented in this report are complete. Civilian casualties may be underreported given limitations inherent in the operating environment, including gaps in coverage of certain geographic areas and time periods.

10 The deaths of 11 men and 1 woman, and the injury of 31 men, 24 women, 4 girls and 2 boys.

11 Between 16 August to 15 November 2017, OHCHR documented 87 civilian casualties: 15 killed (14 man and 1 boy) and 72 injured (42 men, 19 women, 10 boys and 1 girl).

12 OHCHR recalls that the parties committed to withdraw heavy weapons under the Minsk agreements. During the reporting period, hostilities intensified between 2 to 20 December, particularly in Donetsk region. Hostilities substantially reduced between 23 December and 10 January as a result of a re-commitment to the ceasefire negotiated by the Trilateral Contact Group and other signatories to the Minsk agreements for the Christmas and New Year period. OSCE SMM and reported almost 16,000 ceasefire violations the week of 11 to 17 December and in 10,000 ceasefire violations from 18 to 24 December. This fell to approximately 2,000 ceasefire violations recorded the week of 25 to 31 December 2017 and just under 4,000 ceasefire violations from 1 to 7 January 2018. See OSCE daily and spot reports at http://www.osce.org/ukraine-smm/reports/; OSCE press statement on re-commitment at http://www.osce.org/special-monitoring-mission-to-ukraine/364031.

13 Civilian casualties due to shelling and light weapons are compiled together because a number of casualties stemmed from fragmentation injuries which could have been caused by either, specifically, 1 death (a man) and 18 injuries (11 men and 7 women). In addition, OHCHR recorded 1 death (a man) and 21 injuries (11 women, 8 men and 2 girls) caused by shelling from guns, mortars, howitzers and MLRS.

14 Specifically, the death of 1 man and the injury of 4 men and 1 woman.

15 For example, actors used a Grad multiple rocket launch system to shell Novoluhanske – a town populated by approximately 3,500 civilians – on 18 December. On 29 November, SMM located in government-controlled Svitlodarsk recorded approximately 70 undetermined explosions and heavy-machine-gun and small-arms fire, all 2-5km south-east and south, and 24 explosions assessed as 122mm MLRS munitions, 4-5km to the northeast. OSCE SMM daily report at http://www.osce.org/special-monitoring-mission-to-ukraine/360141. Overnight on 4-5 December, SMM in armed-group-controlled Kadiivka (formerly Stakhanske) recorded approximately 200 undetermined explosions 6-18km away, and approximately 100 explosions assessed as outgoing rounds of 122mm MLRS munition 6-9km away. OSCE SMM daily report at http://www.osce.org/special-monitoring-mission-to-ukraine/360961. In Novoluhanske on 20 December, SMM documented a fresh crater in a field assessed as caused by a 122mm MLRS munition. The crater was located 50m from the nearest house. OSCE SMM daily report at http://www.osce.org/special-monitoring-mission-to-ukraine/364021.

16 ICRC, Customary International Humanitarian Law Database, Rules 11, 12, 15, 17.

17 Explosive remnants of war include both unexploded ordnance (UXO) and abandoned explosive ordnance (AXO).

18 This is a 28.1 per cent decrease compared with the previous reporting period (16 August to 15 November 2017) when OHCHR recorded 32 civilian casualties caused by ERW incautious handling: 6 killed and 26 injured. During the reporting period, most of such civilian casualties resulted from incautious handling of hand grenades or their use in interpersonal conflicts, with perpetrators often being intoxicated by alcohol, or from attempts to dismantle AXOs (shells or cartridges for small arms).
Protocol II (as amended on 3 May 1996) to the 1980 Convention on Certain Conventional Weapons also restricts the indiscriminate and disproportionate use of booby-trap devices (defined as any device or material which is designed, constructed or adapted to kill or injure, and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act) and – as in international humanitarian law – requires that all feasible precautions be taken to protect civilians from the effects of booby traps (including taking into account measures to protect civilians and the availability and feasibility of using alternatives). It further prohibits the use of booby traps attached to, or associated with, a wide range of specific items, and in any area with a concentration of civilians akin to that found in a city, town, or village where combat between ground forces is not taking place or does not appear to be imminent. Ukraine consented to be bound by Protocol II on 15 December 1999. The protocol binds all parties to the conflict in a non-international armed conflict. See Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Protocol II to the 1980 CCW Convention as amended on 3 May 1996), Articles 1, 2, 3, 7. See ICRC, Customary International Humanitarian Law Database, Rules 1, 11 and 12.

For example, OHCHR documented shelling damage to civilian homes (houses and apartments), a school, kindergarten and medical post in government-controlled Novoluhanske on 18 December and to a kindergarten in armed-group-controlled Holmivs'kyi on 17-18 December. Shelling of armed-group-controlled Kadiivka (formerly Stakhanov) on 19 December shattered the windows of a polyclinic and damaged civilian homes. OCHA reported an increase of reported incidents against education facilities during December. Humanitarian Snapshot (as of 23 January 2018) at https://www.humanitarianresponse.info/en/operations/ukraine/infographic/ukraine-humanitarian-snapshot-23-january-2018.

Presence of military or armed groups and their use or occupation of civilian property was documented by OHCHR in Bolotene on 13 December, Drozha on 6 December, Lopaskyne on 14 December, Lobachev on 14 December, Novhorodske on 5 December, Novoluhanske on 4, 8, 21 December and 23 January, Novooleksandrivka on 17 January, Novoselivka Druha on 6 December, Pankivka on 7 December, Travneve on 23 January, Trokhizbenka on 14 December, Verkhnotoretske on 6 December and 26 January, and Zolote-4 on 17 January, Pisky, Pervomaiske and Vodyane (Yasynuvata district) on 14 February. In addition, OHCHR observed that the UAF occupied homes in Travneve in late November and marked houses in Travneve and Hladosove with civilians present with circles while empty houses were marked with crosses. In Katerynivka, OHCHR observed renewed military presence on 8 February. According to local residents, UAF returned their positions back inside the village at the end of December and occupied civilian homes.

OHCHR documented such examples in Bolotene (13 December), Katerynivka (8 February), Pervomaiske (14 February), Pisky (14 February), Novoselivka Druha (6 December), Syze (13 December), Verkhnotoretske (26 January) and Vodyane (14 February). See also “Housing, land, and property rights” section below.

For example, OHCHR observed that the electricity supply to areas of Zolote-4 was cut by shelling on 18 November, denying electricity to one street and a hamlet during sub-zero temperatures. Repair teams refused to go to the area because of the inability to organize a “window of silence” as a result of the discharge of Russian soldiers from the Joint Centre for Control and Coordination (formed in September 2014, provides a mechanism for monitoring the ceasefire and resolving issues linked to stabilization of the area around the contact line, including the coordination of “windows of silence”; hereinafter JCCC). The electricity supply resumed on 27 November. Similarly, the populations of Novoluhanske, Hladosove and Travneve had limited access to electricity after 16 November and 28 December due to shelling damages to infrastructure. On 19 December, one of two power lines to the First Lift Pumping Station was damaged by shelling and cannot be repaired without a window of silence. If the remaining power line is damaged, electricity supply to the pumping station will be cut. The station needs water to filter it, which in turn process water for over 1 million people on both sides of the contact line. Information provided by WASH Cluster.

WASH Incident Reports at https://www.humanitarianresponse.info/en/operations/ukraine/water-sanitation-and-hygiene. OHCHR has consistently raised the risks surrounding direct or indirect damage to the Donetsk Filtration Station (DFS) (located in “no man’s land” approximately 15 km north of Donetsk city) from use of explosive weapons. See, e.g., OHCHR Report on the human rights situation in Ukraine, 16 August to 15 November 2017 (hereinafter “OHCHR 20th Report”), para. 24. During the reporting period, in addition to the shelling and shooting in the vicinity of the DFS on 19 December, the facility came under fire on 1-2 December (shelling leaving behind unexploded ordnance); 3 December (shelling); 12 December (a machine-gun bullet entered a room where an employee was present) and 17-18 December (a shell landed next to a chlorine pipe). Other facilities were also impacted by the hostilities. On 26 January, the First Lift Pumping Station of the South Donbas Water Pipeline was reconnected to a reserve power line as a result of shelling and damage to a power converter. A repair brigade was unable to repair the power converter on the same day after small arms fire in the area posed a risk. On 12 December, a shell hit the grounds of Horlivka Filter Station No.2 (armed-group-controlled territory), which supplies water to 184,000 people on both sides of the contact line. On 31 December, the Holmivskyi Waste Water Treatment Plant, which provides treat water supply for 7,800 people, lost power due to shelling damage to a power cable which connected the substation to the power line. The cable was repaired a few days later.

Projectiles landed on the grounds of the DFS, requiring evacuation of approximately 70 staff to the bomb shelter. The evacuation had to be completed without any security guarantees due to difficulties coordinating a “window of silence” following the withdrawal of the Russian Federation from the JCCC. (Source: Wash Cluster.) See also http://www.osce.org/special-monitoring-mission-to-ukraine/363681?download=true. OHCHR is unable to determine which party to the conflict fired the projectiles that landed in the vicinity of the Donetsk Filtration Station.
such practice by the fact that due to hostilities it was impossible to immediately deliver a detainee to an official place of detention.

On 6 December, after the victim and his lawyer filed a complaint at ‘MGB’, he was arrested on his way home. ‘MGB’ officers took him to a checkpoint in August 2017, hooded and handcuffed, and brought to the ‘MGB’ building in Donetsk. On the way, he was given a document and his personal belongings including passport and leave the building, or to not sign it and end up in the basement. The victim chose the first option and was released. Following this, he was twice summoned to ‘MGB’ to sign a document stating he had not been under pressure. When he refused, an ‘MGB officer’ gave him two options: to sign the document, hand over his personal belongings including passport and leave the building, or to not sign it and end up in the basement. The victim chose the first option and was released. Following this, he was twice summoned to ‘MGB’ for interrogation. At the end November, he appealed to ‘MGB’ to return his passport, and later to the ‘general prosecutor’.

In one emblematic case recorded during the reporting period, a victim was detained at an armed-group-controlled checkpoint in August 2017, hooded and handcuffed, and brought to the ‘MGB’ building in Donetsk. On the way, he was pressured to confess to being a spy and threatened. At ‘MGB’ he was interrogated for ten hours, after which he was told to sign a document stating he had not been under pressure. When he refused, an ‘MGB officer’ gave him two options: to sign the document, hand over his personal belongings including passport and leave the building, or to not sign it and end up in the basement. The victim chose the first option and was released. Following this, he was twice summoned to ‘MGB’ for interrogation. At the end November, he appealed to ‘MGB’ to return his passport, and later to the ‘general prosecutor’. On 6 December, after the victim and his lawyer filed a complaint at ‘MGB’, he was arrested on his way home. ‘MGB officers’ took him to a field, searched him, and told him to sign documents or they would take him to a minefield and he would be just another civilian casualty. He protested, but the ‘officers’ threatened him with beatings and death. The victim signed: 1) a statement confirming he received his documents back from ‘MGB’; 2) an admission of verbally ‘consenting’ to cooperate with SBU to defame the ‘Donetsk people’s republic’; and 3) a ‘notice’ of ‘deportation’ from ‘DPR’ for 5 years. He was then taken to a checkpoint, given his documents and

To improve the legal framework on medical care provision in places of deprivation of liberty, Ministry of Justice and Ministry of Health issued a joint order No. 1517/5/503 dated 10 May 2017, which amended previously existing mechanisms of identification and registration of bodily injuries of the convicted detainees, as well as those who just arrived to the detention facilities. This amended order foresees mandatory registration of bodily injuries and notification of authorities about them, medical examination of the detainees without presence of non-medical staff, free choice of a doctor and confidentiality of medical records.

Detainees often tell OHCHR during interviews that they are compelled/threatened to provide such explanations by the law enforcement bodies that detained an individual.

For example, see OHCHR Report on human rights situation in Ukraine, covering the period from 16 August to 15 November 2017, para 62; CAT/OP/UKR/3, Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Visit to Ukraine undertaken from 19 to 25 May and from 5 to 9 September 2016: observations and recommendations addressed to the State party.

Chapters IV, V and VI of the Istanbul Protocol detail that medical examination and psychological evaluation should be thorough, even if the victim does not have any immediate complaints and acute symptoms at the time of examination. Istanbul protocol highlights the importance of interviewing the alleged victim and recording the answers regarding how injuries were received, healing process, etc.

Seven cases involving 12 individuals.

In one emblematic case recorded during the reporting period, a victim was detained at an armed-group-controlled checkpoint in August 2017, hooded and handcuffed, and brought to the ‘MGB’ building in Donetsk. On the way, he was pressured to confess to being a spy and threatened. At ‘MGB’ he was interrogated for ten hours, after which he was told to sign a document stating he had not been under pressure. When he refused, an ‘MGB officer’ gave him two options: to sign the document, hand over his personal belongings including passport and leave the building, or to not sign it and end up in the basement. The victim chose the first option and was released. Following this, he was twice summoned to ‘MGB’ for interrogation. At the end November, he appealed to ‘MGB’ to return his passport, and later to the ‘general prosecutor’. On 6 December, after the victim and his lawyer filed a complaint at ‘MGB’, he was arrested on his way home. ‘MGB officers’ took him to a field, searched him, and told him to sign documents or they would take him to a minefield and he would be just another civilian casualty. He protested, but the ‘officers’ threatened him with beatings and death. The victim signed: 1) a statement confirming he received his documents back from ‘MGB’; 2) an admission of verbally ‘consenting’ to cooperate with SBU to defame the ‘Donetsk people’s republic’; and 3) a ‘notice’ of ‘deportation’ from ‘DPR’ for 5 years. He was then taken to a checkpoint, given his documents and acellphone, transferred to government-controlled territory.

OHCHR documented four such cases during the reporting period. This is in line with previous recorded cases. See also OHCHR Report on the human rights situation in Ukraine, 16 February to 15 May 2017 (hereinafter “OHCHR 18th Report”), paras. 43-44; OHCHR 20th Report, paras. 40-44.

In a few rare instances, the person was released shortly after the apprehension.

In an emblematic case recorded during the reporting period, a couple disappeared while crossing an armed-group-controlled checkpoint on 16 October 2017. Relatives appealed to ‘MGB’, ‘police’ and the ‘general prosecutor’ without response. On 28 November, relatives found out that the couple was detained by ‘MGB’, however could not confirm their whereabouts.

Torture is most frequently practised during incommunicado detention. Incommunicado detention should be made illegal and persons held incommunicado should be released without delay. Legal provisions should ensure that detainees be given access to legal counsel within 24 hours of detention. Security personnel who do not honour such provisions should be punished. […] In all circumstances, a relative of the detainee should be informed of the arrest and place of detention within 18 hours.” Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Nigel S. Rodley, submitted pursuant to Commission on Human Rights resolution 1992/32, E/CN.4/1995/34, para. 926(d).

It was introduced in 2014 and has not been lifted.

All 20 prisoners were convicted before the outbreak of the conflict. They were held in the following colonies: No. 32 Makivka, No. 52 Yakivka, No. 97 Makivka, No. 28 Torez, No. 33 Kirovske, No. 124 Donetsk and No. 3 Zhdanivka for individuals with tuberculosis. OHCHR interviewed 14 out of these 20 prisoners.

See, e.g., OHCHR 20th Report, paras. 63-64.
Prisoners reported that food was “often rotten” and “sometimes dangerous for consumption”; if the food was of better quality, the portions were small and insufficient. The situation was particularly bad in 2014-2015 in some colonies, “amounting to starvation”.

There is only one official crossing route across the contact line in Luhansk region. It is open only for pedestrians (no vehicles), who must walk across wooden ramps connecting pieces of a broken bridge. It is particularly difficult for persons with disabilities, families with children or the elderly to traverse.

Armed groups do not acknowledge court decisions by the Ukrainian judiciary, resulting in arbitrary and prolonged detention.

Instead the Ministry of Justice created the “Medical center of the State Correctional Service of Ukraine”.

For example, the Military Prosecutor’s offices of Kharkiv and Mariupol garrisons are conducting investigations into allegations of illegal arrest and detention and use of unlawful methods of interrogation by SBU officers; four UA soldiers are currently standing trial in Svitlovskyy district court of Luhansk region on charges of abduction and killing a civilian in June 2014 in Kremnitsa region; five members of former ‘Donbas’ volunteer battalion, three members of ‘Dnipro-1’ battalion and three members of ‘Right Sector’ are on trial before Krasnoarmiisk town-district court of Donetsk region for crimes perpetrated against civilians in 2014-2015 and early 2016; an SBU officer accused of beating to death a resident of Avdiivka in March 2017 is on trial before Druzhkyivka town court of Donetsk region; the trial against 2 SBU officers, accused of causing a death of a civilian arrested at a checkpoint by torturing him and failing to enable his immediate access to medical aid in November 2014 is nearing completion in Izium town-district court of Kharkiv region.

See, e.g., the case of Dmytro Shabratskyi (see OHCHR thematic report on Accountability for killings, Annex I, paras 117-118). Despite a forensic report finding that he died of a gunshot wound to the head and mine-blast trauma, police classified the death as suicide and closed the case. The victim’s family had to obtain a court order to reopen the case, however even then there was no proper investigation into his death. For example, ballistic tests of a rifle found next to the body were not conducted. In the case of Roman Postolenko, a civilian killed by the State Border Guard Service patrol (see OHCHR thematic report on Accountability for killings, Annex I, paras 11-14), all the alleged perpetrators were granted witness status, leaving the victim’s family without access to compensation or redress, as according to the investigation, the soldiers acted within their functions when they opened fire. OHCHR notes that during investigation, the case was closed twice by the Prosecutor and ordered re-opened by the court, showing a reluctance to investigate the killing as a crime perpetrated by state actors.

OHCHR has consistently documented and reported on the use of torture to illicit “confessions”. See, e.g., paras. 29, 65 and 68 above, OHCHR 20th Report, paras. 47-50, OHCHR 19th Report, paras. 52-55.

Article 176(5) envisages custodial detention as the only possible measure of restraint for individuals accused inter alia of affiliation or links with armed groups.

ICPR, art. 9 and 14.

“...The physical presence of detainees at the hearing gives the opportunity for inquiry into the treatment that they received in custody... It thus serves as a safeguard for the right to security of person and the prohibition against torture and cruel, inhuman or degrading treatment”. General Comment no. 35 Article 9 (Liberty and security of person), para. 34.

Human Rights Committee, General Comment no. 35 Article 9 (Liberty and security of person), para. 37.

OHCHR consistently receives allegations that detainees are prohibited from contact with a lawyer during the initial period of arrest and detention.

International Covenant on Civil and Political Rights, art. 14; European Convention on Human Rights, art. 6.

See, e.g., OHCHR 20th Report, paras. 71 and 77.

In January 2018, the trial of Nelia Shtepa came to a halt after a number of Lybinskiy district court of Kharkiv judges recused themselves from the case. The case was then transferred to Zhitomirskyi district court of Kharkiv for the fourth retrial, raising serious concerns about violation of the right to trial without undue delay.

Serhiy Yudaiev was charged with rioting and hooliganism in connection with alleged participation in the takeover of the Kharkiv regional state administration on 6-7 April 2014. Despite the minor gravity of the charges, he was detained for 3.5 years, since May 2014.

Verdict, Kyivskyi district court of Kharkiv, 6 November 2017, at http://reys.court.gov.ua/Review/70066827. The SBU reportedly presented the convict with new charges that would allow them to demand continuation of his custodial detention.

The former SBU Head of Kyiv city and region is currently tried before the Shevchenkivskyi district court of Kyiv on charges of organizing the killing of 10 persons in a manner endangering others and organizing the infliction of bodily injuries by a group in a manner causing special suffering, resulting in the death of one person and a total of 22 victims.

Armed civilians, sometimes wearing camouflage and masks, often with criminal records, who were engaged by law enforcement to attack protestors.

The timing of the gathering of ‘titushky’ at Sofiyska square in Kyiv coincides with the beginning of the ‘anti-terrorist operation’ in the city centre. Similarly, they left the scene approximately at the time when the active phase of the ‘operation’ was over; video footage from security cameras at the scene shows that ‘titushky’ left the crossroads at 3:00 hrs, after the active phase of the ‘anti-terrorist operation’ at Maidan had ended for five hours (see reconstruction of events at http://tailo.org/en/events/vasyltsov_and_veremiy). The place of their deployment is also hardly accidental – Sofiyska square is just a few blocks from Maidan in the direct path of protestors retreating from Maidan after their anticipated dispersal by police and security forces in the course of the ‘anti-terrorist operation’. Interestingly, attacks on unarmed protesters have been perpetrated right in the immediate vicinity of Kyiv regional police, with no interventions from their side. The purpose of the deployment of ‘titushky’ was also similar to that of the ‘anti-terrorist operation’. As a result two individuals have been shot dead (Vitalii Vasyltsov and Viacheslav Veremiy) and at least six others have sustained gunshot wounds. Many more have been physically abused.
10 The investigation found that senior officials of the Ministry of Internal Affairs (MoIA) organized the illegal transfer of automatic firearms and ammunition to ‘titushky’ on 20 February 2014 for use against the protests, and identified 12 suspects including the former Minister of Internal Affairs, former head of MoIA supplies department and former Head of Kyiv police (http://registr.gov.ua/reestr-kriminalnih-provadzhen-golovne-slideh-upravlja-na-generalnei-prokuraturi-ukraini/postachannya-ta-zastosuvannya-spetszasos). A former member of the MoIA special unit combatting organized crime carried the firearms to ‘titushky’ from the armoury.

11 On 22 December 2017, the Shevchenkivskyi district court of Kyiv sentenced the gang leader to a four-year suspended sentence with a two-year probation period (verdict available at http://reestr.court.gov.ua/Review/71189809) and released him. The court established that he was paid USD 20,000 to organize 200-300 young, athletically-built men to “protect public order”, and they were provided with bats (by an unknown individual) prior to their deployment at Sofiiska square (few blocks from Maidan Independence Square). When they noticed journalist Viacheslav Veremii videotaping them from a taxi, the accused together with other ‘titushky’ dragged him out and severely beat him with bats. When he tried to escape, one shot him in the back, causing his death. Despite these facts, the court accepted the defence’s arguments that the accused ordered others not to touch the victim and the shooter acted on his own initiative, thus accepting the qualification of the crime as “hooliganism”. The gang leader was arrested on 29 March 2014 and remanded in custody on charges of killing Viacheslav Veremii, however, on 27 May 2014, due to threats he allegedly received while in detention, he was placed under house arrest as well as provided with protection by the State Protection Service. Shortly after, the prosecutor changed the qualification of crime from murder to hooliganism. On 22 August 2014, the accused was released from house arrest under personal recognition. On 19 October 2014, the Shevchenkivskyi district court of Kharkiv granted the prosecutor’s motion to hold the trial in closed sessions (video of hearing available at https://www.youtube.com/watch?v=JA4OczkX0A). Pending trial, he committed two other crimes. On 17 March 2016, the Kyivevo-Sviatoshymskyi district court of Kyiv region convicted him of illegal possession of weapons and imposed a three-year suspended sentence (court decision at http://reestr.court.gov.ua/Review/56651650). A second trial on hooliganism charges stemming from a raid on a gas station during which four people were beaten and one was shot with a “traumatic pistol” is ongoing before the Solomianskyi district court of Kyiv (criminal proceeding no. 760/4865/17-к). The above did not persuade the Shevchenkivskyi district court of Kyiv dealing with the case of the killing of Viacheslav Veremii to change the measure of restraint for Yuriy Krysin.

12 Court decision available at http://reestr.court.gov.ua/Review/71231699. The three ‘titushky’ are accused of attempting to murder six protesters using firearms, attacking and intimidating protesters using bats and sticks, and carrying out a “joint criminal intention aimed at counteracting peaceful protests” together with unidentified individuals between 22:30 hrs on 18 February to 2:30 hrs on 19 February 2014. See OHCHR thematic report on accountability for killings in Ukraine from January 2014 to May 2016, Annex 1, table 1.

13 Briefing of the Prosecutor General’s Office, 12 February 2018. See also briefing of the Head of the Special Investigations Department of the Prosecutor General’s Office, 20 February 2018 at: https://www.youtube.com/watch?v=yVsd_zkA0Re.

14 See OHCHR 20th Report, para. 90.


16 OHCHR meeting, 21 December 2017.

17 On 9 January 2018, OHCHR received a response (dated 26 December 2017) from the Malynovskyi district police department stating that criminal investigations into pressure on a panel of judges of the Malynovskyi district court of Odesa on 30 November 2015 and attacks on a defence lawyer on 18 July 2016 and 12 May 2017 have been ongoing, and the criminal investigation into pressure on judges of the Court of Appeal of Odesa region on 7 June 2016 was closed on 16 December 2016 due to absence of corpus delicti. See OHCHR Report on the human rights situation in Ukraine, 16 November 2015 to 15 February 2016 (hereinafter “OHCHR 13th Report”), para. 106; OHCHR report on the human rights situation in Ukraine, 16 May to 15 August 2016 (hereinafter “OHCHR 15th Report”), paras. 87-89.


19 One woman decided to stay in Donetsk for family reasons.

20 Some civilians had previously been members of volunteer battalions but were not taking part in hostilities at the time of their apprehension.

21 Thus, in total, during the reporting period, the Government of Ukraine released 234 individuals (including 19 women), while armed groups released 75 (including 5 women) within the framework of the simultaneous release.

22 Some were brought to “Zeleny Hai” as early as 15 December 2017, while others were transferred to this facility even a few days before the release on 27 December.

23 OHCHR interviews, November-January 2018. Government informed OHCHR that these restrictive measures were taken to ensure the safety of the detainees.

24 Transitory cells in SIZOs across Ukraine generally have poor conditions.

25 OHCHR interview, 6 February 2018.

26 Many released detainees have credible fears of retaliation, and some individuals or their families have received threats. Additionally, OHCHR strives to maintain the highest protection of victims through strict adherence to the principles of confidentiality and informed consent.

27 “OHCHR documented the cases of eight individuals detained and tortured by SBU in Kharkiv in 2015. For example, three of these individuals were arrested separately in May 2015, handcuffed and had bags placed over their heads. They were taken to the Kharkiv SBU building, where they were interrogated and tortured separately for hours by methods
including suffocation with a gas mask, dislocation of joints, electric shock, and mock execution. The detainees also received death threats and threats of a sexual nature against their families. SBU officers forced these men to sign self-incriminating statements and refused them access to a lawyer. They were transferred to a hospital where a doctor refused to document visible injuries. In another example, also in May 2015, a man was arrested by SBU. On the way to the Kharkiv SBU building, the perpetrators stopped the vehicle and tortured him with electric current. Upon reaching the SBU building, the victim was further tortured until he “confessed” to planning terrorist acts. As of 15 August 2017, all four of these victims remained in pre-trial detention. The Military Prosecutor’s Office has launched an investigation into these allegations.” OHCHR 19th Report, para 58.


10 In two cases, victims (former members of battalions) could not identify the affiliation of ‘investigators’.

11 So-called ‘administrative arrest’

12 The interrogation, often with torture, was conducted in ‘MGB’ buildings in Donetsk and Luhansk and in ‘MGB’ and Izolatsia detention facility in Donetsk.

13 Some threats recanted by interviewed victims were: “we will put you inside a basin with chlorine”, “I will cut your leg and will leave you forever in MGB basement”, “send you to the frontline”, “you don’t want to be disabled, do you?”; “I will pick up a drill and drill through your legs”, “we have three main directions: to threaten, frighten, prevent access”, “we will put you back in the cell and deal with your wife”, “everything that was until now—were just flowers. You will be placed into the cell with faggots and get raped [the word used in Russian ‘tubia opustiat’ is a prison jargon that means someone will be beaten, raped and urinated on]”, “they threatened to bring my wife, torture her on the table [with electric shock], put her in the next cell, rape her and make me listen to how she screams”.

14 Mock execution was very common and often used repeatedly. Some examples from victims’ interviews include: “I was facing the wall and the guards shot above my head. I was scared to death”; “Somebody leaned in and said ‘You must remember this sound for the rest of your life. Then I heard the bolt reload and two people talking: ‘Wait… what if the cartridge is real?’ - ‘I am not sure if it is real or blank’. Then the gun was fired into my direction’; “I was taken outside with a plastic bag over my head and told to pray. Then I heard someone loading a gun. Then they told me they changed their mind. On another day, I was put in a coffin and told to get ready to die, then I heard someone nailing it. After approximately an hour, I dared to open it, and was beaten for that.”

15 Electric shocks were administered on the neck, ears, feet, legs, arms and genitals. For example, a female detainee described one of her evenings in Izolatsia detention facility: “One evening a number of men came to the room. They put a bag on my head and forced me into a different room. There I was put on a metal table face down and tied with duct tape. My socks were taken off and someone connected wires to my toes and turned on electricity. It was extremely painful through my whole body. They demanded I confess to cooperating with some people from the government-controlled side. I was electrocuted twice”. Another detainee in Izolatsia stated “On many occasions my cellmates were taken out somewhere, tortured with electricity and returned with burns on their ears, fingers and genitals”. A detainee from Luhansk said “they would attach one wire to the handcuffs and another wire to parts of the body - a nose, ears, genitals”.

16 Detainees were beaten both by hand and with objects, on all body parts, for example, hits to the head with a book, hits on the soles of feet, stepping on bare toes, and blows to the chest causing difficulty breathing.

17 Suffocation was done almost to the point of unconsciousness or triggering seizures. For example, a detainee held in Luhansk witnessed “a person would be forced to wear a gas mask, and an air hole would be closed, causing a person to suffocate.”

18 For example: “They started asking about military positions, then twisted my arms and led me downstairs, intentionally pushing me against the walls, so I would hit my head. Then they slammed my head against the boiler. Then six or seven men brought me to a room, forced to undress and made me kneel facing the wall. Then they hit me a few times, racked the slide and put a machine gun to my head saying I can make my last wish. Then someone entered the room and I heard a dialogue: ‘Oh, don’t do it, his blood will be everywhere’ – ‘No worries, I will clean the floor’. Then I heard click of a slide and was ordered to get dressed. They twisted my hands and led me upstairs. There, they were slamming me against the walls and the boiler.”

19 The majority of individuals interviewed mentioned being subjected to mock execution, in many cases repeatedly.

20 An example provided by an interviewee: “We were brought inside a building of a former club or school. For the next two days, the captors took turns beating us repeatedly. They encouraged others to participate in the beatings, saying ‘Hey, who wants to see a live ukrab [derogatory name used for Ukrainians]?’” As a result of beating, I lost most of my teeth.”

21 In Donetsk and its vicinity, members of Ukrainian forces were predominantly held in basements of the former SBU building on 62 Shehorsa Street, the ‘MGB’ building on Shevchenka Street, buildings at 7 Artema Street and 14 Molodiuzhna Street, and the Cosack’s base at 25 Maiskaia Street. Most were then moved to Makivka penal colony No. 97. In Luhansk region, they were held in the basement of the ‘MGB’ building in Luhansk, SIZO No.1, and the ‘commandant’s office’ in Luhansk. Interviewees could not specifically identify other places where they were held for short periods of time, such as a basement in Pervomaisk.

22 At least 10 individuals transferred to armed-group-controlled territory who were charged with or convicted of crimes against life and liberty of individuals or against their property. At least seven others were facing similar charges in two days, the captors took turns beating us repeatedly. They encouraged others to participate in the beatings, saying ‘Hey, will you back in the cell and deal with your wife’, “everything that was until now—were just flowers. You will be placed into the cell with faggots and get raped [the word used in Russian ‘tubia opustiat’ is a prison jargon that means someone will be beaten, raped and urinated on]”, “they threatened to bring my wife, torture her on the table [with electric shock], put her in the next cell, rape her and make me listen to how she screams”.

23 The majo
region. On 5 February, local authorities informed the victims they should not expect to receive compensation for damages awarded by the court since the perpetrator was released under the simultaneous release framework.

OHCHR is aware of at least ten individuals transferred to armed-group-controlled territory under the simultaneous release framework, who complained of human rights violations in relation to their detention and subsequent prosecution and confirmed their intention to pursue cases against the perpetrators.


Through trial monitoring, OHCHR documented that some detainees spent years in detention awaiting trial under art. 176(5) of the Criminal Procedure Code of Ukraine, despite the failure of prosecution to establish the necessity of imposing detention on remand on conflict-related detainees. Further, OHCHR noted that in some cases, detainees who agreed to be released and transferred to armed-group-controlled territory had no family in or links to that territory. Courts do not examine the merits of a case when parties agree to a plea bargain, but suspend the trial once the defendant pleads guilty. The court practice is to only examine the “voluntariness” of the plea bargain agreement and grounds its decision on the statements (“confession”) of the defendant. However, according to criminal procedure law, the court cannot ground its decision exclusively on the statements (confession) of the defendant.

At least three individuals who were released from custody by court order for the purpose of being exchanged were then re-arrested upon being excluded from the exchange. OHCHR interviews, 12 and 17 January 2018.

OHCHR notes that the existing procedure of trials in absentia does not correspond to ECHR case law, in particular due to the lack of provision for a full retrial with the defendant’s present. OHCHR further notes that courts issued rulings on compelled appearance (“pryvid”) in relation to at least 20 released individuals and at least five other individuals have been put on a wanted list.

OHCHR is concerned with reports that some individuals transferred to armed-groups-controlled territory in the framework of the simultaneous release were re-arrested. For example, the mother of released detainee Serhii Babych, who is facing trial in Krasnoarmiisk City District Court of Donetsk Region and was transferred to an armed-groups-controlled territory on 27 December without legal clearance, and lost contact with her son on 6 January 2018. The man was reportedly ‘arrested’ by ‘MGB’ in Donetsk. Following his conditional release on 26 January, he was reportedly banned from travelling to territory controlled by the Government, thus preventing him from attending court.

OHCHR continued to have limited access to monitor ‘trials’ of individuals ‘accused’ of conflict-related offences in ‘courts’ in Donetsk. The ‘trials’ were held behind closed doors and OHCHR was excluded from them.

OHCHR interview, 21 November 2017. OHCHR notes that “publicity of hearings ensures the transparency of proceedings and thus provides an important safeguard for the interest of the individual and of society at large” (HRC General comment no. 32 Article 14: Right to equality before courts and tribunals and to a fair trial, para 28).

They are mostly ‘charged’ with espionage under art. 321 of the ‘criminal code’ of ‘Donetsk people’s republic’.

At least two civilians detained by the armed groups of ‘Donetsk people’s republic’ stated that they have been detained without being formally ‘charged’. At least 17 interviewed Ukrainian soldiers detained in both ‘republiks’ have also been detained without any ‘charges’ brought against them.

Initial interviews, 28 December 2017, 11 and 14 January 2018.

The armed groups of ‘Donetsk people’s republic’ formally initiated ‘investigation’ against at least 10 Ukrainian soldiers interviewed by OHCHR under article 230 (‘aiding and abetting terrorism’) of their ‘criminal code’ only in September 2017. One interviewee told OHCHR that ‘investigation’ against captured Ukrainian soldiers was merely a formality that would enable their release. The armed groups of ‘Luhans people’s republic’ have not charged or tried none of six captured soldiers interviewed by OHCHR irrespective of the duration of their detention.

For example, on 27 November 2017, the ‘military tribunal’ of ‘Donetsk people’s republic’ ‘ruled’ to extend detention pending ‘trial’ of a defendant with the substantiation going beyond the ‘prosecutor’s’ arguments. The ‘judge’ noted that since the ‘hearings on the merits’ had not started, it was difficult to assess to what extent the ‘accused’ facilitated the ‘investigation’ and therefore, there were no grounds to change his ‘measure of restraint’. OHCHR trial monitoring, 27 November 2017.

OHCHR interviews, 4 and 5 January 2018.

Torture is prohibited under both IHL and IHRL. Article 14.3(g), ICCPR; Articles 75.4(f), Protocols I and art. 6.2(f), Protocol II Additional to the Geneva Conventions of 12 August 1949.

Accounts of at least 18 civilians interviewed by OHCHR after their release on 27 December 2017 suggest that they have been detained due to alleged links with Ukrainian military and/or security forces.

OHCHR interview, 16 January 2018.

In territory controlled by ‘Donetsk people’s republic’, those who were detained without a view towards ‘prosecution’ were not provided with lawyers.

Of the 18 conflict-related detainees interviewed by OHCHR, none were provided with a lawyer immediately upon being detained. One detainee told OHCHR that he never had a confidential meeting with his assigned lawyer, who only signed documents and was inactive during the ‘trial’ (OHCHR interview, 11 January 2018). In some cases, assigned lawyers witnessed intimidation of their client (conflict-related detainee), however, did nothing (OHCHR interview, 15 January 2018). Lawyers of conflict-related detainees refrain from challenging legality of detention of their client during ‘pre-trial’ and ‘trial’ stages (OHCHR trial monitoring, 27 November 2017). OHCHR is concerned that lawyers from government-controlled territory are not allowed to participate in the ‘proceedings’.

At least seven individuals reportedly tried to present their case but then changed their mind fearing repercussions from the ‘MGB’. Others accepted the ‘charges’ being promised to be included in the simultaneous release.

These conclusions are based on interviews of ‘convicted’ detainees released on 27 December 2017, due to OHCHR’s lack of access to ‘court hearings’.
“Extreme right-wing groups” is an umbrella term encompassing political parties, movements and groups who blame vulnerable groups for societal problems and incite intolerance and violence against them. Extreme right-wing groups bring into question fundamental principle of non-discrimination by propagating an ideology based on racism, racial discrimination, xenophobia and related intolerance. The same groups are also involved in attacks against individuals based on their gender identity and sexual orientation. See Reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/35/42 of 26 April 2017 and A/HRC/18/44 of 21 July 2011).

The cases are as follows. 1) In 2015, SBU officers reportedly attacked a journalist and cameraman for Radio Liberty attempting to film near the SBU building in Kyiv. The Military Prosecutor opened a criminal investigation under art. 171 (“preclusion of professional and legal activity of journalists”), but closed it four times. Each time, a court ruled to reopen it. 2) On 15 September 2017, a Radio Liberty TV crew was attacked in Kyiv, allegedly by a state guard officer while filming near the venue of the wedding of the General Prosecutor’s son. A criminal case was opened under art. 345-1 (“threats or violence towards a journalist”). 3) On 24 October 2017, one journalist was beaten and two others attacked and apprehended by police while reporting on a trial in Sviatoshynskyi district court in Kyiv. A criminal case was opened under art. 171. 4) On 3 December, activists of a right-wing group (Bratsvko Korchinsko) blocked a business centre in Kyiv in which ‘News One’ TV channel is located. For up to seven hours, the building was completely blocked with sand bags, barbed wire and barrels. Police present on the ground did not intervene. A criminal case was opened under art. 356 (“unauthorized actions”), but was closed on 1 February 2018. 5) On 12 December 2017, a journalist of ‘News One’ TV channel was hit while polling members of the public on a Kyiv street. An alleged perpetrator, who was a member of a right-wing organization (Right Sector), posted about the attack on Facebook. 6) On 25 January 2018, around 50 members of an extreme right-wing groups stormed in the office of the Union of Orthodox Journalists affiliated with Moscow Patriarchate, insulted members of the Union and searched their computers. Police at the scene did not intervene. C-14 posted video of its members storming the office on Facebook. 7) On 3 February 2018, a female reporter was blocked, interrogated and threatened by members of extreme right-wing group C-14. The police present did not intervene. 8) On 8 February 2018, the (pseudo) media outlet “Vesti” was blocked and occupied by the “Right sector on the search and management of the assets”, under the pretext of an ownership dispute regarding the office. Reportedly, the holding received no prior notifications, all their equipment remained in the office as well as the personal belongings of media professionals. 9) On 13 February members of a right-wing organization (Rights Sector) physically forced a journalist from a court room in Odessa, calling him a ‘separatist’. The police present did not intervene. A criminal investigation was opened under art. 171.

In 14 cases, the alleged perpetrators were civil servants, state officials or members of Parliament and eight cases allegedly involved police officers or state guards. The majority of incidents (29) took place in Kyiv region. Female media professionals were subjected to physical violence in 24 cases. Data obtained during the country-wide monitoring by the National Union of Journalists of Ukraine, available in its official journal ‘A journalist of Ukraine’, No. 1-2, 2018.

In the case of Oles Buzyna, although one investigation was completed and the case transferred to a court, another investigation was launched on 24 June 2017 to identify additional suspects. In the case of Pavlo Sheremet, no suspects have been identified.

Since August 2014, the website has been publicly posting the personal data of thousands of people, including media professionals, NGO activists, labelling them as supporters of armed groups and ‘terrorism’. Criminal cases regarding Myrotvorets are investigated under arts. 171 and 182 of the Criminal Code.

The head of Myrotvorets is named on the website itself and is widely quoted in media.

OHCHR interviews, 8 February 2018.

Ukrainian media published a letter from a state bank which says that “negative information” was found about a client on Myrotvorets website. Notably, the letter asserts that “SBU, Headquarters of the Ukrainian Armed Forces, State Border Guard Service, Ministry of Internal Affairs and State Penitentiary Service of Ukraine” are “partners” of Myrotvorets. Copy of letter available at https://ubr.ua/finances/banking-sector/ukraintsam-aktivno-blokirujut-scheta-iz-sajta-myrotvorets-3864782.

In particular, the law ‘On amending certain laws of Ukraine on restriction of access to Ukrainian market of foreign print materials of anti-Ukrainian content’ available at http://zakon0.rada.gov.ua/laws/show/1780-19.


OHCHR was informed that on 7 December in Zolotonsosh, police officers wearing balaclavas without any official insignia forcefully broke into the houses of Roma families, without presenting any procedural documents authorizing such actions. They treated the Roma in a humiliating manner, beat people and damaged or destroyed property. Three Roma men were subsequently detained on the basis of drug-trafficking allegations. OHCHR interview, 13 December 2017. See also Letter by Coalition of Roma Civil Society Organizations to Minister of Internal Affairs of 12 December 2017 and Letter by Cherkassy Regional Civil Society Organization “Romani Rota” of 11 December 2017 at http://legalspace.org.ua/napryamki/pislennya-romsikhih-gromad/item/10616-dii-politsii-u-zolotonsoshi-ta-boryslavi-shchodo-romiv-ie-porushenniam-prav-liudyny-pravoakyshnyyk). On 11 December in Boryslav, in another raid, police broke into the homes of . Forced the women to kneel and detained some of the men. The “state agency on the support and management identification documents or procedural documents authorizing the searches. During interrogations - conducted without allowing access to lawyers - police collected fingerprints and photographed each man. In the aftermath, police announced that the raids part of an investigation of a double murder. OHCHR interview, 14 December 2017.

A local Roma activist reported that from on 7 January, a conflict occurred between local residents, one of whom belong to the Roma community (see statement at https://www.facebook.com/radiochiriklo/posts/1209393582526717). On 8 January, a statement calling upon local residents to assemble and discuss the possibility to evict Roma was disseminated
in the city, and on 9 January around 200 residents gathered in the city centre shouting anti-Roma slogans and inciting violence against them. Later that same day, around twenty cars of people gathered at the activist’s residence and began throwing stones at it, however police arrived and calmed the situation. Afterwards, a working group was established under the auspices of local administration to settle disputes involving Roma in the city. The Roma community in Zolotonosha is worried that further tensions and discriminatory acts may lead to violence and/or forced eviction. Further OHCHR informed that an anti-Roma information campaign has been launched in local media, which heats up already fragile situation. OHCHR interview, 2 February 2018.

OHCHR interview, 22 January 2017. OHCHR also observed open calls to join formations to fight “Roma muggers” disseminated via social media. See, e.g., Facebook group “L.O.V.C.I.” (Л.O.V.C.I) created to form a group of volunteers to patrol the city streets and fight “Roma muggers” at https://www.facebook.com/groups/2092767147613075/?pref=r-story. As of 15 February, the victims had no information whether a criminal investigation had been launched or an investigator appointed, and forensic expertise was not appointed despite the victims’ request. Allegedly, the police unofficially urged the victim to refrain from any events by Anti-Fascist Committee of Ukraine. OHCHR interview, 21 February 2018.

On 22 December, a session of the Gender Club organized by students of the National Pedagogical University was disrupted by a group of people wearing balaclavas who attacked participants with pepper spray, causing chemical burns to three victims. OHCHR informed that police did not launch an investigation into the attack due to the minor injuries of victims and the University administration is reluctant to take any measures to ensure security of participants of the Gender Club or to create a safe learning environment where all students feel respected and comfortable expressing their opinions and beliefs. OHCHR interview, 18 January 2018. Previous sessions of the Gender Club were disrupted by members of extreme right-wing groups such as Tradition and Order. See OHCHR 20th Report, para 131. On 19 January, a commemoration for slain human rights activists Stanislav Markelov and Anastasiya Baburova was disrupted by members of C14, Sokil, and Tradition and Order. Police did not take appropriate measures to ensure the security of participants, despite a specific request from the Ombudsperson, and ignored requests by the organizers to separate them from the aggressive protestors. Statement of Centre for Civilian Liberties at http://ccl.org.ua/statements/vernennya-tsentrhu-hromadyanskyh-svobod/; letter of the Ombudsperson to Head of National Police concerning the State’s positive expertise was not appointed despite the victims’ request. Allegedly, the police unofficially urged the victim to refrain from any events by Anti-Fascist Committee of Ukraine. OHCHR interview, 21 February 2018.

During the attack on the commemoration for the human rights activities (see footnote above), a British tourist on a nearby street was attacked and sustained serious facial and head injuries. He believes he was targeted by extremists due to his “nonstandard appearance”. https://www.facebook.com/LiamAnthonyTong/posts/2235174779933442; https://www.rferl.org/a/ukraine-british-tourist-beaten-kyiv/28986994.html.

For example, OHCHR is monitoring a case involving multiple attacks on a member of the LGBTI community in Odesa in October 2017 in Kyiv and Volyn districts by members of the Radical Party. Despite the victim’s persistence in filing complaints with police and demanding action, his injuries were not documented and there has been no investigation. In November, he complained to prosecution about the failure to investigate, yet his complaint was transferred to the same police against whom he complained.

See https://www.facebook.com/ndruga/.

They had been baptized by the priests of Ukrainian Orthodox Church of the Kyiv Patriarchate.

On 25 January, C14 forcefully entered the office in Kyiv. Video posted on C14’s Facebook page shows its members searching the premises for “anti-Ukrainian documents” while insulting and threatening the journalists. They left after police arrived, reportedly taking private property, yet no one was arrested. See Statement of the Union of Orthodox Journalists at http://soji.org.ua/en/novosti/soji/soji-statement-regarding-the-assault-on-editorial-office. Within the comments provided on this report by the Government of Ukraine, the Ministry of Culture referred to the Union of Orthodox Journalists as “a provocative structure, continuously working to create disorder and spread hate rhetoric”. OHCHR is not aware of incidents where affiliated journalists have been spreading hate rhetoric. Regardless, OHCHR notes that such assessment shall not justify lack of actions by law enforcement agencies regarding attacks against media professionals and restrictions on freedom of opinion and expression.

In Kyiv, on 25 January, two individuals were arrested by police for the arson attack against the Tithes chapel, and on 3 February, C14 and other extreme right-wing groups held a demonstration to support the accused and demand demolition of the chapel. In Lviv, on 28 January, members of Svoboda Party attempted to disrupt religious services in the St.
Volodymyr Church, and on 3 February, the church was significantly damaged in an arson attack. OHCHR interview, 8 February 2018.  


See, e.g., art. 7, Universal Declaration of Human Rights and art. 26, International Covenant on Civil and Political Rights.  


OHCHR previously documented harassment of Jehovah’s Witnesses, seizure of religious materials, and arbitrary searches and seizures of religious buildings. Jehovah’s Witnesses remain un-registered in territory controlled by ‘Donetsk people’s republic’ due to the lack of registration procedure, leaving them vulnerable for further actions infringing upon their right to exercise freedom of religion. See OHCHR 20th Report, para. 110; OHCHR 19th Report, para. 105-106.  

The law prohibits “religious groups” of five or more persons which do not fall under one of the “traditional” religions. See https://mklnr.su/religiya/novosti-religiya/1858-zakon-lnr-o-svobode-sovesti-i-religioznih-obedinieniyah-zapretil-deyatelnost-religioznih-grupp-v-republike.html.  

On 22 November, the Jehovah’s Witnesses’ Kingdom Hall in Debaltseve (territory controlled by armed groups of the ‘Donetsk people’s republic’) was sealed and expropriated as “abandoned” property, and on 25 November, the Kingdom Hall in Krasnodon (territory controlled by armed groups of the ‘Luhansk people’s republic’) was sealed and ‘expropriated’ based on lack of ‘registration’ and the minister was ‘fined’ for violating the procedure for organizing or holding public events. OHCHR also notes that an appeal by the Jehovah’s Witnesses community against the expropriation of their Kingdom Hall in Horlivka has not been addressed and the premises remained sealed. OHCHR interview, 1 December 2017.  


In November, a parishioner previously arrested during a joint worship was found guilty of organising an unauthorised public gathering and ‘fined’ 5,000 RUB. The victim ‘appealed’ the decision, however it was upheld. OHCHR interview, 26 January 2018.  

Article 7 of the “law on countering extremist activities” of ‘Donetsk people’s republic’ declares that “persons responsible for the preparation, dissemination or illegal storage of extremist material with the purpose of subsequent dissemination, are punished under administrative or criminal law,” at http://dnrsovet.su/zakon-donetskoj-narodnoj-respubliki-o-protivodejstvii-ekstremistskoj-deyatelnosti/.

Information provided by State Border Guard Service of Ukraine on 16 February 2018.  


Such as toilets facilities, drinking water, shelter and medical services.  

For example, an ambulance is present at the government-controlled checkpoint at Stanytsia Luhanska EECP from 9 a.m. to 4 p.m. while civilians begin queuing as early as 4 a.m. Moreover, it is not always present at the Stanytsia Luhanska EECP, for example, OHCHR observed that wheelchairs were only available on the movement of people across the contact line in the Donetsk and Luhansk regions” no.222ог of 14 April 2017. See OCHA Humanitarian Snapshot as of 15 February 2018 at http://www.mgbdnr.ru/news.php?id=20180115_00&img_num=0 was reportedly initiated by ‘MGB’ to protect residents of ‘Donetsk people’s republic’ from the risk of being arrested in territory controlled by the Government.  

An explanatory note published on 18 January 2018 stated that the ban applied to ‘senior officials’, ‘ministers’ and their deputies, employees of ‘ministries’ and ‘administrations’ (except for technical staff), managers and their deputies at ‘state’ and ‘municipal’ enterprises, heads of hospitals and hospital departments, and principals of universities, schools and kindergartens. Available at https://dnr-online.ru/poyasnenie-k-ukazu-glavy-dnr-aleksandra-zaxarchenko-363/.  

The ‘decree’ states it applies to all ‘state officials’, ‘officials’ of ‘local self-government’ and employees of enterprises, institutions, and organizations of ‘state’ and ‘municipal’ property (including teachers, doctors, librarians, postal carriers, etc.).
In one case, a conflict-related detainee who was transferred to armed-group-controlled territory under the framework of the simultaneous release was afterwards reportedly ‘expelled’ by ‘authorities’ of ‘Luhansk people’s republic’ back to government-controlled territory with a 10-year ‘entry ban’ under the pre-text that he had previously agreed to cooperate with SBU. While two such cases were documented, OHCHR believes that the number of expulsions may be higher.

Additional Protocol II, art. 17; ICRC Customary International Humanitarian Law Study, Rule 129. In Resolution No. 2675 (XXV) adopted in 1970 on basic principles for the protection of civilian populations in armed conflicts, the United Nations General Assembly affirmed that “civilian populations, or individual members thereof, should not be the object of forcible transfers...”.


See also OHCHR 20 Report, paras. 111-117.


The number is approximate since there is no local authority to maintain the population record. It is based on information provided to OHCHR by local community activists.

The other road running from western Katerynivka to Popasna (three km away) is blocked by UAF. Residents must travel to and across the Zolote checkpoint in order to take a bus to Sievierodonetsk, Lysychansk or the nearest district centre – Popasna, where they can access basic services and receive social payments and pensions. During winter, however, buses depart before the Zolote checkpoint opens, therefore Katerynivka residents cannot use them.

OHCHR notes that when electricity disruptions occur, repair brigades of the Luhansk Energy Union refuse to come to the village, claiming that they have no petrol. In such cases, locals either hired a taxi or drove members of the repair brigade in their own cars from Hirke or Popasna.

Similar situation was observed by OHCHR in Hladosove (23 January 2018), Novoluhanske (23 January 2018), Novooleksandrivka (17 January 2018), Pisky (14 February 2018), Travneve (23 January 2018), Verkhnotoretske (27 January 2017) and Zolote-4 (17 January 2018). OHCHR also received information of such conditions in Chihari and Dacha.

OHCHR notes that the Government attempted to mitigate this situation by facilitating visits of representatives of the postal service and allowing an ambulance to attend to patients in the village (there is only one ambulance car located in Hirke, servicing Katerynivka and therefore it does not arrive timely to the village). However, Koshanivka (an isolated part of Katerynivka) is not accessed by these services. Also, on 13 December 2017 the Cabinet of Ministers adopted the state targeted program on recovery and peacebuilding in the east. Its aim is to restore infrastructure and services in many areas of eastern Ukraine that have been negatively impacted by the conflict (https://www.kmu.gov.ua/ua/npas/prozatverdzhennya-derzhavnoyi-cilov).

Some electricity was provided through generators, however it was not regularly available. Other settlements experienced similar issues, for example, from 18 to 27 November 2017, the electricity supply to parts of Zolote-4 was cut due to damaged power lines. Without electricity, many homes do not have heating, which is dangerous for families with children and the elderly due to freezing winter temperatures.

While another local mobile provider is available, it cannot provide full, reliable coverage, including to government-controlled territory, and is facing difficulty with calls.


OHCHR interviews.


According to Cabinet of Ministers Resolution No. 505, IDPs from the settlements determined in its Decree No. 1085 are eligible for targeted assistance. Resolution available at http://zakon8.rada.gov.ua/laws/show/505-2014-%D0%BF. In addition, on 15 November 2017, the Cabinet of Ministers, by its Resolution No. 909-p, adopted the Strategy for integration of IDPs and implementation of durable solutions relating to internal displacement. Its aim is to create a background for the integration of IDPs into the hosting communities and ensuring State support to these category of people. The document is available at http://zakon3.rada.gov.ua/laws/show/909-2017-%D1%80.


Resolution no. 365 of 8 June 2016 introduced the verification and identification procedure for IDP-pensioners.


Tsezar and Others v. Ukraine (Applications nos. 73590/14, 73593/14, 73820/14, 4635/15, 5200/15, 5206/15 and 7289/15), ECHR, 13 February 2018. The applicants had brought their claims based on inability to access court in region no longer controlled by the Government (right to access courts, Article 6-1), the suspension of pensions (protection of property, Article 1 of Protocol No. 1), and discrimination based on their place of residence (prohibition of discrimination, Article 14 in conjunction with Article 6 and Article 1 of Protocol No. 1).

During the reporting period, OHCHR documented cases of ineffective investigations into complaints of looting against UAF servicemen regarding civilian homes in Hirsky, Krakivka, Pervomaiske, Pisky, Zhovanka. Allegations of looting were also received regarding homes in Novoselivka Druha, Syze and Verkhnotoretske (OHCHR interview, 6 December 2017). While the majority of cases of theft and damage to civilian homes documented by OHCHR occurred in territory controlled by Government, it is likely that similar acts are being carried out in armed-group-controlled territory but are under-reported due to safety concerns of victims.


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Russian-language schools. See also OHCHR report “Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)”, para. 201.


12 This constitutes a violation of art. 51 of the IV Geneva Convention prohibiting an occupying power from compelling protected persons into its armed or auxiliary forces.

13 There have been at least seven accused in 2017 whose cases have been heard by courts in Crimea on charges under art. 328 of the Criminal Code of the Russian Federation (military draft evasion).

14 Judgment with a guilty verdict of Gagarinskij district court in Sevastopol, 31 October 2017; Judgement with a guilty verdict of Simferopol district court, 16 October 2017, upheld by the Supreme Court of Crimea on 28 November 2017.


In one case, a woman registered in Crimea who left Simferopol for Kyiv in 2008, lived in Germany from 2013 to 2015 and returned to Ukraine in 2015, had no choice but to register as an IDP in order to open a bank account in Kyiv.

17 OHCHR interview, 12 January 2018. Another person from Crimea who moved to Kyiv in 2009 had to register as an IDP and returned to Ukraine in 2015, had no choice but to register as an IDP to be able to open a bank account in Kyiv.

18 OHCHR interview, 27 November 2017. For example, in 2016, a former Crimean resident who relocated to mainland Ukraine in 2009 was denied the possibility to complete a routine procedure for mandatory replacement of a passport photo upon reaching the age of 25 both in her current place of residence (Kyiv) or former place of registration, Irpin (also in mainland Ukraine) because her passport still indicated registration in Crimea. She had to challenge the refusal, but was only able to apply for the photo replacement in Irpin (and not Kyiv), and only upon verification of her IDP status and the submission of additional documents which are not normally required for such procedure.


20 Article 8 states that geographical limits of the ‘security zones’ are to be defined by the Head of the General Staff of the Armed Forces of Ukraine on the submission of the Commander of the joint forces.

21 Article 12(6) provides an exhaustive list of “special powers”: use of weapons, authority to stop and check persons, to conduct searches, to detain persons, to limit movement in the streets, to access private property, including houses, and to use private vehicles and means of communication.

22 Advocacy letter by OHCHR and UNHCR dated 19 October 2017.


27 OHCHR estimates based on its regular recording of civilian casualties.

28 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.


30 The law on Education was adopted on 5 September 2017 and entered into force on 28 September 2017. Article 7 drew criticism from representatives of various national minorities for reducing the scope of education in minority languages at the secondary level. See OHCHR 20th Report, para. 160.


32 Venice Commission Opinion, para. 87.

33 Paragraph 4 of Article 7 provides no solution for languages which are not official languages of the EU, in particular the Russian language, as the most widely used language apart from the state language. The less favourable treatment of these languages is difficult to justify and therefore raises issues of discrimination”; Venice Commission Opinion, para. 124.

34 Ibid., para. 125.

35 Ibid., para. 126.


38 The Parliamentary Committee on human rights, national minorities and inter-ethnic relations.

See ICRC, Guiding principles / Model law on the missing (February 2009); Human Rights Council Advisory Committee, Report on best practices in the matter of missing persons (A/HRC/16/70), 21 February 2011.

249 OHCHR participated in workshops in Sievierodonetsk (23 November), Odesa (27 November), Ivano-Frankivsk (15 December, via Skype) and Kharkiv (15 December) conducted for the benefit of representatives of various prosecution officers, penitentiary institutions, National Police, the regional forensic bureau and the Ministry of Justice.

250 On 22 November in Kyiv, OHCHR delivered a session *inter alia* on prevention of arbitrary and unlawful detention, torture and conflict-related sexual violence. The session laid the foundation for further strengthening of OHCHR cooperation with the civil-military units in the field through its office in Kramatorsk.

251 On 11 December in Kyiv, OHCHR delivered a presentation on torture prevention for approximately 50 military chaplains of the Ukrainian Greek Catholic Church who regularly go to the contact line as volunteers or staff of the security and defence structures to provide pastoral care to the soldiers.

252 On 28 November in Kyiv, OHCHR participated in a seminar organized by the Ministry of Justice and the Office of the Ombudsperson with a view to develop guidance for chaplains confronted with torture in prisons.

253 On 11 December in Kyiv, OHCHR delivered a presentation on torture prevention for approximately 50 military chaplains of the Ukrainian Greek Catholic Church who regularly go to the contact line as volunteers or staff of the security and defence structures to provide pastoral care to the soldiers.

254 The consultant was retained to provide strategic advice to the Government, civil society and the United Nations system on preventing and addressing conflict-related sexual violence in Ukraine.


256 The Package of Measures for the Implementation of the Minsk Agreements calls for: an immediate and comprehensive ceasefire; withdrawal of all heavy weapons from the contact line by both sides; commencement of a dialogue on modalities of local elections; legislation establishing pardon and amnesty in connection with events in certain areas of Donetsk and Luhansk regions; release and exchange of all hostages and unlawfully detained persons; safe access, delivery, storage, and distribution of humanitarian assistance on the basis of an international mechanism; defining of modalities for full resumption of socioeconomic ties; reinstatement of full control of the state border by the Government of Ukraine throughout the conflict area; withdrawal of all foreign armed groups, military equipment, and mercenaries from Ukraine; constitutional reforms providing for decentralization as a key element; and local elections in certain areas of Donetsk and Luhansk regions. United Nations Security Council Resolution 2202 (2015), available at http://www.un.org/press/en/2015/sc11785.doc.htm. See also Protocol on the Results of the Consultations of the Trilateral Contact Group regarding Joint Measures Aimed at the Implementation of the Peace Plan of the President of Ukraine P. Poroshenko and Initiatives of the President of the Russian Federation V. Putin, available at http://www.osce.org/home/123257; Memorandum on the Implementation of the Protocol on the Results of the Consultations of the Trilateral Contact Group regarding Joint Measures Aimed at the Implementation of the Peace Plan of the President of Ukraine P. Poroshenko and Initiatives of the President of the Russian Federation V. Putin, available at http://www.osce.org/home/123806.
ANNEX II

Simultaneous release of detainees under the Minsk agreements

1. On 27 December 2017, a simultaneous release took place as part of the “all for all” release envisaged by the Minsk agreements: 233 individuals were released by the Government of Ukraine and 74 individuals were released by armed groups. The simultaneous release took place on the transport corridor Horlivka-Artemivsk, between armed-group controlled Horlivka and Government-controlled entry-exit checkpoint Zaitseve.

2. Of the 233 individuals released by the Government, 157 individuals (including 15 women) were released to the ‘Donetsk people’s republic’ and 76 individuals (including 3 women) to the ‘Luhansk people’s republic’. All the detainees had been either in the custody of law-enforcement agencies (detained under suspicion of being a member of or otherwise affiliated with armed groups and tried in court), or had already served their sentences (mostly under article 258-3 of the criminal code, aiding terrorist organisations).

3. ‘Donetsk people’s republic’ released 58 individuals (53 men and 5 women), and ‘Luhansk people’s republic’ released 16 individuals (all men). Of the 74 detainees released by armed groups, 41 were civilians and 33 were members of the Ukrainian forces (Ukrainian Armed Forces and National Guard).

4. On 20 January 2018, further releases occurred. The Government of Ukraine released one female civilian, while the ‘Donetsk people’s republic’ released a male member of the Ukrainian Armed Forces. Thus, during the reporting period, a total of 309 persons were released under the simultaneous release framework: 234 released by the Government (including 19 women) and 75 by armed groups (including 5 women).

A. Detention in preparation for simultaneous release

5. Prior to the simultaneous release, all 234 individuals in Government custody were held in various detention facilities across Ukraine, although some had already been officially released from detention on remand by court order.

6. Ahead of the planned simultaneous release, most individuals were transported to “Zelenyi Hai” sanatorium near Sviatohirsk (Donetsk region). Guarded by armed SBU officers, they were not allowed to leave the premises, but could move freely inside the building and were allowed up to two hours walk a day on the territory of the sanatorium. Some detainees told OHCHR they were not informed where and why they were being taken. Some could not inform their relatives or lawyers of their whereabouts.

7. Other detainees (mainly those held in western Ukraine) were first transported to Lukianivske SIZO in Kyiv, where some 30 of them were put in a cell, with only 18 beds. After ten days, they were transferred to Kharkiv SIZO, where they were joined by other detainees waiting to be released. While approximately 40 of them were in one cell, some reported that

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2 One woman decided to stay in the territory controlled by armed groups for family reasons.

3 Some civilians had previously been members of volunteer battalions but were not taking part in hostilities at the time of their apprehension.

4 Some were brought to “Zelenyi Hai” as early as 15 December 2017, while others were transferred to this facility even a few days before the release on 27 December.

5 OHCHR interviews, November-January 2018. The Government informed OHCHR that these restrictive measures were taken to ensure the safety of the detainees.

6 Transitory cells in SIZOs across Ukraine generally have poor conditions.
there was enough space. On the morning of 27 December 2017, they were transported to the Zaitseve checkpoint, where they were joined by the group held in “Zelenyi Hai”.

8. In the territory controlled by armed groups, between 25-26 December 2017, the ‘administration’ of the detention facilities called each detainee who was to be included in the release and instructed each to write a statement that they have no complaints about the conditions of detention and a request to be pardoned by the ‘head of republic’. The administration informed the detainees that it was the only way to be released on 27 December 2017.

B. Allegations of human rights violations

9. In order to protect individuals and their families through strict adherence to the principles of confidentiality and informed consent, much of the documented information is presented in the form of an overall analysis rather than detailed information in individual cases.

10. Of the 234 individuals released by the Government, OHCHR had already been monitoring 142 cases prior to the simultaneous release, having interviewed individuals while in detention facilities in government-controlled territory and observed related court hearings. After the simultaneous release, OHCHR undertook further interviews, and as of 15 February 2018, it had interviewed 64 of the released individuals, on both sides of the contact line. All described having been subjected to torture or ill-treatment, sexual violence, threats of violence, inhumane conditions of detention and/or violations of fair trial guarantees. These violations and abuses (most of which occurred prior to the reporting period) are emblematic of systemic human rights issues which have been further exacerbated by the conflict.

11. Analysis of interviews conducted both before and after the simultaneous release suggests that cases of incommunicado detention and torture were more common in 2014 and 2015 in government-controlled territory than afterwards. During that period, “volunteer battalions” were often involved in apprehensions. For example, in November 2014, four masked, armed Aidar battalion members stormed into a hospital where the victim was receiving treatment, placed a bag over his head and took him to the basement of the former police school in Shchastia, where he was held incommunicado with 16 other men. After four days, he was finally admitted to the SIZO in Starobilsk, where he had access to a lawyer.

12. Torture was most often reported by detainees held in Kharkiv SBU, particularly in 2015. Methods used included suffocation with a gas mask, dislocation of joints, electric shock and mock execution. Detainees also received death threats and threats of a sexual nature, both against themselves and their families, and were denied access to medical care. The torture would usually continue until the detainees signed self-incriminating statements. For example, a woman was detained in Kramatorsk in January 2015 by a group of masked men wearing camouflage without insignia. Blindfolded, she was brought to the basement of the Kramatorsk SBU building, and forced to write a “confession” which was dictated. She was threatened that her minor daughter...
would be subjected to sexual violence and punched in the face. She was then handcuffed to a pipe overnight, during which she heard a male detainee screaming in a neighbouring room. Over the next 24 hours, she was subjected to electric shock, raped and burned on the leg. She was forced to “confess” on video of being member of armed groups in ‘Donetsk people’s republic’.

13. Members of armed groups were reportedly usually subjected to more violence. For example, in May 2015, four to six masked, armed persons attacked a former member of an armed group of ‘Luhansk people’s republic’. They hooded and handcuffed him, and kicked him while interrogating him and demanding he confess to committing crimes and hiding weapons. As a result, the victim was heavily bleeding from his head, arms and legs. While transporting him to Kyiv SBU, the perpetrators cut him with a knife and threatened to kill him if he did not cooperate. At the SBU office, he was forced to make a video “confession” in Ukrainian and Russian languages. Then he was transferred to Kharkiv SBU, where he was granted access to a lawyer. He was then taken to Kharkiv SIZO where despite being examined by a doctor, no medical care was provided for about a week.

14. Released detainees also told OHCHR they were subjected to excessive use of force during apprehension and not granted access to legal counsel until they “confessed”. For example, in November 2015, a man was arrested in Mykolaiv by five masked people during which he was hit in the chest, pushed face down on the street and handcuffed. During some five hours of interrogation by SBU in absence of a lawyer, the detainee was called “terrorist” and threatened: “your relatives will never know where you are. We bury such people like you”. Then he was forced to read a “confession” on camera. He was only given access to a lawyer after four days.

15. Interviews with released detainees also suggest that individuals (especially women) detained by the Government in late 2016 and 2017 were less likely than before to be subjected to physical violence. At the same time, because the detainees were blindfolded or hooded, or the perpetrators covered their faces, it was almost impossible to identify the perpetrators, which significantly restricts the possibility of successful lodging complaints about these human rights violations.

16. Conditions in SIZOs were often reported as poor. For example, in Odesa SIZO the cell walls were covered in mould and the drain was often clogged; detainees were fed three times a day, with food which was often rotten. In Starobilsk SIZO, while the overall conditions were reported as “tolerable”, the food was described as “inedible”. Detainees in Bakhmut SIZO complained about poor sanitary conditions and bedbugs. Detainees held in Kharkiv SIZO reported that parts of the building were poorly heated and cells were infested with cockroaches and had poor sanitary conditions. Another detainee reported she was transferred between Kharkiv SIZO and penal colony No. 54 without evident reason; while in the colony, she was placed in solitary confinement for over five months. Detainees also complained of non-provision of adequate medical care with regard to all facilities.

Territory controlled by armed groups

17. Of the 75 individuals released by armed groups, 41 were civilians: 2 had been arbitrarily detained since December 2014, 13 since 2015, 17 since 2016 and 9 since February-March 2017.

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13. The perpetrators stated, “We will now bring your daughter here and amuse ourselves with her as a woman until you give us the testimony we need!” and “We will bring your children to the military airport and give them to servicemen for amusement!”
14. The victim still had the scar at the time of the interview.
15. OHCHR interviews, 13 June 2016, 6 July 2017.
16. OHCHR interviews, 18 November 2016, 8 February 2018.
17. OHCHR interviews, 12 April 2017, 5 February 2018.
19. OHCHR interviews, 8 February 2018.
22. OHCHR interview, 6 February 2018.
23. She was held in solitary confinement from November 2016 to April 2017. OHCHR interview, 25 May 2017.
OHCHR interviewed 20 of the released civilians. They had been detained either in their homes, or while at work or on the street, usually by armed men wearing no insignia. In 18 cases, they were transferred to ‘MGB’ of ‘Donetsk people’s republic’ or ‘Luhansk people’s republic’, which ‘investigated’ the cases.24 During the initial period of detention - at least for one month - each person was held incommunicado, denied access to a lawyer or communication with relatives.25 During this time, in the majority of documented cases, the detained civilians were kept either in the basements of the ‘MGB’ buildings or in premises generally not intended for detention, and regularly brought to ‘MGB officers’ for interrogation.26 Detainees were often hooded or blindfolded and handcuffed and/or strapped to a chair. In all documented cases, ‘MGB officers’ threatened severe physical violence or rape against the detainees or their relatives if they refused to “cooperate”.27 Such threats were usually accompanied by hits or kicks into the head, chest or legs, making victims believe the threats were imminent and credible.

18. In 15 out of 20 documented cases, physical violence amounting to torture was used during interrogation, until the detainee “confessed” and wrote, signed and/or was videotaped providing self-incriminating testimonies. The most common methods of torture used were mock executions,28 electric shocks,29 beatings30 and suffocation by placing a bag over the head.31 These testimonies were corroborated by initial medical examinations of 73 detainees (both civilians and military) released by armed groups, according to which 7 individuals had closed cranioencephal trauma, over 50 had problems with teeth (including knocked out teeth), and 8 had physiological dysfunctions or disability linked to torture.

19. During the overall time of detention in territory controlled by armed groups, each individual was held in at least two different detention places, including premises not intended for detention. Conditions of detention varied from normal to those amounting to inhumane and degrading treatment; facilities most commonly used are described below.

20. In territory controlled by ‘Donetsk people’s republic’, detained civilians were predominantly held in the following places: basement of the ‘MGB’ building on 26 Shevchenka Street, Donetsk city SIZO, Izoliatsiia on 3 Svitloho Shliakhu, ‘IVS’ temporary detention facility in Donetsk, and penal colony No. 32 in Makiivka.

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24 In two cases, victims (former members of battalions) could not identify the affiliation of ‘investigators’.
25 So-called ‘administrative arrest’.
26 The interrogation, often with torture, was conducted in ‘MGB’ buildings in Donetsk and Luhansk and in Izoliatsiia detention facility in Donetsk.
27 Some threats recanted by interviewed victims were: “we will put you inside a basin with chlorine”, “I will cut your leg and will leave you forever in MGB basement”, “send you to the frontline”, “you don’t want to be disabled, do you?”, “I will go pick up a drill and drill through your legs”, “we have three main directions: to threaten, frighten, prevent access”, “we will put you back in the cell and deal with your wife”, “everything that was until now –were just flowers. You will be placed into the cell with faggots and get raped [the word used in Russian ‘tebia opustiat’ is a prison jargon that means someone will be beaten, raped and urinated on]”, “they threatened to bring my wife, torture her on the table [with electric shock], put her in the next cell, rape her and make me listen to how she screams”.
28 Mock execution was very common and often used repeatedly. Some examples from victims’ interviews include: “I was facing the wall and the guards shot above my head. I was scared to death”; “Somebody leaned in and said ‘You must remember this sound for the rest of your life. Then I heard the bolt reload and two people talking: ‘Wait… what if the cartridge is real?’ - ‘I am not sure if it is real or blank’. Then the gun was fired into my direction”; “I was taken outside with a plastic bag over my head and told to pray. Then I heard someone loading a gun. Then they told me they changed their mind. On another day, I was put in a coffin and told to get ready to die, then I heard someone nailing it. After approximately an hour, I dared to open it, and was beaten for that.”
29 Electric shocks were administered on the neck, ears, legs, arms and genitals. For example, a female detainee described one of her evenings in Izoliatsiia detention facility: “One evening a number of men came to the room. They put a bag on my head and forced me into a different room. There I was put on a metal table face down and tied with duct tape. My socks were taken off and someone connected wires to my toes and turned on electricity. It was extremely painful through my whole body. They demanded I confess to cooperating with some people from the government-controlled side. I was electrocuted twice”. Another detainee in Izoliatsiia stated “On many occasions my cellmates were taken out somewhere, tortured with electricity and returned with burns on their ears, fingers and genitals”. A detainee from Luhansk said “they would attach one wire to the handcuffs, and another wire to parts of the body - a nose, ears, genitals”.
30 Detainees were beaten both by hand and with objects, on all body parts, for example, hits to the head with a book, hits on the soles of feet, stepping on bare toes, and blows to the chest causing difficulty breathing.
31 Suffocation was done almost to the point of unconsciousness or triggering seizures. For example, a detainee held in Luhansk witnessed that “a person would be forced to wear a gas mask, and an air hole would be closed, causing a person to suffocate.”
21. In the ‘MGB’ basement, detainees were fed three times per day, but food was often spoiled; however at some point civilian detainees were allowed to receive packages from relatives once a month. They were conveyed to the toilet twice a day, and showers were permitted once every fortnight. The cells were cold (around 10 degrees Celsius during cold season), damp and lacked fresh air. It was forbidden to do physical exercises in the cells. Medical care was not provided.

22. Conditions in the IVS in Donetsk were reportedly satisfactory; the cells were renovated before 2012\(^2\) and well-heated, detainees were served food from a nearby canteen (fish, potatoes, meat, bread), given water and had access to medical care.\(^3\)

23. Conditions in Izoliatsiia were poor.\(^4\) Detainees were held in the basement and ground floor. Most rooms lacked toilets or running water, and detainees were only allowed to use such facilities once a day for a few minutes; alternatively they could relieve themselves in a plastic bottle in the cell. Food was provided twice a day. Detainees were forced to work: women were forced to cook and clean and men to move heavy objects, including ammunition, and clean cars in the yard. In the room, the light was continuously on and detainees were not allowed to switch it off. Walks were not allowed. There was a doctor in the facility, but available medication was mostly expired. A few detainees described hearing the screams of others being tortured.\(^5\)

24. Conditions were reported as poor in Donetsk SIZO. Detainees were held in the 6\(^{th}\) or 10\(^{th}\) block, which had been previously used for convicts with life sentences.\(^6\) The cells were small (2 x 4 metres or 1.3 x 3.5 metres), with bunk beds. Often cells were overcrowded (12 people for 8 places), cold with broken windows, humid with mould on the walls, and infested with cockroaches, bedbugs and rats. The toilets in the cells would often clog. Food was insufficient in quantity and of poor quality. Detainees could receive parcels from relatives, inform them of their whereabouts and be visited by families. After ‘sentencing’, six interviewed detainees were moved to Makivka colony No. 32 near Donetsk, where conditions were overall satisfactory; however the walls were with mould and cold. During the time in detention, some detainees experienced prison inspection (which prisoners/detainees) refer to as “masks”. During one of such inspections, detainees were forces to undress and do squats. Under the pretext of cells’ search they dragged every detainee out and beat them with their bats.

25. In territory controlled by ‘Luhansk people’s republic’, civilians reported being held in the ‘MGB’ building in Luhansk city, Luhansk SIZO, and the ‘commandant’s offices’ in Luhansk and Stakhanov.

26. In the ‘MGB’ building, detainees were always hooded and handcuffed when interrogated. Detainees were forced to rise at 6:00 hrs, often to the ‘anthem of the republic’, and fed twice a day with porridge, a piece of bread and hot water. Sometimes at night, ‘officers’ took a detainee from a cell and the person would be missing for several days.

\(^2\) This detention facility was renovated by the Government of Ukraine ahead of the European Football Championship in 2012.

\(^3\) One interviewee described IVS as “heaven in comparison with MGB”.

\(^4\) Prior to the conflict, Izoliatsiia was an industrial facility which was turned into a cultural centre in Donetsk city. In May 2014, it was seized by armed groups and used as a detention facility. OHCHR documented and previously reported on various human rights violations including torture which occurred at Izoliatsiia. Since 2015, this detention facility is reported to be controlled by ‘MGB’. According to interviewed detainees, the number of detainees in Izoliatsiia at different varied from 13 to 55. Some detainees were civilians, others were members of the armed groups. Member of the armed groups were brutally beaten. In spring 2017, all rooms holding detainees were kept were renovated, all detainees received bedclothes and a washing machine was installed.

\(^5\) Some detainees reported that they volunteered to work in the kitchen, as it also allowed them to get access to better food.

\(^6\) For example, one detainee told OHCHR: “While being held in Izoliatsiia, I heard other detainees being tortured in the adjacent compartments. One day I heard a man from the Caucasus being tortured; he was offering them ransom, but they did not stop. The following day I was told to clean that room – I saw blood and some haired skin on the floor” … “We could often hear screams of others at night”.
27. Conditions in the Luhansk SIZO were reported as overall satisfactory, improving in early 2017. Detainees were fed three times a day, with better food on weekends, and had regular access to hot water. Sometimes detainees could call relatives. Cells were inspected once every fortnight, sometimes resulting in beatings of detainees.

28. In the ‘Commandant’s office’ of Zhovtnevyi district in Luhansk city, detainees were held in a big cell in the basement containing five-plank beds and no lights. They were convoyed to the toilet twice a day. Detainees received satisfactory nutrition and were treated well by the guards. Occasionally, short walks in the yard were allowed. Detainees reported being interrogated by ‘MGB officers’, often with use of torture (mostly with use of electric currents).

29. In the ‘Commandant’s office’ in Stakhanov town, detainees were held for short periods of time in basement cells. Interrogations took place in the same building.

30. The remaining 33 persons released by armed groups were members of the Ukrainian forces. One had been detained by armed groups since August 2014, 15 since 2015, 16 since 2016 and 1 since March 2017. OHCHR interviewed 18 of the released military personnel. Most were captured at military positions or near checkpoints. All those interviewed had been beaten upon capture. Some soldiers were interrogated and tortured. Mock executions were reported common and often repeated. Further treatment of the soldiers varied greatly depending on which unit captured them and their own role within the Ukrainian military. For example, those few who were intelligence officers or served in special battalions were beaten and tortured more frequently and severely than others. Some soldiers were forced to videotape self-incriminating “confessions” or give false statements to the media for use as propaganda.

31. Member of the Ukrainian forces were held in various places and moved among two or three different facilities. Conditions of detention varied, and in most cases amounted to inhumane and degrading treatment.

32. In territory controlled by ‘Donetsk people’s republic’, some soldiers captured in 2014 and 2015 were initially held in the seized building on 25 Maiska Street in Donetsk under the control of ‘Don Cossacks’. Detainees there (military and some civilians – both men and women) were constantly subjected to torture and ill-treatment during interrogation. All detainees were held in one small cell (3×5 metres) lacking windows, with poor ventilation and no toilets.

33. In the detention facility on 14 Molodizhna Street, detainees were held in second floor rooms with barred windows, with approximately 18 detainees sharing one cell. Detainees used metal racks as beds, and were escorted once a day to bathroom facilities (and otherwise used a
plastic bottle in the cell). They were fed twice daily, however those subjected to forced labour\textsuperscript{46} received one additional meal per day. Approximately once per week, detainees were allowed to contact their families. Civilians were also held in this facility. OHCHR received credible reports of a civilian woman dying in that facility on 10 September 2016, after being subjected to torture, including beatings and electrocution.

34. From February to May 2016, some Ukrainian soldiers were held in the basement of the building at 7 Artema Street\textsuperscript{47} which was controlled by ‘republican guards’ of the ‘Donetsk people’s republic’. Some 35 detainees were held in three windowless cells measuring 2 by 6 meters each. They were given access to toilets and running water once per day.

35. Most Ukrainian soldiers captured near Donetsk reported being detained for various periods of time in the seized SBU building at 62 Shchorsa Street. Before interrogation, some soldiers were put in solitary confinement in complete darkness in a small cell called the “Yama” (pit).\textsuperscript{48} All detainees were held in basement rooms (a former archive), which was too small for the number of persons (up to 50 men), resulting in overcrowding. There were no windows or fresh air, and plastic bottles were used instead of toilets. Food was insufficient – a 10 litre bucket of food (soup or porridge) and several loaves of bread were provided for all detainees to share.

36. In July 2016, most Ukrainian Armed Forces detained in territory controlled by ‘Donetsk people’s republic’ were transferred to Makiivka colony No. 97 (maximum security prison) where they were separated from pre-conflict prisoners and placed two to three detainees per cell. They were prohibited from contacting relatives.\textsuperscript{49} Detention conditions in the colony were worse than in other premises; the cells were cold and damp, detainees received three meals per day but of very poor quality.\textsuperscript{50} Medical treatment was rarely provided.\textsuperscript{51} The detainees were subjected to daily searches of their cells.

37. In territory controlled by ‘Luhansk people’s republic’, Ukrainian Armed Forces were held in the same places of detention as civilians. In Luhansk SIZO, Ukrainian soldiers were held on the fifth floor and treated differently than civilians. The food was poor and insufficient (some bread and rarely a bit of porridge), and reportedly there were cases when the guards did not feed detainees for two days. Detainees did not have hot water for at least five months. No medical treatment was available; walks outside and contacts with relatives were not permitted.

38. Released Ukrainian soldiers also reported being detained in the ‘Commandant’s office’ of Artemivskyi district in Luhansk, where they were held in six spacious cells in the basement and fed three times a day with food cooked for the guards.

C. Accountability for human rights violations and fair trial rights

39. OHCHR is concerned that the simultaneous release of detainees may have negative consequences on accountability for human rights violations. First, the release of individuals alleged to be perpetrators of human rights violations\textsuperscript{52} deprives victims of justice and redress.\textsuperscript{53}

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\textsuperscript{46} Cleaning barrels with gasoline, cleaning industrial waste, digging trenches and other hard labour.
\textsuperscript{47} The building previously belonged to a railway company.
\textsuperscript{48} This was utility space under stairs with heat pipelines, 1.3 x 2 metres, with no light. Usually they were kept there for one to two days.
\textsuperscript{49} In protest, two members of UAF announced a hunger strike and were severely beaten by guards. As described by one interviewee: “Two guards held me while the third was beating my stomach asking whether I still refuse to eat. We agreed to stop the strike, but we were still punished. I was held in solitary confinement until 15 April 2017” [10 months].
\textsuperscript{50} One person stated: “I have not seen a blue sky for 1.5 years.”
\textsuperscript{51} “A local doctor always underlined that she does not want to treat captured Ukrainian soldiers – ‘you are enemies!’ ”
\textsuperscript{52} OHCHR is aware of at least 10 individuals transferred to armed-group-controlled territory who were charged with or convicted of crimes against life and liberty of individuals or against their property. At least seven others were facing similar charges in addition to those related to their affiliation or links with armed groups. A person convicted for killing two Ukrainian soldiers was pardoned by the President and transferred to armed-group-controlled territory on 20 January 2018.
\textsuperscript{53} For example, on 6 July 2017, a former police officer in Druzhkivka was found guilty of robbery, brigandism and unlawful expropriation of a vehicle as part of an armed group of the ‘Donetsk people’s republic’ that abducted a local businessman and tortured him together with others in the basement of the building of the so-called ‘Druzhkivka NKVD’ or ‘Komendatura’ in June-July 2014. He was the only member of the armed group who stood trial for crimes perpetrated.
Second, many conflict-related detainees who were released were subjected to human rights violations during the course of their detention and prosecution. Some who filed complaints faced obstruction from law enforcement, which lacked willingness to duly investigate the allegations while the complainants remained in government-controlled territory.\(^\text{54}\) Their release to armed-group-controlled territory may lead to closure of the cases, depriving them of access to justice.

40. OHCHR examined the legal procedures applied by the Government in preparation for the simultaneous release on 27 December 2017.\(^\text{55}\) Following the release, OHCHR interviewed 26 individuals (out of the 234 detainees released by the Government) who stated that the main reason they had agreed to participate in the release was because it was their only option for liberty due to protracted court proceedings during which mandatory pre-trial detention is applied against all individuals charged with affiliation or links with armed groups under article 176(5) of the Criminal Procedure Code.\(^\text{56}\)

41. OHCHR is concerned that the simultaneous release may have been used to compel conflict-related detainees, who saw no prospect of justice or fair hearing, to plead guilty, even in otherwise poorly substantiated cases, thus effectively denying them access to justice.\(^\text{57}\) Between 13 and 21 December 2017, at least 39 individuals were convicted by courts based on *inter alia* plea bargains and retractions of appeals. OHCHR noted a spike in plea bargains shortly before the simultaneous release took place.\(^\text{58}\) Eighteen individuals interviewed by OHCHR stated they were offered plea bargains in exchange for being included in the simultaneous release process.

42. At least twenty six individuals who had been on trial for over a year were promptly convicted within two weeks prior to the release. If their conviction was a precondition for inclusion in the simultaneous release, this would raise concern that they have been effectively denied access to justice.

43. In 58 cases of individuals, courts lifted the custodial measures days before the simultaneous release, despite the practice of mandatory pre-trial detention of conflict-related detainees under article 176(5) and the increased risk of flight (since they were meant to be transferred to armed-group-controlled territory). This creates the appearance that courts were influenced by prosecutors and the SBU (which was in charge of the simultaneous release).

44. Individuals who were released but whose trials were not completed or whose cases were not closed\(^\text{59}\) may risk re-arrest should they return to government-controlled territory, or they may be tried and convicted *in absentia*.\(^\text{60}\) At least four individuals received suspended sentences with...
a probation period during which they are obliged to report to law enforcement. In addition, they are deprived of the possibility to pursue remedies for alleged human rights violations perpetrated against them by state actors. The ability to travel across the contact line is of importance for both those who received suspended sentence and those with pending trials. However, many individuals did not have their identity documents returned to them upon release. Others may face restrictions on their movement imposed by armed groups.

**Territory controlled by armed groups**

45. Interviews of individuals detained by armed groups and released to government-controlled territory provided further insight into the system of ‘prosecution’ in the two ‘republics’. ‘Trials’ in conflict-related cases are reportedly carried out in closed sessions, allegedly in order not to disclose ‘classified information’.

46. Interviews with Ukrainian soldiers and civilians believed to be affiliated with Government forces, who were detained in territory controlled by ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ that their cases were often not subject to any review. OHCHR documented 19 conflict-related cases where persons were subjected to indefinite detention in breach of international human rights and international humanitarian law. Those Ukrainian soldiers and civilians detained for over two years reported no periodic review regarding the necessity or appropriateness of their continued detention, nor were ‘charges’ brought against them during this period. Ukrainian soldiers, detained in Donetsk for a period of up to three years were approached by ‘prosecution’ in September 2017 only - a few months before the simultaneous release - when their detention was formalized by a ‘measure of restraint’ of custodial detention imposed by the ‘prosecutor general’s office’.

47. Pre-trial detention proceedings of individuals ‘charged’ with espionage or other conflict-related crimes by ‘military tribunals’ in territory controlled by ‘Donetsk people’s republic’ appear to have followed a pro-forma basis. Furthermore, even such perfunctory review of legality of detention was delayed. Time spent in incommunicado detention, to which many were reportedly subjected prior to acknowledged ‘arrest’, seems not to have been taken into account by a ‘military tribunal’ when calculating the ‘sentence’. Such practice contributed to unacknowledged detention during which individuals were exposed to torture, including with a view to force self-incriminating statements which served as basis for their subsequent compelled appearance in relation to at least 20 released individuals and at least five other individuals have been put on a wanted list.

61. Out of 160 individuals released and transferred to ‘Donetsk people’s republic’, 62 did not have their passports, 25 had no documents at all, and 101 did not receive certificates of release which raises concerns that the legal proceedings against them have not been closed. OHCHR does not have information regarding persons transferred to ‘Luhansk people’s republic’.

62. OHCHR continued to have limited access to monitor ‘trials’ of individuals ‘accused’ of conflict-related offences in ‘courts’ in Donetsk. The ‘trials’ were held behind closed doors and OHCHR was excluded from all but the first and last ‘hearings’.

63. OHCHR interview, 21 November 2017. OHCHR notes that “publicity of hearings ensures the transparency of proceedings and thus provides an important safeguard for the interest of the individual and of society at large” (HRC General comment no. 32 Article 14: Right to equality before courts and tribunals and to a fair trial, para. 28).

64. They are mostly ‘charged’ with espionage under art. 321 of the ‘criminal code’ of ‘Donetsk people’s republic’.

65. At least two civilians detained by the armed groups of ‘Donetsk people’s republic’ stated that they have been detained without being formally ‘charged’. At least 17 interviewed Ukrainian soldiers detained in both ‘republics’ have also been detained without any ‘charges’ brought against them.


67. The armed groups of ‘Donetsk people’s republic’ formally initiated ‘investigation’ against at least 10 Ukrainian soldiers interviewed by OHCHR under article 230 (‘aiding and abetting terrorism’) of their ‘criminal code’ only in September 2017. One interviewee told OHCHR that ‘investigation’ against captured Ukrainian soldiers was merely a formality that would enable their release. The armed groups of ‘Luhansk people’s republic’ have not charged or tried none of six captured soldiers interviewed by OHCHR irrespective of the duration of their detention.

68. For example, on 27 November 2017, the ‘military tribunal’ of ‘Donetsk people’s republic’ ‘ruled’ to extend detention pending ‘trial’ of a defendant with the substantiation going beyond the ‘prosecutor’ s arguments. The ‘judge’ noted that since the ‘hearings on the merits’ had not started, it was difficult to assess to what extent the ‘accused’ facilitated the ‘investigation’ and therefore, there were no grounds to change his ‘measure of restraint’. OHCHR trial monitoring, 27 November 2017.

69. OHCHR interviews, 4 and 5 January 2017.
‘prosecution’.\textsuperscript{70} In at least two cases, ‘courts’ disregarded detainees’ complaints regarding such human rights violations they had suffered.\textsuperscript{71}

48. Accounts by conflict-related detainees suggest that their degree of culpability in the imputed ‘crime’ was already considered established at the time of their ‘arrest’, amounting to a presumption of guilt. Subsequent ‘investigations’ and ‘trials’ seem to serve merely to create a veneer of legality to the ‘prosecution’ of individuals believed to be associated with Ukrainian military or security forces.\textsuperscript{72}

49. Released detainees informed OHCHR that some appointed lawyers did not make any real effort to present their case. The account of at least one victim suggests that he was intimidated by ‘MGB’ of ‘Donetsk people’s republic’ in the presence of the appointed lawyer, with no reaction from the latter.\textsuperscript{73} Some lawyers assigned to detainees advised that only ‘convicts’ were eligible for the simultaneous release under the Minsk agreements, leading many detainees to plead guilty even though they had never admitted to committing the charged offences. At the same time, detainees released from ‘Donetsk people’s republic’ who had been ‘prosecuted’ noted that lawyers facilitated contacts with their families.

50. Deprived of access to the Ukrainian judiciary and of effective ‘legal representation’ in proceedings before ‘courts’ in armed-group-controlled territory,\textsuperscript{74} and fearing repercussions for withdrawing statements given under duress,\textsuperscript{75} conflict-related detainees have stood ‘trials’ with no chance of presenting their defence.\textsuperscript{76} Conflict-related ‘trials’ were heard by a ‘military tribunal’ as a chamber of the ‘supreme court’ of ‘Donetsk people’s republic’, whose ‘verdicts’ entered into force immediately with limited opportunities to ‘appeal’.

\textsuperscript{70} Torture is prohibited under both IHL and IHRL. Article 14.3(g), ICCPR; Articles 75.4(f), Protocols I and art. 6.2(f), Protocol II Additional to the Geneva Conventions of 12 August 1949.

\textsuperscript{71} HRMMU interviews 4-5 January 2018 and 18 January 2018.

\textsuperscript{72} Accounts of at least 18 civilians interviewed by OHCHR after their release on 27 December 2017 suggest that they have been detained due to alleged links with Ukrainian military and/or security forces.

\textsuperscript{73} OHCHR interview, 16 January 2018.

\textsuperscript{74} Of the 18 conflict-related detainees interviewed by OHCHR, none were provided with a lawyer immediately upon being detained. One detainee told OHCHR that he never had a confidential meeting with his assigned lawyer, who only signed documents and was inactive during the ‘trial’ (OHCHR interview, 11 January 2018). In some cases, assigned lawyers witnessed intimidation of their client (conflict-related detainee), however, did nothing (OHCHR interview, 15 January 2018). Lawyers of conflict-related detainees refrain from challenging legality of detention of their client during ‘pre-trial’ and ‘trial’ stages (OHCHR trial monitoring, 27 November 2017). OHCHR is concerned that lawyers from government-controlled territory are not allowed to participate in the ‘proceedings’.

\textsuperscript{75} At least seven individuals reportedly tried to present their case but then changed their mind fearing repercussions from the ‘MGB’. Others accepted the ‘charges’ being promised to be included in the simultaneous release.

\textsuperscript{76} These conclusions are based on interviews of ‘convicted’ detainees released on 27 December 2017, due to OHCHR’s lack of access to ‘court hearings’. 
Tab 7
Human Rights Watch welcomes the new report of the UN Human Rights Office on the situation in Ukraine. We urge the Ukrainian authorities to embrace its recommendations as a matter of priority.

We are concerned that the government continues to require people living in non-government controlled areas to register as internally displaced and regularly travel to government controlled areas to access social benefits. This creates unnecessary hardship for many older people in accessing pensions, while those unable to regularly cross could not access their pensions at all. Lack of basic facilities at some crossing points remains a problem. Over a dozen people, mostly elderly, died from health complications in 2019 while trying to cross the line of contact.

We join the condemnation by the UN Monitoring Mission of unlawful conscription by Russian authorities in occupied Crimea, and the sanctioning of those who refuse to comply. Under the Fourth Geneva Convention, an occupying power may not compel residents of the occupied territory to serve in its armed or auxiliary forces. It also explicitly prohibits any “pressure or propaganda which aims at securing voluntary enlistment.” Russia should immediately cease these practices and release Crimeans who have been forced to serve in the Russian forces.

Independent media remain under pressure in Ukraine. This year, again, dozens of journalists were attacked, injured, threatened, or prosecuted on dubious charges. In June, investigative journalist Vadym Komarov died from severe head injuries he sustained in a May attack. The organizers of the attack against activist Kateryna Handziuk, who died in November 2018 from the wounds sustained from an acid attack, are yet to be identified. Groups advocating hate and discrimination continue to put ethnic minorities, lesbian, gay, bisexual, and transgender (LGBT) people and rights activists at risk. While law enforcement made demonstrable efforts to protect women’s rights rallies in March and the Equality March in June, on other occasions they failed to protect vulnerable groups. The authorities should bring those responsible for such attacks to justice.
President Zelensky’s pledge to curb corruption and end the conflict with Russia should go hand in hand with a commitment to address key human rights concerns. The recommendations included in HCHRO report should be a roadmap for his administration.
December 18, 2019 | Statement

Accountability key to addressing rights crisis in Venezuela HRW statement on High Commissioner’s oral update

December 10, 2019 | Commentary

Five Human Rights Issues That Defined 2019 for Australia

REPORTS

November 1, 2019

Crimea: Conscription Violates International Law
Russia Flouting Human Rights Obligations Five Years into Occupation

July 12, 2019

Crimean Tatars Face Unfounded Terrorism Charges
Raids, Arbitrary Arrests, Torture of Activists
Tab 8
Statement of the LGBT “Nash Mir” Center regarding the shocking raid of the Ukrainian police to gay club in the city of Dnipro

24 April, 2019 | News

LGBT Human Rights Nash Mir Center
coordinator@gay.org.ua
www.gay.org.ua

On the night from 19th to 20th April, the police in Dnipro city conducted a homophobic raid on a local gay club “Potemkin”. About 1 a.m., 20-25 police officers burst into the night club, compelled all those present to lie down on the floor (about 25 visitors + the club staff), and did not allow anyone to get up for three hours while opening all windows (the night temperature was not above +5). The police seized mobile phones from all present people, and some things disappeared from the cloakroom. The club staff also claimed about the loss of some club's equipment. Except the mobile phones, no disappeared things were included in the list of the seized things.
According to eyewitnesses, police officers behaved in very aggressive and homophobic way, expressed insults and jokes related to sexual orientation, and forced two foreigners, who at that time were in the club, to loudly sing the anthem of Ukraine. They also inflicted injuries to one of the club's visitors. The club's owners and some visitors filed applications on illegal actions of the police to Sobornе Police Department in Dnipro city.

This attack, as it turned out, was called a search within a pre-trial investigation initiated under Part 2 of Article 302 of the Criminal Code of Ukraine “Creating or running brothels and trading in prostitution.”[1] Today the website of the National Police of Ukraine in Dnipropetrovsk oblast presented the explanation of this police action: https://dp.npu.gov.ua/news/Informacziya/u-dnipri-policzejski-vikrili-osib-yaki-stvorili-u-nichnomu-klubi-misce-ropusti/

It turns out that the National Police of Ukraine considers sexual contacts of adult men as immoral acts, a regular activity of a night club (dances and shows) as a criminal offense, and distribution of condoms as promoting debauchery. This explanation provides no evidences of breaching Article 302 of the Criminal Code. The police also provided no explanation of their clearly illegal, unprofessional and unethical actions, harassment of the club's visitors who were not accused of any crime.

We strongly condemn these obviously homophobic and illegal actions of the police in Dnipro city. At the time when there is no shortage of genuine criminal offenses in Ukraine, including hate crimes based on sexual orientation, the police actually engaged in the fight against gay sex between adult men by mutual agreement!

We want to separately emphasize that to prosecute so-called “distribution of pornography” and “running brothels” (Articles 301 and 302 of the Criminal Code respectively) is an anachronism in the modern democratic world and an instrument of selective pressure if this affects the voluntary actions of adult individuals.

Nash Mir Center appealed to the command of the National Police of Ukraine, the command of the police in Dnipropetrovsk oblast, and the Parliamentary Commissioner for Human Rights to check the facts provided by victims of the police action and, if they are
confirmed, to bring the offenders to account. In our opinion, this blatant case only underscores the urgent need to implement effective reforms of criminal law, the law enforcement system, and of consistent fight against manifestations of homophobia in Ukraine.

[1] Criminal Code of Ukraine, Article 302, Part 2: Creating or running brothels, and also trading in prostitution, actions committed for gainful purposes, or by a person previously convicted of this offense, or by an organized group, - shall be punishable by restraint of liberty for a term up to five years, or imprisonment for the same term.
Tab 9
YOUR WORDS HAVE POWER

Sometimes a letter can change someone’s life. That’s the premise of Write for Rights, Amnesty’s global letter-writing campaign and the world’s biggest human rights event.

Please take a minute and support the campaign

TAKE ACTION NOW

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The investigation into the Security Service of Ukraine (SBU) for its alleged secret prisons failed to make any progress. Law enforcement officials continued to use torture and other ill-treatment.

The Ukrainian authorities increased pressure on their critics and independent NGOs, including journalists and anti-corruption activists. The authorities launched criminal investigations and passed laws aimed at restricting the rights to freedom of expression and freedom of association, among other things.

The de facto authorities in the separatist-controlled territories continued to unlawfully detain and imprison their critics. In November, the de facto Supreme Court in Donetsk ordered a man to be put to death. In Russian-occupied Crimea, critics of the authorities faced intimidation, harassment and criminal prosecution.

The LGBTI Pride march was held in the capital Kyiv, under effective police protection. The number of attacks on LGBTI events rose across the country. The government failed to adequately address sexual and domestic violence. The authorities announced that Ukraine was freezing all arms supplies to South Sudan.

**Background**

Social discontent continued to grow. Mounting economic problems, the slow pace of reforms and pervasive corruption sparked regular protests in Kyiv that occasionally turned violent. Some of the protests brought together several hundred people. In April, the World Bank reported that the Ukrainian economy had stopped contracting, projected a 2% growth for 2017, and urged further reforms. On 14 June, the EU lifted its visa requirements for Ukrainian citizens. The government adopted wide-ranging medical and educational reforms, which for the first time included human rights as part of the future school curriculum.

In eastern Ukraine, the separatist and government forces continued fighting, in violation of the 2015 ceasefire agreement. Casualties among the forces and civilians continued to grow, and according to the UN had reached 10,225 dead by 15 August, including 2,505 civilians. On 27 December, the two sides exchanged prisoners, releasing a total of 380 people.

According to the September report of the UN Monitoring Mission in Ukraine, “increased levels of poverty and unemployment coupled with record-high food prices have affected the lives of 3.8 million people in the conflict-affected zones, in addition to daily hardships caused by the armed hostilities and related policies imposed by all sides.” Laws introduced in previous years further impeded access to social rights and pensions for people living in the conflict-affected areas.

Crimea remained under Russian occupation. Russia continued to deny international human rights mechanisms access to the peninsula.

**Torture and other ill-treatment**
Members of law enforcement agencies continued to use torture and other ill-treatment, and committed other human rights violations; there was continued impunity for past and ongoing violations of international humanitarian law.

On 15 August, the SBU apprehended Daria Mastikasheva, a Ukrainian citizen resident in Russia who was visiting her mother in Ukraine, and held her incommunicado for two days. She was accused of treason and illegal weapons possession. Photos taken by her lawyer of her outside the court showed signs of beatings and possible torture by SBU officers. Her lawyer also reported that she was issued with threats targeting her mother and son, until she agreed to read out a self-incriminating statement on camera. At the end of the year she was still in detention awaiting trial.

On 16 November, the head of the State Investigation Bureau (SIB), a stand-alone agency created to undertake investigations independently of other law enforcement agencies, was finally appointed. However, the SIB was still not fully staffed and unable to begin its work by the end of the year.

Conflict-related sexual violence

In a report published in February, the UN Human Rights Monitoring Mission to Ukraine documented cases of conflict-related sexual violence, and criticized Ukraine’s justice system for failing its survivors and highlighted a lack of adequate care and counselling. The majority of the documented cases concerned sexual violence against men and women who had been detained by government forces or armed groups.

Detention

The Chief Military Prosecutor’s investigation into the allegations of secret detention by the SBU in eastern Ukraine was ineffective. Evidence published in 2016 by international NGOs showing the existence of this practice was largely ignored by the authorities.

Detentions of civilians in the conflict zone

On 27 April, the UN Subcommittee on Prevention of Torture (SPT) published its report on its 2016 visit to Ukraine. The report noted that the SBU had obstructed the SPT’s mandate by denying it access to some facilities, forcing it to suspend a visit in May 2016. When the SPT resumed the visit in September, it “was left with the clear impression that some rooms and spaces had been cleared in order to suggest that they had not been used for detention”. The facilities in question, particularly in the city Kharkiv, had allegedly been used as secret prisons, and their inmates moved to another unofficial facility before it was opened to visitors. The SPT was denied any access to detention facilities in the territories controlled by the self-proclaimed, Russian-backed Donetsk People’s Republic (DNR) and Luhansk People’s Republic (LNR) in eastern Ukraine.

The de facto authorities in the DNR and LNR continued to detain and imprison critics and individuals suspected of supporting Ukraine. On 4 May, a de facto court in Donetsk sentenced well-known academic Ihor Kozlovsky to two years and eight months in prison under trumped-up charges of weapons possession. Ihor Kozlovsky had been in detention since January 2016 and was released on 27 December 2017 in a prisoner exchange.
On 31 January, Russian activists and performance artists Seroe Fioletovoe and Viktoriya Miroshnichenko were held in incommunicado detention for two weeks after crossing into the DNR-controlled territory. Following an international campaign for their release on 14 February, the de facto Ministry of State Security (MGB) escorted them to the Russian border and released them.

On 2 June, freelance journalist Stanislav Aseev, who had been reporting anonymously from the DNR, was subjected to enforced disappearance in Donetsk. For weeks, the de facto authorities denied that they were holding him; on 16 July, a member of the MGB told his mother that her son was in their custody and accused of espionage. Stanislav Aseev remained in detention and under investigation at the end of the year.

**Freedom of association**

Civil society activists and members of NGOs, particularly those working on corruption, were regularly harassed and subjected to violence. These incidents were often not effectively investigated, and members of the authorities, including security services in some instances, were widely suspected to have instigated them.

A law adopted in March obliged anti-corruption activists, including members of NGOs and journalists, to file annual income declarations – something that state officials have to do – or face criminal charges and imprisonment.

In July, the Presidential Administration proposed two draft laws that sought to impose onerous and intrusive public financial reporting on NGOs whose annual budget exceeded 300 times the so-called “living minimum” – defined in law and regularly reviewed, as UAH1,700 (USD63) at the end of the year. NGOs were also required to publicly report on all payments made to members of staff or consultants. Non-compliance carried severe penalties, including the loss of the non-profit status and freezing of accounts. The two draft laws were under consideration in the Ukrainian Parliament at the end of the year.

On 11 October, tax police raided the offices of Patients of Ukraine, and the All-Ukrainian Network of People Living with HIV/AIDS (PLWH), two NGOs known for exposing questionable schemes in the state medical procurement system. The authorities alleged that the NGOs had misused their international funding – despite their having passed independent financial audit – and, according to court documents, accused them of “supporting terrorism” by funding partner patient organizations in Crimea.

**Freedom of expression**

The investigations into the killings of journalists Oles Buzina in 2015, and Pavel Sheremet in 2016, had yielded no results. The authorities continued their attempts to limit the right to freedom of expression by instigating trumped-up criminal cases against journalists who criticized the government over its failure to implement reforms and its policies in eastern Ukraine. On 7 June, the Supreme Special Court of Ukraine overturned the July 2016 decision by a court of appeal to acquit prisoner of conscience Ruslan Kotsaba, a journalist who had been prosecuted for treason and harming Ukraine’s armed forces after he had criticized the conflict in eastern Ukraine.
In June, the office of the online newspaper Strana.ua was searched as part of an investigation into an alleged disclosure of state secrets, followed in August by searches at the homes of its editor-in-chief Ihor Guzhva and another journalist. In July, the office of the media holding company Vesti was searched in a fraud investigation. Both news outlets were known for their critical reporting on the Ukrainian authorities and their policies in the conflict-affected Donbass region.

In three separate instances in August, the SBU expelled four international journalists, two Spanish and two Russian, for “harming Ukraine’s national interests” and barred them from returning to Ukraine for three years. The SBU spokesperson Olena Gitlyanska accused the Russian journalist Anna Kurbatova, expelled on 30 August, of producing material “harmful to Ukraine’s national interest” and warned that this would happen to everyone “who dares to disgrace Ukraine”. In October, the SBU lifted the ban on the Spanish journalists entering Ukraine.

Also in August, the SBU arrested freelance journalist Vasily Muravitsky from the city of Zhytomyr. He had contributed to a number of Russian media. The SBU accused him of preparing and distributing “anti-Ukrainian” materials on orders from Moscow. If convicted, he could face up to 15 years in jail. Vasily Muravitsky was in pre-trial detention at the end of the year.

Rights of lesbian, gay, bisexual, transgender and intersex people

On 18 June, thousands joined the biggest march yet of Equality, the annual LGBTI Pride demonstration, in Kyiv, as well as several dozen counter-protests. Police provided effective protection from those protesting against the march and no incidents were reported during the rally. After the march, members of far-right groups attacked and beat several participants. Overall, the number of violent attacks against LGBTI people rose in 2017. In September, a group of right-wing protesters severely beat a number of participants of an LGBTI festival in the city of Zaporizhzhya.

Violence against women and girls

Parliament had still not ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which it signed in 2011.

Crimea

The clampdown on the rights to freedom of expression, association and assembly continued in Crimea. The authorities continued to predominantly target ethnic Crimean Tatars. The arbitrary ban on the Mejlis of the Crimean Tatar People, a self-governing body representing the ethnic Crimean Tatars, continued. The Russian Security Services raided dozens of Crimean Tatar homes, purportedly looking for illegal weapons, drugs or “extremist” literature, as part of their campaign to intimidate critics of the peninsula’s occupation. The few lawyers willing to take up cases in defence of critical voices in Crimea faced harassment by the Russian authorities.
On 26 January, lawyer Emil Kurbedinov was arrested and sentenced by a de facto court in the Crimean capital, Simferopol, to 10 days of administrative detention. He was accused of violating Russian anti-extremist legislation with a social media post predating the Russian occupation of Crimea. In the post, he had shared a video about a protest held by the Muslim organization Hizb ut-Tahrir, which is banned in Russia but not in Ukraine. On 8 August, police in Simferopol used excessive force and arrested Server Karametov for holding a placard outside the Crimean Supreme Court to protest at reprisals against Crimean Tatars. He was sentenced to 10 days in prison. On 22 September, Ukrainian journalist Mykola Semena was convicted for “threatening [the] territorial integrity of the Russian Federation” in his publications and given a two-and-a-half-year conditional sentence and a three-year ban on participating in “public activities”. In September, Crimean Tatar leaders Akhtem Chiygoz and Ilmi Umerov were given jail terms for their peaceful activism. On 25 October, both were flown to Turkey and released, without an official explanation. Akhtem Chiygoz had spent 34 months in detention, and Ilmi Umerov had been forcibly held in a psychiatric institution since August or September 2016. Both were prisoners of conscience.

Arms trade

On 28 September, the Secretary of the National Security and Defence Council, Oleksandr Turchinov, announced that Ukrainian state companies had decided to freeze arms transfers to South Sudan. The announcement came days after Amnesty International published a report which included contract documents and end-user certificates listing the Ukrainian state-owned arms exporter Ukroinmash as the prospective supplier of USD169 million worth of small arms and light weapons to the South Sudanese Ministry of Defence. In response to the report, the State Service of Export Control issued a statement saying that the contract in question had not been executed, and that no weapons had been shipped from Ukraine to South Sudan. In previous years, Ukraine had consistently reported exports of small arms, light weapons and major weapons to the government of South Sudan.

Ukraine had not yet ratified the Arms Trade Treaty, which it signed in September 2014.

1. Put an end to impunity for detention-related abuses in the context of the armed conflict in Ukraine (EUR 50/5558/2017)
2. From London to Juba, a UK-registered company’s role in one of the largest arms deals to South Sudan (ACT 30/7115/2017)
Tab 10
NOTHING TO BE PROUD OF:  
DISCRIMINATION AGAINST LGBTI PEOPLE IN UKRAINE

Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) people in Ukraine continue to face discrimination, and many are targeted for violence and abuse by public officials and members of the public.

International and European human rights law prohibits discrimination – when someone is treated differently, in law or in practice, in a way that impairs or nullifies the enjoyment of their rights – because of a characteristic such as ethnic origin, religion, sexual orientation or gender identity. These characteristics are described as 'prohibited grounds for discrimination' under international law.

Ukraine is failing to protect the basic rights of LGBTI people such as the right to be free from discrimination, the right to security of person and the rights to freedom of peaceful assembly and expression. Ukraine has an international obligation to uphold the principle of non-discrimination and ensure that all individuals, including LGBTI people, are treated equally irrespective of their sexual orientation and gender identity in both law and fact.

Amnesty International has documented several violent attacks against LGBTI people, some carried out by public officials, and some by members of the public. In some cases such attacks
have resulted in death. Yet the authorities fail to investigate these crimes promptly, thoroughly, effectively and impartially, and, moreover, fuel the pervasive negative stereotypes about LGBTI people in Ukrainian society which underpin the attacks.

To date, no Pride march has taken place in Ukraine. In 2012 a Pride march planned for 20 May was cancelled by the organisers because they had received multiple violent threats from various individuals and groups and because the Kyiv police failed to guarantee the safety of the demonstrators, telling them 'people would get hurt'. Other public events by LGBTI groups have been attacked by extremists, while police were present and LGBTI activists have been prosecuted for exercising their right to freedom of peaceful assembly.

If the government of Ukraine is to succeed in its ambition to achieve association and visa liberalisation with the European Union (EU) it must ensure that its legislation is in line with European human rights standards, and must implement international and regional human rights agreements including by upholding the principle of non-discrimination and ensuring that all individuals, including LGBTI people, are treated equally in both law and fact.

Attempts to bring Ukraine into line with European standards on preventing discrimination on grounds of sexual orientation and gender identity have unleashed vociferous opposition from religious and conservative groups in society. In February 2013 the law "On Principles of Prevention and Combating Discrimination in Ukraine" was passed by parliament. In March 2013, the government presented parliament with amendments to the law that only prohibited discrimination on the basis of sexual orientation in relation to employment.
Even this limited attempt to bring the law closer to international and European human rights standards gave rise to strong opposition and is still under discussion. At the same time parliament is discussing two draft laws that threaten to seriously limit the enjoyment of human rights of LGBTI people. In October 2012 parliament passed the first reading of draft law 8711 (now 0945), which would ban any production or publication of products "promoting homosexuality", including through media, television or radio broadcasting; printing or distribution of publications; import, production or distribution of creative writings, cinematography or video materials. The law foresees fines or prison sentences of up to five years. Another draft law (No. 1155, formerly 10290) would introduce measures "to protect the rights of children, ensure the healthy moral, spiritual and psychological development of children", promote the idea that a family consists of "a union between a man and a woman" and to "overcome the demographic crisis". The law would ban positive or neutral information about consensual adult same-sex relationships, and provides an exhaustive list of activities that would fall under the ban, including meetings, parades, actions, pickets, demonstrations and other mass gatherings aimed at disseminating non-critical information about same-sex consensual conduct. The law also bans any educational activities regarding homosexuality or, presumably, the lives of LGBTI individuals, and any messages, articles or appeals in the media. Both laws would, if passed, contribute to perpetuate negative stereotyping about LGBTI people, discriminate against LGBTI people and severely limit their rights to freedom of expression, and assembly, as well as limit the rights of children to access information.
• eur500052013en.pdf
(Kyiv) – Members of radical nationalist groups violently disrupted a May 10, 2018 discussion in Kyiv about LGBTI rights, Human Rights Watch said today. Despite the intruders’ aggressive behavior and threats of
violence, the Kyiv police did not remove them from the event or the premises, and the owner of the site canceled the event.

A Human Rights Watch researcher was due to speak at the event, which was open to the public, and was there during the incident.

“It was clear from the way the police responded that nationalists can get away with this kind of violent and disruptive behavior in Ukraine,” said Tanya Cooper, Ukraine researcher at Human Rights Watch. “The nationalists came with a clear goal of halting a discussion about LGBTI rights and they succeeded as the police stood by and did nothing.”

The Ukraine office of Amnesty International organized the event to discuss a public proposal to introduce legislation to ban “propaganda” about homosexuality and public events that support lesbian, gay, bisexual, transgender, and intersex (LGBTI) people. The event featured speakers from Amnesty International Ukraine, Human Rights Watch, and Kyiv Pride, an independent Ukrainian LGBTI group, who planned to discuss how such a law would violate human rights, drawing on experience from similar laws in Russia.

About an hour before the start of the discussion, about 20 members of nationalist groups arrived and threatened the organizers with violence unless they canceled the event. The nationalists accused the organizers and participants of serving foreign interests and yelled “extremists” at the organizers. After a standoff of almost an hour, the owner of the venue told the organizers that their event was canceled, and they had to leave.

Five police officers from the Pechersk District Police did nothing to stop the radical groups from disrupting the event and to remove them from the premises.

Almost three hours after the radical groups arrived, the Kyiv City Patrol Police escorted the organizers and participants, so they could leave the site safely. The police took no action against the attackers.

In recent months, dozens of attacks by members of radical nationalist groups in Ukraine have targeted ethnic minorities – such as Roma – civic activists, and LGBTI people. The police have often ignored the attacks and are reluctant to hold the attackers accountable.

Radical groups attacked Women’s March events, to promote women’s rights, on March 8 in Kyiv, Lviv, and Uzhgorod. On March 26, radicals tried to disrupt a public event in Kyiv that called attention to radical right-wing groups in Ukraine. A Human Rights Watch researcher also witnessed that episode. And on April 20, members of the extremist group C14 attacked a camp of Roma people in Kyiv and burned
Police and members of radical groups outside the room where the event organized by Amnesty International Ukraine was supposed to take place. Kyiv, Ukraine. May 10, 2018. © Tanya Cooper/Human Rights Watch

their belongings and tents, forcing the Roma families to flee. Police initiated criminal proceedings in that attack.
“Ignoring attacks by radical groups not only abdicates the authorities’ responsibility to protect people but encourages further violence against ethnic minorities or LGBTI people,” Cooper said. “Ukrainian authorities need to start upholding the rule of law, protecting free speech and assembly, and taking steps against those who use violence and threats to make their points.”
Region / Country **Europe/Central Asia, Ukraine**

Topic **Free Speech, LGBT Rights**

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Protecting Rights, Saving Lives
Human Rights Watch defends the rights of people in 90 countries worldwide, spotlighting abuses and bringing perpetrators to justice

DONATE NOW
Tab 12
The situation in eastern Ukraine remained tense in 2016 despite the Minsk II Agreements forged a year earlier that called for a ceasefire and withdrawal of heavy weapons by all sides. Civilians in both Ukrainian and Russia-backed separatists’ detention were subjected to serious abuses. Abuses in conflict-affected areas remain largely unaddressed. The government did not adequately respond to attacks on journalists by nationalist groups. In Crimea, Crimean Tatars face further persecution for their peaceful opposition to Russia’s occupation of the peninsula.

**Hostilities in Eastern Ukraine**

The 2015 Minsk II Agreements significantly reduced hostilities, but frequent skirmishes and exchanges of artillery fire continued during the year.

According to the United Nations Human Rights Monitoring Mission in Ukraine (UNHRMMU), mortar, rocket, and artillery attacks between April 2014 and May 2016 killed over 9,000 people and injured more than 21,000—including civilians and combatants on all sides—in Donetsk and Luhansk regions. The UNHRMMU reported a 66 percent increase in civilian casualties from May to August compared to earlier in 2016, and documented 28 civilian deaths in the summer, many of which resulted from shelling and landmines.
Cruel and Degrading Treatment and Arbitrary Detention

Ukrainian government authorities and Russia-backed separatists in eastern Ukraine detained dozens of civilians for collaborating with the other side and held them in prolonged, arbitrary detention, depriving them of contact with lawyers and family. Most of those detained suffered torture or other forms of ill-treatment; some were denied needed medical attention. Both sides have been implicated in sexual violence, although few cases have been fully documented due to victims’ reluctance to come forward.

Human Rights Watch, jointly with Amnesty International, found that 18 people had been held in secret detention on the Security Service of Ukraine (SBU) premises in Kharkiv through the end of July, one for as long as 16 months. Thirteen were later released: at time of writing five remained in detention. The SBU denied allegations of secret detention. The military prosecutor’s office pledged to investigate. At time of writing, the investigation had yielded no tangible results.

In the self-proclaimed Donetsk People's Republic (DNR) and Luhansk People's Republic (LNR), local security services operate in a total vacuum of rule of law, which deprives people in their custody of their rights and leaves them without recourse to any remedies.

Accountability for Conflict-Related Abuses and Political Violence

In July, parliament passed a controversial amnesty law, absolving combatants involved in the “security operations” in eastern Ukraine of criminal responsibility for non-grave crimes. In August, President Petro Poroshenko vetoed the law.

In July, authorities arrested the head of Aidar battalion, Valentin Liholit, on charges of abduction, robbery, and other violent crimes against civilians. At Liholit’s remand hearing, Aidar battalion members blocked the court building, while several members of parliament disrupted the hearing inside, demanding his release. The court released him, pending further investigation.

Also in July, a former member of the Tornado police battalion was sentenced to six years’ imprisonment for torture and rape. Twelve other former members of the battalion, including the commander, were under investigation for sexual violence, robbery, and other violent crimes. At an August court hearing, Tornado supporters clashed with law enforcement, injuring 27 law enforcement officers.

Authorities have made some progress toward accountability for abuses during the 2014 Maidan protests by government forces against protesters. In June, authorities charged four members of the Berkut riot police battalion with killing 3 protesters and injuring 35. At time of writing, the investigation was ongoing.
Trials continued in connection with the 2014 political violence in Odesa. In May and June, when courts ruled to release “pro-federalism” defendants from pretrial detention, “pro-unity” activists temporarily blocked the courts and threatened to harm the defendants. On both occasions police eventually rearrested the defendants. “Pro-unity” activists were not held accountable for disrupting court proceedings, and in one case, some were invited to testify against the defendant.

**Freedom of Expression and Media**

The government continued to take controversial steps restricting media freedom, justifying them mostly by the need to counter Russia’s anti-Ukraine propaganda.

In May, Ukrainian authorities banned 17 Russian journalists and media executives from entering Ukraine.

Inter, a television station widely perceived as pro-Russia, was attacked several times in 2016. The most serious attack occurred in early September, when a group of protesters tried to set Inter’s building on fire. Several staff had to be evacuated and treated for carbon monoxide poisoning; one sustained a spinal injury. Several days prior to the attack, Interior Minister Arsen Avakov, through his Facebook page, accused the channel of being anti-Ukrainian.

Media ownership structure remained opaque, despite a 2015 law promoting media ownership transparency. Most television channels are believed to be controlled by oligarchs, and President Poroshenko continued to own Channel 5.

Nationalist groups attacked journalists for their work in eastern Ukraine. In May 2016, the website Myrotvorets published the names and personal data of hundreds of journalists and others who had been accredited by the DNR press center, accusing them of “cooperat[ing] with terrorists.” Authorities launched an investigation, but top government officials applauded the publication. Several reporters received threats after the data dump.

The Ukrainian Institute of Mass Media, an independent monitoring group, recorded 113 physical attacks against journalists in Ukraine in the first part of 2016.

In July, a car bomb killed Pavel Sheremet, a prominent investigative journalist. At time of writing, investigative authorities had not identified suspects. The trial of suspects in the 2015 killing of Oles Buzina, a journalist known for his pro-Russian views, continued.

In a positive development, in July, an appeals court acquitted journalist and blogger Ruslan Kotsaba, who had been previously convicted on treason charges for calling for boycotting conscription.

**Sexual Orientation and Gender Identity**
Since 2014, the government has introduced several progressive policies supporting lesbian, gay, bisexual, and transgender (LGBT) people, but anti-LGBT sentiment remains strong among high-level government officials and the public.

In March 2016, about 200 anti-gay, far-right supporters attacked a venue in Lviv hosting a LGBT equality festival, eventually causing the event to be cancelled. The Kyiv LGBT Pride march held in June took place without the violence against participants that had marred it in previous years. Ultra-nationalist groups had threatened to make the march a “bloody mess.” Around 6,000 police officers protected the 1,500 march participants.

The first LGBT Pride march took place in Odesa in August. Local authorities initially attempted to ban it, but relented when organizers changed the route. Police arrested four ultra-nationalists who attempted to disrupt the event.

A new draft of the amended labor code does not include an anti-discrimination provision that would protect LGBT people in the workplace.

**Crimea**

Russia continued to prosecute people for publicly opposing its occupation of Crimea, further shrinking space for free speech and freedom of association.

Under the pretext of combating extremism or terrorism, authorities harassed and took arbitrary legal action against some Crimean Tatar activists in apparent retaliation for their peaceful opposition to Russia’s occupation. In February 2016, authorities arrested human rights defender Emir Usein Kuku on charges of terrorism and involvement in Hizb ut-Tahrir, a Muslim political organization that is banned in Russia but not Ukraine. At time of writing he was in custody pending trial. In October, the Crimean Office for Juvenile Affairs approached Kuku’s 9-year-old son and asked him questions about Kuku, implying that his father was neglecting his parental duties while in detention. Since 2014, fourteen people were detained on charges of involvement in Hizb ut-Tahrir; in September, four were sentenced to prison terms ranging from five to seven years.

In April, the Supreme Court in Crimea ruled to shut down Mejlis, the Crimean Tatars’ elected representative body, on grounds of involvement in “extremist” activities. In September, Russia’s Supreme Court upheld the ruling.

Akhtem Chiygoz, a deputy chairman of Mejlis arrested in 2015 on charges of allegedly organizing mass disturbances, remained in custody; his trial was ongoing at time of writing. Another Mejlis deputy chairman, Ilmi Umerov, was charged with separatism for stating in a media interview that Crimea should be returned to Ukraine. In August, Umerov was confined in a psychiatric hospital for evaluation. He was released on September 7 and at time of writing was at liberty, pending trial.
In April, Russia’s Federal Security Service in Crimea arrested journalist Nikolai Semena and searched his home, confiscating computer equipment. He is currently banned from leaving Crimea and faces criminal separatism charges for articles criticizing Russia’s occupation.

In May, Ervin Ibragimov, a Mejlis member, went missing. Security camera footage showed a group of men forcing him into a van and driving away. His passport was later found in Bakhchisaray. An investigation was ongoing.

**Key International Actors**

The European Union and the United States issued statements recognizing the territorial integrity of Ukraine. The US State Department called for an investigation into Pavel Sheremet’s death and criticized the Russian court’s ban of Mejlis. It also called for an end to human rights abuses in Crimea.

In February, the United Nations Children’s Fund reported that 1 in 5 schools had been damaged in the armed conflict. Some 215,000 children have been displaced, significantly affecting their access to education. UNICEF called on all parties to the conflict in eastern Ukraine “to ensure safe movement and unhindered humanitarian access to help children in need.”

The Parliamentary Assembly of the Council of Europe (PACE) sent rapporteurs to Ukraine in February and April to meet with key leaders to discuss the conflict and the human rights situation in eastern Ukraine while also assessing access to legal remedies for human rights violations since the onset of the war in eastern Ukraine. In October, PACE adopted a resolution highlighting the lack of remedies for victims of abuses in Ukrainian territories “under effective control” by Russia.

On August 11 and 12, the UN Committee on Elimination of Racial Discrimination reviewed Ukraine’s compliance with the International Convention on the Elimination of All Forms of Racial Discrimination. The committee expressed concerns over “underdeveloped” institutional framework for dealing with minority issues, noted a rise in hate speech by public figures and racist propaganda by such groups as Right Sector, Azov Civilian Battalion, and the Social National Assembly.

The Organization for Security and Co-operation in Europe’s (OSCE) Special Monitoring Mission to Ukraine released several statements raising concern about civilian casualties in eastern Ukraine due to the conflict, as well as about the plight of internally displaced persons (IDPs). The chief monitor of the OSCE Special Monitoring Mission in Ukraine declared violence to be a “violation of children’s rights” and emphasized the importance of abiding by a ceasefire at the beginning of the school year on September 1.

In May, the UN torture prevention body had to suspend a visit to Ukraine to inspect detention conditions due to travel restrictions in several locations under SBU authority, but returned in September to complete the visit after Ukrainian authorities granted full access.
In September, the UN high commissioner for human rights expressed concern over lack of protection for civilians living in the conflict-affected area, access to basic services and humanitarian aid, freedom of movement, and limited accountability for human rights violations.

Although Ukraine is not a member of the International Criminal Court (ICC), it has accepted the court’s jurisdiction over alleged crimes committed on its territory since November 2013. The ICC prosecutor’s preliminary examination as to whether it should open an investigation into abuses committed during the armed conflict remained ongoing. In June, parliament adopted a constitutional amendment package that would permit ratification of the ICC treaty, but included a transitional provision that delays the relevant amendment from taking effect for three years.

In November, the ICC’s Office of the Prosecutor, in its annual report, characterized the armed conflict in eastern Ukraine and Russia’s occupation of Crimea as international armed conflicts to which Russia is a party. The laws of international armed conflict would continue to apply, the report concluded, and the situation in Crimea and Sevastopol amounts to an ongoing state of occupation under those laws.
The Dangerous Rise of Populism

Global Attacks on Human Rights Values

Kenneth Roth
Executive Director

Essays

The Lost Years

Secondary Education for Children in Emergencies
When Exposing Abusers Is Not Enough

Strategies to Confront the Shameless

Overreach

How New Global Counterterrorism Measures Jeopardize Rights
The Internet is Not the Enemy
As Rights Move Online, Human Rights Standards Move with Them
Tab 13
THE FACE OF HATRED
Crimes and incidents motivated by homophobia and transphobia in Ukraine in 2014-2017

Kyiv
2018

Editor Andrii Kravchuk.

The report was prepared by: Andrii Kravchuk, Oleksandr Zinchenkov, Sofiya Lapina (Nash Mir Center); Ihor Koblikov, lawyer; and Serhii Kravtsov, PhD in Sociology.

The authors express their gratitude to LGBT organizations and individual activists as well as all active participants of e-mail lists and Facebook groups who collect and exchange up-to-date information on various aspects of the LGBT situation in Ukraine. We also thank J. Stephen Hunt (Chicago, IL) for proofreading the English translation and making other contributions to this publication.

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Opinions expressed by the report’s authors are solely theirs, and should not be considered as the official position of any of the donors to Nash Mir Center.

Nash Mir Center thanks all those who participated in monitoring of discrimination and violence against LGBT people in Ukraine and in the drafting of this report.

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1. Methodology of Collecting Information

The high level of public homophobia in Ukraine, which is confirmed by all opinion polls to date, stems from the fact that most LGBTs (lesbian, gay, bisexual, transgender, and intersex persons) in the country have a rather closed way of life, concealing problems relating to their sexual orientation or gender identity from the broader public, and often even from those in their immediate environment. Such an attitude complicates access to this part of the population and the collecting of reliable information about their lives. Evidence findings used in this report were obtained from two main sources: through the monitoring network of Nash Mir Center and the online survey of popular dating sites for gay men. It should be noted at the outset that the data obtained in this way are not statistically significant and have only an illustrative character, demonstrating the existence of problems and outlining areas in which they occur, but not revealing their true prevalence. The data describe the situation qualitatively yet do not provide its precise quantitative assessment-values – for, unfortunately, Ukraine still lacks a statistically significant study of homophobic / transphobic violence and discrimination, and the social self-protectiveness of Ukrainian LGBT people makes such outright research studies too complicated to attempt. Nash Mir Center nevertheless takes every opportunity to explore current situations, and this is the work approach that has built up our long-term experience and has gained us credibility within the Ukrainian LGBT community.

The monitoring network of Nash Mir consists of activists who reside and gather information on violations of LGBT rights in almost all regions of Ukraine. They seek out such cases through personal encounters, the local press, their social activities and elsewhere. Each detected case is documented in set form according to the standards of the OSCE / ODIHR, and if there arise doubts about its authenticity, is verified in detail later to the degree possible. All names and contact information of victims and / or informants are kept in the archive of Nash Mir under terms of strict confidentiality in accordance with the
standards of the OSCE / ODIHR and the laws of Ukraine. Nash Mir Center constantly cares about the professional development of its monitors, and regularly organizes workshops where they learn correct techniques and share experiences. We try as much as possible to expand our monitoring network, cooperating with other public organizations and engaging individual activists encountered through our other activities. In particular, in 2015-2016 Nash Mir Center implemented a joint project with NGO Gay Alliance Ukraine on monitoring violations of LGBT rights, the results of which were included in the total array of monitoring data produced.

Among its other activities, Nash Mir Center is also engaged in providing legal assistance to the LGBT community. We offer initial legal assistance to each person affected by violation of her/his rights, and in case of need we are prepared to find a qualified lawyer for further proceedings in law enforcement and the courts. In addition, we also conduct trainings and publish materials to increase the general legal awareness of LGBTs in Ukraine and to encourage them to protect their rights. In July and August 2016 activists of Nash Mir held five training sessions and focus groups on hate crimes motivated by homophobia / transphobia – in Kharkiv, Dnipro, Lviv, Odesa, and Kyiv. Information received from participants of these events was also used in the preparation of this report as comments and testimonies of Ukrainian LGBT community members about the problems they face in their everyday lives.

Most documented cases of LGBT human rights violations in Ukraine that are analyzed in this report were collected via an online survey conducted in September 2016 among Ukrainian users of the most popular gay dating websites in the country: bluesystem.org and qguys.ru. We undertook a similar study in 2013 (that time only among users of website qguys.ru).¹ For two weeks all users of those websites, who indicated their residence as being in Ukraine, while visiting that site saw our proposal to participate in collecting

information on violations of LGBT rights. For this purpose, they were asked to fill in a web-form developed by us that was generally similar to the forms we use throughout our monitoring network. Also, information about the survey was circulated by the most popular LGBT social network groups: Facebook and VKontakte. In the preamble to the survey the participants were given an explanation of the terminology used, so that they would understand clearly the difference between crimes / incidents as well as discrimination on grounds of sexual orientation or gender identity (hereinafter abbreviated as SOGI) – as distinct from other problems which they might encounter:

*Crimes and incidents motivated by homophobia or transphobia are any offenses which have the biased attitude to a person on grounds of sexual orientation or gender identity as the motive of committing a crime, from abuse and threats to causing bodily injury.*

*Discrimination is the unequal treatment of a person on any ground that produces negative consequences for her/him. Hate crimes may be regarded as an extreme form of discrimination.*
2. Analysis of the Online Survey Data

During the two weeks time that was given to fill in questionnaires, this opportunity was used by 410 persons. 19 filled-in questionnaires had serious errors which precluded the correlation in constructing multidimensional relations, so they were removed from the total array. Three questionnaires had minor technical errors which did not affect the constructing of relations. Also, 31 questionnaire responses were clarified. The final array gathered for processing the survey's results comprised 391 questionnaires. The poll covered the whole territory of Ukraine, including the territories temporarily beyond governmental control.

Demographic and social indicators

The answers included in the analysis revealed that hate crimes / incidents were encountered thus:

- 2014 – 109 men, 14 women;
- 2015 – 142 men, 9 women, 1 person of another gender;
- 2016 – 104 men, 10 women, 2 persons of another gender.

The vast majority of respondents were men – this is indicative primarily of the fact that popular Ukrainian online resources for the meeting and socializing of homo/bisexual women are few, and those existing do not permit sorting out their Ukrainian users. Respondents could indicate their gender as male, female or "other". The category "other gender" also included lack of response to this item of the questionnaire.

By occupation the respondents were divided as follows (please see Figure 1):
The majority of respondents for the entire study period were represented by employees, as well as pupils and students (in total – 77%).

*Figure 1. Distribution of the respondents by occupation.*

*Figure 2. Distribution of the respondents by sexual orientation / gender identity.*
The distribution by sexual orientation and / or gender identity is shown in Figure 2. The category "other" includes in this chart the answer "straight" and no answers.

Answers to the question "With whom do you live and maintain a household?" were as follows (please see Figure 3):

![Figure 3. Distribution of respondents regarding the persons with whom they reside.](image)

- Single
- With same-sex partner
- With different-sex partner
- With parents or relatives
- Other

Most respondents proved to be single; the second largest category was those who live with parents or relatives. Third place in number were those who live with a same-sex partner; numbers nearly doubled for those living with opposite-sex partner. The last and least numerous group included people living with friends, acquaintances, and a group of men.

Regarding the degree of integration of the respondents with the LGBT community, the corresponding distribution is as follows (please see Figure 4):
Thus, as shown in Figure 4, the largest number of respondents make contact with other LGBTs through the internet. Second place frequency is contact through personal meetings, i.e. meetings in parks, homes etc. In third place are relationships limiting themselves to sexual contacts. Fourth place by popularity is held by visiting gay clubs / bars. It should be noted that specialized venues for homosexuals in Ukraine are very few. Most of them are located in big cities and regional centers. Thus, among the 109 people who visited gay clubs / bars, 79 persons were living in regional centers, 22 persons in cities with a population over 100,000, 6 persons in cities with a population below 100,000, and only 2 persons in towns and villages. A small number of respondents are actively involved in the LGBT movement. One gay teenager indicated that he expects to join the LGBT community (obviously after coming of age), 2 persons answered that they live in a registered same-sex partnership (apparently legalized abroad or in a foreign diplomatic institution).
Crimes and incidents of homophobic / transphobic motives

Most questions in the online survey concerned detection of crime and incidents that occurred during the period since 2014 to September of 2016 (inclusive). The distribution of the number of cases, listed by region and size of settlements where victims lived, is shown in Table 1.

Table 1. The distribution of cases that occurred to respondents, for years shown, with the regions of Ukraine and the residence of the victims.

<table>
<thead>
<tr>
<th>Regions</th>
<th>2014</th>
<th>2015</th>
<th>2016 (first nine months)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
</tr>
<tr>
<td>Total (in years)</td>
<td>123</td>
<td>152</td>
<td>116</td>
<td></td>
</tr>
<tr>
<td>Vinnytsya oblast</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Volyn oblast</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Dnipropetrovsk oblast</td>
<td>8</td>
<td>7</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Donetsk oblast (controlled by Ukraine)</td>
<td>2</td>
<td>5</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Zhytomyr oblast</td>
<td>-</td>
<td>1</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Zakarpatska oblast</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Zaporizhzhya oblast</td>
<td>4</td>
<td>2</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Ivano-Frankivsk oblast</td>
<td>2</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Kyiv oblast</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Kirovohrad oblast</td>
<td>1</td>
<td>-</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Luhansky oblast (controlled by Ukraine)</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Lviv oblast</td>
<td>1</td>
<td>-</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Kyiv city</td>
<td>28</td>
<td>-</td>
<td>-</td>
<td>40</td>
</tr>
<tr>
<td>Mykolaiv oblast</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Odesa oblast</td>
<td>7</td>
<td>2</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Poltava oblast</td>
<td>1</td>
<td>2</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Rivne oblast</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Sumy oblast</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Ternopil oblast</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Kharkiv oblast</td>
<td>7</td>
<td>3</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Kherson oblast</td>
<td>2</td>
<td>-</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Khmelnytskyi oblast</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>2</td>
</tr>
</tbody>
</table>
The largest number of cases was recorded as expected in the country's biggest city – Kyiv; the peak number of incidents took place in 2015, reaching 40 cases. The largest numbers of cases of LGBT human rights violations also correlate with the most populous regions in the East and the South of the country: Dnipropetrovsk (48), Kharkiv (31), Odesa (29), Donetsk (29), and Zaporizhzhya (22). In other regions, the number of documented cases does not exceed 20 in each region for the entire period described.
Figure 5 above shows how the statistics developed in regard to LGBTs suffering crimes and incidents by age groups. Evidently, the number of hate crimes and incidents against LGBT minors tends to decrease, albeit due to the small sample it cannot be stated with certainty. The distribution of these cases is given in Table 2.

Table 2. The number of cases that have occurred with young LGBT persons, listed by types of violations and years.

<table>
<thead>
<tr>
<th>Type of violation</th>
<th>2014</th>
<th>2015</th>
<th>2016 (first nine months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical violence without the use of weapons</td>
<td>4</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Injuries by weapons</td>
<td>1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Rape or other sexual violence</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Damage to property</td>
<td>3</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Robbery</td>
<td>4</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Threats with weapons</td>
<td>3</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Insults or verbal threats</td>
<td>15</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>Extortion of money or other property</td>
<td>4</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Disclosure or threat of disclosure of confidential information</td>
<td>7</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Discrimination (refusal of employment, services, housing rental, etc.)</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

To generalize about the types of violations of LGBT rights in Table 2: the number of violations characterized by moral pressure being exerted on LGBT people who are minors (namely threats with weapons, insults or verbal threats, extortion of money or other property, disclosure or threat of disclosure of confidential information, denial of employment, services, housing rental, etc.) is
as anticipated higher than the number of violations characterized by physical impact.

Additional evidence favoring a conclusion that the crimes and incidents occurred precisely on the basis of sexual orientation and / or gender identity, is that the number of cases of extortion and robberies is low when compared with other types of violations. Thus, in 2014 were registered 17 cases of hate crimes and incidents against LGBT minors but including only 4 cases of robbery or extortion; in 2015 within a total of 13 cases – respectively, were only 2; and in 2016 within a total of 6 cases there were no robbery or extortion cases.

As for the older age groups, the overall situation is characterized by a marked increase in homo/transphobic crimes and incidents in 2015 (please see Figure 5, Table 3).

**Table 3. The number of cases that occurred in LGBT older age groups, by the types of violations and years.**

<table>
<thead>
<tr>
<th>Type of abuse</th>
<th>2014</th>
<th>2015</th>
<th>2016 (first nine months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical violence without the use of weapons</td>
<td>27</td>
<td>49</td>
<td>27</td>
</tr>
<tr>
<td>Injuries by weapons</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Rape or other sexual violence</td>
<td>9</td>
<td>9</td>
<td>4</td>
</tr>
<tr>
<td>Damage to property</td>
<td>14</td>
<td>9</td>
<td>14</td>
</tr>
<tr>
<td>Robbery</td>
<td>16</td>
<td>15</td>
<td>12</td>
</tr>
<tr>
<td>Threats with weapons</td>
<td>9</td>
<td>9</td>
<td>12</td>
</tr>
<tr>
<td>Insults or verbal threats</td>
<td>65</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>Extortion of money or other property</td>
<td>26</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Disclosure or threat of disclosure of confidential information</td>
<td>34</td>
<td>34</td>
<td>38</td>
</tr>
</tbody>
</table>
Discrimination (refusal of employment, services, housing rental, etc.)

As was for juvenile victims (Table 2), the moral damage suffered by LGBT adults from offenders dominated the statistical picture, however also noteworthy were many cases of serious criminal offenses (robberies, rapes, injuries by firearms, unarmed physical violence sans the use of weapons, etc.).

Figure 6 clearly shows, as the figures bespeak, that affected persons rarely applied for help.

1 - Appealed to the police or other government agencies and received help.
2 - Appealed to the police or other government agencies but got no help.
3 - Appealed to non-governmental organizations (LGBT, human rights) and received help.
4 - Appealed to non-governmental organizations (LGBT, human rights) but got no help.
5 - Did not appeal anywhere.

Figure 6. The dynamics of victims' complaints to various agencies for help by years and addressees.
Victims rarely appealed to public associations that protect the rights of LGBT people, and in about half the cases they did not get help from them. This may be connected both with LGBTs’ ignorance about the presence in their region of non-governmental organizations (NGOs, which can provide such assistance), and with a certain distrust of them. Appeals to the police were more numerous, but the effectiveness of those appeals turned out to be even lower than in the case of assistance from NGOs: in 2014 10 persons received assistance, 18 – did not get any; in 2015 – respectively, 7 to 28; in 2016 – 6 to 18. The attitude of many of the respondents to the police may be characterized by a comment of one of them who answered the question "Did you try to protect the rights violated as a result of the incident?" with: "How can I apply for help to the police when only homophobes and extortionists work there?"

Information on specific LGBT rights violators appeared interesting in regard to respondents’ answers about their personal social circle or groups. Thus, over the period under inquiry the statistics acquired developed as follows (please see also Figure 7):

The greatest number of responses received were in the category "unknown person". Over the years, the percentage in this category was: 2014 – 31%; 2015 – 29%; 2016 – 27%. Overall during the period there occurred 152 of those cases.

The consequences for victims during the focal period were:
- Psychological trauma – 107 answers;
- Injury – 47 answers;
- Damage to property – 37 answers;
- No consequences – 33 answers;
- Other – 1 answer ("The damage, of course, took place – both moral and physical. However, I did not allow it to grow into the 'rank' of an injury").
Figure 7. Persons who were LGBT rights violators.
Also a significant percentage fell into two categories, regardless of the year the incident was committed – one was "Little known persons (e.g. neighbors)" and the other was "Group of persons (including organized homophobic groups, far-right groups etc.)": in 2014 – 21 and 20%, respectively; in 2015 – 21 and 24%; in 2016 – 15 and 23%.

During the entire period were noted 99 cases of LGBT human rights violations from unfamiliar people, and 119 – from organized groups. Accordingly we can see that organized homophobic groups are becoming an ever more visible threat to Ukrainian LGBT people.

LGBT victims suffered these types of consequences from a group of persons during the time period under study:
- Psychological trauma – 98 answers;
- Injury – 67 answers;
- Damage to property – 47 answers;
- Without consequences – 5 answers;
- Other – 2 answers, including:
  1) Robbery;
  2) Theft of a camera, watch, backpack, and beating.

Regarding LGBT rights violations by the police, the situation in the first 9 months of 2016 (16 cases) deteriorated compared to 2015 (10 cases) and already at end of third quarter reached the level for all of 2014 (16 cases). The distribution of the types of violations by the police for the entire study period (42 cases) is as follows:
- Verbal insults or threats – 26 cases;
- The threat of weapons – 8 cases;
- Physical violence without the use of weapons – 11 cases;
- Injury by weapon – none observed;
- Rape or other sexual violence – 2 cases;
- Robbery – 5 cases;
- Extortion of money or other property – 19 cases;
- Damage to property – 8 cases;
- Disclosure or threat of disclosure of confidential information – 21 cases;
- Discrimination – 6 cases;
- Other – 2 cases, including:
  1) One case of verbal abuse or threats occurred in 2015, in the category of an unemployed person aged 16-35, in the Desnyanskyi District Police Department of Kyiv city. This person reported that upon his writing an application to the police regarding three of its officers, the head officer tore this application up and turned the victim out of the office.
  2) One case occurred in Kharkiv in 2016 with a person aged 26-35, a worker. The victim noted that law enforcement officers insulted him, extorted his money or other tangible assets, and threatened to disclose confidential information about his sexual orientation. He explained that the police make appointments with gay men via the internet, provoke them into dating with teenagers, and then begin to threaten the set-up victim with criminal prosecution for corruption of minors. Also in crowded places where gays usually meet, they pretend to seek sexual partners, and then extort money.

The consequences for victims of law enforcement officers' actions over the period were:
- Psychological trauma – 36 answers;
- Damage to health – 15 answers;
- Damage to property – 12 answers;
- No consequences – 3 answers;
- Other – 4 answers, including:
  1) They threatened to imprison me, so I had to pay a bribe;
  2) I had to sell my laptop;
  3) Material damage;
  4) Debts.

Some violations also were perpetrated by civil servants, teachers, medical staff, and other service personnel. Thus, 33 criminal cases occurred over the period, including:
- Verbal insults or threats – 23 cases;
- Threats with weapon – 3 cases;
- Physical violence without the use of weapons – 5 cases;
- Injury by weapon – 1 case;
- Rape or other sexual violence – 5 cases;
- Robbery – 2 cases;
- Extortion of money or other property – 4 cases;
- Damage to property – 8 cases;
- Disclosure or threat of disclosure of confidential information – 19 cases;
- Discrimination (denial of employment, services, housing rental, etc.) – 17 cases;
- Other – 1 case which consisted of the administration of unnecessary psychopharmacological prescription drugs with heavy side effects.

The consequences for the victims of this category of offenses over the period were:
- Psychological trauma - 28 answers;
- Damage to health – 12 answers;
- Damage to property – 8 answers;
- No consequences – 5 answers;
- Other – 3 answers, including:
  1) Two people lost their jobs;
  2) One person pointed out that no consequences occurred, but only because of his/her caution.

A number of violations were by colleagues at work or fellow students. In 2014 were indicated 17 persons, in 2015 – 23 persons, and in 2016 – 20 persons. The total for the study period comprised 60 like documented cases, including:
- Verbal insults or threats – 48 cases;
- Threats with weapon - 2 cases;
- Physical violence without the use of weapons – 12 cases;
- Injury by weapon – 1 case;
- Rape or other sexual violence – 1 case;
- Robbery – 3 cases;
- Extortion of money or other property – 7 cases;
- Damage to property – 6 cases;
- Disclosure or threat of disclosure of confidential information – 31 cases;
- Discrimination (denial of employment, services, rental housing, etc.) - 18 cases;
- Other – 1 case consisting of the forced abandonment of residence.

The consequences for the victims in this category of offenders over the period were:
- Psychological trauma – 45 answers;
- Damage to health – 13 answers;
- Damage to property – 6 answers;
- No consequences - 12 answers;
- Other - 4 answers, including:
  1) Three people lost their jobs;
  2) One person left the studies.

Violence in the family includes answers attesting crimes were done by parents or relatives. In 2014 this was indicated by 4 respondents; in 2015 – 5, and in 2016 – 9 respondents. It should be noted that LGBT persons, who mentioned homophobic incidents with relatives or parents in the study period (18 cases total), had the following degree of openness regarding their sexual orientation:
- 4 persons "never hide her/his homosexuality"
- 4 persons "are open only to other LGBT people";
- 5 persons "do not hide their homosexuality but feel no need to talk about it"; and
- 5 persons "hide from the majority but some persons in their heterosexual environment know."

Among those affected over the entire study period and who appealed to the police and got help, was just one person aged 18-25, who in 2014 belonged to the category of "pupil or student". The other victims of domestic violence did not appeal anywhere.

The consequences for those affected over the period were:
- Psychological trauma – 16 answers;
- Damage to health – 6 answers;
- Damage to property - 1 answer;
- No consequences - 2 answers;
- Other – 2 answers, including:
1) I had to leave educational institution;
2) One person pointed out no consequences ensued, but because of only his/her caution.

Most respondents believe that crimes and incidents were related to their sexual orientation and/or gender identity, basing this assertion on the content of verbal abuse suffered (346 cases of 391 for the whole study period). Likewise, in 47 cases the respondents believed that crimes and incidents were related to their sexual orientation and/or gender identity, basing this assertion on the inscriptions relevant to their victimization. 45 cases took place near gay clubs; this association with dedicated venues could well indicate the homophobic nature of the incidents. Other reasons contributing to the determination of the offenders' motives as homophobic were: a meeting set up by the police through a gay website showing false personal information; placing a particular video on social networks, spreading confidential information, and more.
3. **Analysis of the Monitoring Network Data**

Nash Mir Center in 2017 documented 226 cases of actions on the grounds of homophobia / transphobia, discrimination, as well as other violations of LGBT rights in Ukraine. This number is significantly higher than the similar figures for previous years due to the significant expansion of the monitoring network of the Center. 20 cases concern events that took place in 2016, the rest (206 cases) occurred in 2017.

*Table 4. The regional distribution of cases documented in 2017*

<table>
<thead>
<tr>
<th>Region</th>
<th>Number of cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kyiv and oblast</td>
<td>57</td>
</tr>
<tr>
<td>Kharkiv and oblast</td>
<td>34</td>
</tr>
<tr>
<td>Dnipro and oblast</td>
<td>26</td>
</tr>
<tr>
<td>Odesa</td>
<td>22</td>
</tr>
<tr>
<td>Zaporizhzhya and oblast</td>
<td>13</td>
</tr>
<tr>
<td>Zhytomyr and oblast</td>
<td>12</td>
</tr>
<tr>
<td>Lviv and oblast</td>
<td>9</td>
</tr>
<tr>
<td>Donetsk oblast (controlled by Ukraine)</td>
<td>8</td>
</tr>
<tr>
<td>Cherkasy and oblast</td>
<td>8</td>
</tr>
<tr>
<td>Kherson</td>
<td>5</td>
</tr>
<tr>
<td>Vinnytsya</td>
<td>4</td>
</tr>
<tr>
<td>Rivne and oblast</td>
<td>4</td>
</tr>
<tr>
<td>Sumy and oblast</td>
<td>4</td>
</tr>
<tr>
<td>Poltava and oblast</td>
<td>3</td>
</tr>
<tr>
<td>AR Crimea (occupied by Russia)</td>
<td>2</td>
</tr>
<tr>
<td>Donetsk oblast (occupied by Russia)</td>
<td>2</td>
</tr>
<tr>
<td>Uzhhorod</td>
<td>2</td>
</tr>
<tr>
<td>Ivano-Frankivsk occupied by Russia</td>
<td>2</td>
</tr>
<tr>
<td>Luhansky oblast (controlled by Ukraine)</td>
<td>2</td>
</tr>
<tr>
<td>Ternopil</td>
<td>2</td>
</tr>
<tr>
<td>Chernivtsi</td>
<td>2</td>
</tr>
<tr>
<td>Lutsk</td>
<td>1</td>
</tr>
<tr>
<td>Mykolayiv</td>
<td>1</td>
</tr>
</tbody>
</table>
Actions motivated by homophobia / transphobia and hate speech on the part of persons without official authority were noted in 172 cases. 99 of them (13 in 2016, and 86 in 2017) can be described as hate crimes, and 71 (1 in 2016 and 70 in 2017) – as hate incidents. In 7 cases, manifestations of hate speech were recorded. (The italicized terms are used in accordance with the ODIHR / OSCE classification.)

The following types of violations were recorded (please see Table 5, the total number of violations exceeds the number of cases because one case may include several different types of violations):

*Table 5. Distribution of documented cases of violations of LGBT rights in Ukraine for the first 9 months of 2016, showing the types of violations.*

<table>
<thead>
<tr>
<th>Types of violations</th>
<th>Number of cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insults, humiliations of human dignity, threats</td>
<td>134</td>
</tr>
<tr>
<td>Physical violence of varying severity</td>
<td>92</td>
</tr>
<tr>
<td>Homophobia / transphobia in the family</td>
<td>27</td>
</tr>
<tr>
<td>Illegal collection, disclosure or threat of disclosure of confidential information</td>
<td>25</td>
</tr>
<tr>
<td>Extortion and blackmail</td>
<td>22</td>
</tr>
<tr>
<td>Robbery</td>
<td>15</td>
</tr>
<tr>
<td>Brigandage</td>
<td>7</td>
</tr>
<tr>
<td>Damage to property</td>
<td>7</td>
</tr>
<tr>
<td>Hindrance to peaceful actions</td>
<td>6</td>
</tr>
<tr>
<td>Threats by and use of weapons</td>
<td>3</td>
</tr>
<tr>
<td>Fraud</td>
<td>6</td>
</tr>
<tr>
<td>Attacks on LGBT establishments or actions</td>
<td>2</td>
</tr>
<tr>
<td>Sexual violence</td>
<td>1</td>
</tr>
</tbody>
</table>

In 26 cases the offenders were police officers. Most often police officers violate the following rights (please see Table 6):
Table 6. Violations of LGBT rights in Ukraine by law enforcement employees in 2017.

<table>
<thead>
<tr>
<th>Types of violations</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective legal remedies (improper performance of functions for protection of rights, refusal to protect rights)</td>
<td>18</td>
</tr>
<tr>
<td>Discrimination (insults, humiliations of human dignity, threats, biased attitude)</td>
<td>8</td>
</tr>
<tr>
<td>Respect for privacy (illegal collection, disclosure or threat of disclosure of confidential information)</td>
<td>4</td>
</tr>
<tr>
<td>Freedom and personal integrity (extortion of bribes, violation of procedural norms, offenses, humiliation of human dignity, threats, excess of power and official authority)</td>
<td>4</td>
</tr>
<tr>
<td>Hate speech (homophobic inscriptions / calls)</td>
<td>1</td>
</tr>
</tbody>
</table>

The data on cases of LGBT rights violations for 2014-2016 can be found in the annual reports of Nash Mir on the situation of LGBT people in Ukraine.²

During the period of 2014-2016 Nash Mir Centre provided 102 consultations on legal issues related to SOGI. In 37 cases, consultations concerned documented cases. Most who applied for legal assistance were interested in writing application statements to the police citing the facts of an offense motivated by homophobia or transphobia, and in how to protect their rights in cases of hate crimes and incidents. In 2017 Nash Mir Center provided more than 70 such consultations.

4. Examples of Hate Crimes and Incidents

From the monitoring network's data base we have selected several dozen of the most characteristic and/or glaring examples of crimes and incidents motivated by homophobia or transphobia that occurred in the period from 2014 to 2016 inclusively. In this chapter we for the most part present examples of cases that we documented during 2016 (although the described events could occur during the entire study period of 2014-2016). We reported examples of earlier incidents in our publication on hate crimes for the previous years.3 While we strive to fact-check the reported testimonies, we cannot guarantee their absolute truth. The cases are reported here in the way they are described in the preserved testimonies given us by the victims or witnesses or recorded from their own words by our monitors. We translated the obtained information and made minimal grammatical and length-shortening adjustments. The location and year of each incident is indicated in parentheses after the case number.

Case 515 (Kyiv, 2014)
Zhovten cinema was burned on the evening of October 29, 2014, in Kyiv. During the demonstration of a movie on LGBT topics within the Molodist International Film Festival, two young men threw bottles containing an incendiary mix into a room containing about a hundred spectators. As a result of this crime, the building was seriously damaged, leading to the temporary closing of the film theater. Fortunately, people were evacuated in time from the blazing building.

Within one day the police arrested two individuals who reputedly committed the arson. According to an adviser to Interior Minister Anton Gerashchenko, the detainees revealed the motives of their action this way: "They wanted to commit a hooligan act at a film screening on LGBT issues, conducted within the Molodist International Film Festival, in order to thwart this particular show and

3 Please see note 1.
thus to demonstrate their contempt for the LGBT community in general. The suspects swear that they just wanted to disrupt the screening of a film on LGBT issues and could not have imagined that their actions would lead to fire and destruction of the cinema."

Figure 8. The arson of Zhovten cinema in Kyiv (Case 515).

Figure 9. The screening hall of Zhovten cinema after the arson.

This was the first homophobic incident in Ukraine which endangered the lives and health of so many (several dozen) people and caused such a great material damage loss (about 2.5 million US dollars). On
May 10, 2015, Holosiivskyi District Court of Kyiv city adopted its decision in the Case 752/1463/15-κ, sentencing the perpetrators to 2 and 3 years in prison. However, the Court freed them from punishment in the form of imprisonment, putting them on probation for a period of 2 years (meaning that the adjudged will remain at liberty if they commit no new crimes and follow the supervision rules of criminal executive inspection for the next 2 years). Despite the defendants' admitting to the homophobic motive of their crime, the investigation and the court completely ignored this fact, and accordingly accused and sentenced them only for ordinary hooliganism.

![Figure 10. A police officer seriously wounded in the attack at the Equality March (Case 543).](image)

**Case 543 (Kyiv, 2015)**

On June 6, 2015, several dozen youths attacked participants of the Equality March and the police who guarded them. As a result of the use of explosives by the attackers, about 10 police officers suffered trauma, and during a "hunt" by the attackers for the March participants after the demonstration’s end, another 9 demonstrating
persons suffered. The police arrested 25 attackers at the scene, but later they were released.

On April 8, 2016, Obolonskyi District Court of Kyiv city made a decision in Case 756/16243/15-κ. The investigation and the court accused four attackers of committing ordinary hooliganism, completely ignoring the obvious homophobic motive of the attack. The court recognized the defendants’ "sincere repentance" in committing a crime as a fact that mitigated the sentence (although the only thing they grieved over, apparently, was that the attackers’ victims turned out to be law enforcement officers and not marchers). One of the defendants, Danylo Dashevskyi, expressly stated in the court: "My actions were not aimed at causing injuries to police officers. We tried to disrupt the event and the spread and propaganda of sexual minorities' actions who actually [...] were involved in the spread and propaganda of perversions."

![Figure 11. The attack on the police officers during the Equality March in Kyiv (Case 543).](image)

The prosecutor and the accused signed an agreement on recognition of guilt, which was approved by the court and led to the conviction
of the accused and to 3 years in prison each. Simultaneously, the court freed them from imprisonment as punishment, but set them a probation period of 2 years.

Case 550 (Odesa, 2015)
On July 20, 2015, about 4 am, at the address 60 Ryshelyevska Str. in the city centre, an explosion occurred at the entrance to club Libertin which was known in Odesa as a place where LGBT people gathered and relaxed. At the site of the explosion the police found grenade RGD-5 fragments. The explosion caused damage to the club entrance and injured a club manager (an injury to his leg by explosion debris) who at that time was in the club. A few hours before the explosion, the inscription "Family values first. The Right Sector" appeared on the asphalt nearby the club.

Figure 12. The entrance to club Libertin in Odessa after the explosion of a grenade (case 550).
Three months later, on 2 November, 2015, a police station on duty received information from [emergency telephone] service "102" that at 10 Bolharska Str. in Odesa an unknown man was threatening with a grenade. The police arrested the offender who was carrying an RGD-5 grenade and a package of cannabis. During the interrogation, the detainee confessed that on July 19, 2015, he received a package of the drug and two RGD-5 grenades from a man named Serhii whom he met in the market Privoz and who proposed to him that they carry out attacks, as stated in the court sentence, "from motives of obvious disrespect for persons of non-traditional sexual orientation." After the criminals threw a grenade into the entrance of club Libertin on July 20, a few minutes after committing the first crime they threw another grenade at the entrance to the basement that once housed club Tema, which also used to be a meeting place for LGBT people in Odesa, at the address 6 Pushkinska Str.

On January 16, 2018, Malinovskyi District Court of Odesa sentenced the detained offender to imprisonment for 5 years, at the same time freeing him from punishment on probation for 3 years (Case 522/521/18916/15-к).

Case 610 (Vinnytsya, 2015)
Andrii met a guy named Max in Vkontakte; they met in person the next day about 3 p.m. on the quay by Roshen fountain. Walking, they were approached by 3 other young guys who, surrounding Andrii, began calling him "fag", offending him, shooting at the camera, and hitting on his head. After making a video of Andrii confessing that he is gay, the violators threatened to show the video to his parents, family and in the school. They demanded 5 thousand hryvnias for their silence. Andrii gathered the money and brought it to them on Wednesday. The meeting turned out to be with another guy, who called himself Serhii. He said that Andrii had to bring another 5,000 hryvnias or make other gay guys acquainted with them (and the violators would blackmail them the same way). Andrii did not know what to do – he had no more money, and did not want to expose other gays. So the next day the boy victim decided to commit suicide
by swallowing pills. He was saved by his college teacher, who decided to visit him in the hostel and called an ambulance. Andrii's life was saved. In desperation, he told everything to the teacher, and she – to the director of the school. They insisted that the student write an application to the police. The next day they went to the police station. The police accepted the application and gave Andrii an assignment for him to get documentation of the blows suffered. The police did not contribute to an informed investigation of the violations and Andrii decided to leave the school. After making his own investigation, Andrii concluded that the offenders were minors from Modnyi Prigovor ("Fashion Sentence", a homophobic group) because he found their actual pages in Vkontakte.

Case 638 (Mariupol, 2015)
A few police officers, posing as gay men looking for dates, suggested meeting the victim via social networks. While meeting they illegally detained the victim, and took him to the district police department where they extorted money amounting to 8,000 UAH – or they would report him at work, and to his parents and neighbours about the meeting. The victim was forced to pay this amount.

Case 654 (Odesa, 2015)
"One guy appointed a meeting, brought me to his home; in some time a few men entered the apartment calling themselves Modnyi Prigovor ["Fashion Sentence", a homophobic group]. They demanded money lest they tell anything to [my] family and friends, and threatened to beat me and showed me videos as they beat other guys... After this case [I] had to give money to the attackers; after that they demanded more... The fear of further meeting with anyone... No action was committed because the attackers said that they have the police officers among them and it's pointless to apply anywhere."

Case 702 (Ivano-Frankivsk oblast, 2015)
Oleksandr worked in a private hotel as an administrator for 6 months. For the duration of this time there were no complaints about his work – quite the contrary, he was given bonuses for his work, and he did advertising about the hotel on the internet that attracted more
visitors. Forgetting to close properly his page on the social network (Facebook) on his own laptop, he left it at his workplace. The owner of the hotel took and used Oleksandr's laptop. Whether this was done on purpose or by accident is not known, but the owner entered Oleksandr's page and read his private correspondence which was very outspoken. He then immediately fired Oleksandr and said that he needed no "faggots" in the hotel, even if they were they were there only to wash the toilets. Upon discharge, Oleksandr did not receive his salary for the last month. It turned out that on the hotel’s records he was not formally employed. He also received threats that unless he returned home to Ivano-Frankivsk, everybody in the resort town would learn about his orientation, and he would never find a good job again even at home.

Case 873 (Cherkasy, 2017)
For a few days (January 20-21, 2017) Oleksandr in Cherkasy was pursued by two strangers (aged 18-19) of far-right political convictions. Several times the offenders threatened the victim with physical harm and demanded 200 hryvnias while insulting him with homophobic remarks. Several times the victim managed to call the police which did not bring any results because the offenders behaved defiantly even with the police and continued to pursue the victim further. The victim filed a crime report application to the Central Police Department of Cherkasy.

Case 911 (Lviv, 2017)
On January 3, 2017, in Lviv, the victim met through social networks a guy who pretended to be a member of the LGBT community. Arriving at the meeting site, the victim faced four strangers in balaklavas who surrounded him and kicked him in the stomach while shouting homophobic remarks and threatened that "if they caught him again, he would regret to be born." The victim did not appeal to the police.

Case 915 (Nizhyn, Chernihiv oblast, 2017)
A gay man aged 21 from Nizhyn city of Chernihiv oblast met through the internet with a guy; they liked each other and wanted to continue their acquaintance. On March 1, 2017, they chose the basement of
the victim’s house for an intimate meeting. The next day the victim was approached by his 28-year-old neighbour who said that he wanted to show him something interesting. He showed a video on the mobile phone on which was clearly visible the victim and that he had sex with a guy. The neighbour explained that he purposely followed the victim and his boyfriend that day and made a video specifically to blackmail. For his silence the neighbour demanded 2,000 hryvnias from the victim otherwise he would spread the video among relatives and neighbours of the victim. The victim did not seek the help of the police because he was afraid of disclosing his orientation to his relatives and the public.

Case 917 (Odesa, 2017)
On April 1, 2017, in Odesa, the victim aged 30 came to meet a boy whom he met through the internet. The meeting was held in the apartment of a new friend. After their brief communication, two other unidentified men in masks came from another room, beat the victim, then shot on video his confession about his job and position, what his financial saving are, that he is married, etc. After that, these guys took away his mobile phone, money and keys to the car, which was then stolen. The victim applied regarding the crime to the police. They opened two criminal proceedings under Articles 289 and 187 of the Criminal Code. According to the victim, the police began to mock him and behave improperly when they learned that the incident happened under homophobic motives.

Case 921 (Mariupol, 2017)
On April 22, 2017, in Mariupol, a small action took place against advertising in which people are shown as a product or object to use. Protesters walked by Prospect Mira holding posters that showed examples of such advertising. Activists urged a halt to using this method for goods promotion.

Near the Central supermarket, some young people of sporting appearance attacked the protesters while tearing the posters, screaming, shouting obscene homophobic expressions and trying to attack the protesters. They also stated that they opposed LGBT
people and same-sex marriages. The attackers behaved aggressively and tried to chase the protesters.⁴

![Figure 13. A homophobic attack on a rally in Mariupol (Case 921).](image)

**Case 924 (Zhytomyr oblast, 2017)**

On May 1, 2017, Natalia (aged 35) rested on a lake in Zhytomyr oblast with her partner Halyna (aged 37). After that they returned to their rented apartment. A large company of people relaxed in the common courtyard. One of the men asked the victim "Where's your man?", and she replied that she had no man and was a lesbian. The man attacked the victim with the words "Those like you do not have to live, I'll kill you and bury."

The police crew accepted a call only on the third try. On arrival, learning the cause of the incident and taking Natalia testimony, the police behaved improperly, mocking her. They also strongly pressed the victim and advanced assumptions like "[the victims] drank alcohol, a lot of" while not allowing the victim to describe the actual circumstances of the incident. Then the victim went to document the

⁴ Новости Донбасса, В Мариуполе радикалы напали на участников акции против насилия, 22.04.2017, novosti.dn.ua.
injuries and give evidence to the investigator. Under pressure, she signed a document on refusing to testify. The police did not arrest the assailant and did not even invite him to the police station. The next day, the victims returned and insisted on making a statement about the crime. Eventually, the police opened a criminal proceeding.

*Case 926 (Zaporizhzhya, 2017)*

On May 6, 2017, activists of Charity Foundation *Gender Z* together with partner organizations held in Zaporizhzhya an annual Rainbow Flashmob under the motto "Equality of Diversity". The action lasted for 20 minutes on Heroes Square (in front of the Zaporizhzhya Oblast State Administration). The event went quietly, without provocations. Only after the end of the flashmob did a group of five young men catch up with its participants at the entrance to the building where the office of Gender Z is situated. The strangers, who were aggressive, started to insult activists. After foul language of a homophobic nature, they began to use their fists. First the strangers gave a slap to a girl, then they repeatedly beat and kicked a boy and kicked another participant. The incident was recorded on a surveillance camera.

The press secretary of the police told reporters who asked about details of the incident: "It does not concern the flashmob at all! There was a group of young men, a girl and a few boys. They started talking with another company. They do not have any relation to the flashmob – just people on the street. And then a conflict between them took place: the girl told something to someone in the other company, guys stood up for her defence, and they just pushed each other. There are even no injuries. Somebody from a nearby house saw this and called the police. As a result, one company did not go to the [police] station at all, and the girl with a guy were brought to the district station. But the girl said that she would not lodge a complaint and declared that she accepts a certain amount of guilt because she provoked the situation a little bit." The police press service also said that neither the girl nor the boy declared their belonging to the
flashmob or to the organization [Gender Z], and that the case would not be included into the Unified Register of Pre-trial Investigations.

Meanwhile, journalists saw directly that the police were summoned exactly by the event's organizers. The information on the crime (Part 1, Article 125 of the Criminal Code) was eventually included into the URPI.5

Figure 14. The attack on police guarding an action on the IDAHOT in Kharkiv (Case 935).

**Case 935 (Kharkov, 2017)**

On May 17, 2017, in Kharkiv, an action was planned for the International Day against Homophobia and Transphobia. The action did not start because it was disrupted by a group of about 100 aggressive men who were armed and shouted homophobic insults and incitements to violence. The assailants sprayed a gas into the face of one of the action's female participants, broke the heads of

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5 Пороги, Нацполіція заперечує причетність побиття активістів до “Райдужного флешмобу” у Запоріжжі, 06.05.2017, porogy.zp.ua.
two police officers, spat at the action's participants, burned a flag of the LGBT community, and blocked police cars. The police, who ensured public order at the event, were forced to evacuate the action's participants. The victims filed a statement of crime under Part 1, Article 345 of the Criminal Code.6

Case 948 (Dnipro, 2017)
On June 10, 2017, at 00:13 am, the victim was resting with three friends in his home. At this time someone simultaneously broke with stones a few windows (kitchen, living room, bedroom) in his house / apartment. One of the guests was hit by a stone in his head that resulted in an injured ear. The police were called and went to search for offenders but no one was detained. The same evening, someone again threw a stone in the victim's window that flew within a few inches from his head.

About a year ago, the victim already was an object of harassment and physical violence attempts by local hooligans who tried to physically injure the victim's transgender female friend and who stressed the fact that "gays meet" in his house. The victim filed an application with the Sobornyi District Police Department in Dnipro city.

Case 950 (Kyiv, 2017)
An hour after the Equality March, Oleksander travelled by bus in Podilskyi district of Kyiv. When he left the bus and went about 50 meters from the bus stop, an unknown man ran up to him and, while saying "Well, how's the Equality March?", threw the victim to the ground and for a minute beat him together with another unknown man. The victim suffered physical injuries of various severity: injured on his rugged chin and finger. The incident was filed with the police.

Case 951 (Kyiv, 2017)
On June 19, 2017, about 10 pm, Stas (aged 24) came out of the house to go to a grocery store. Nearby his home he noticed two suspicious unknown young men and tried to get around them, but they ran up

6 Зеркало недели, В Харькове радикалы напали на акцию ЛГБТ-сообщества, 17.05.2017, zn.ua.
to the victim and sprayed tear gas into his face – with the words "Happy Pride to you!", and then disappeared from the place of the incident. The day before, the victim had participated in the Equality March 2017 as a security volunteer. The victims filed an application about the crime with the Podilske Police Department in Kyiv. The police started a criminal investigation which then was handed over to the Shevchenkivske Department.

**Case 954 (Kyiv, 2017)**

On June 19, 2017, about afternoon, Halyna (aged 27) and Mykhailo (aged 30) at the end of the Equality March travelled by metro to Petrivka station where they changed to another train destined towards the city centre. At this time, three suspicious men sat in the car with them. The victims wanted to emerge at Kontraktova Ploshchcha station, but the three unidentified had emerged beforehand, so they went on to Poshtova Ploshchcha station. When they came out at Poshtova Ploshchha, they noticed a group of other guys spying on them (finally, the victims realized that the previous pursuers had passed on to this new group information about their appearance). Halyna and Mykhailo took refuge in a cafe, waited there for about an hour, and called a taxi. When the taxi drove up, the victims left the cafe and went a couple of meters when they were immediately attacked. First, two assailants started beating Mykhailo while the third attacked Halyna, took her by the throat and began to strangle, beat, and tear her shirt. Then he was joined by a fourth assaulter who began to sprinkle pepper spray directly into her eyes. The men who attacked the victims were not those who pursued them in the metro. According to Halyna, the attackers obviously knew whom they attacked because the victims were dressed quite ordinarily and without LGBT symbols. The incident was filed with the police.

**Case 956 (Kyiv, 2017)**

On June 1, 2017, Oleksandr was walking with a female friend by Khreshchatyk (the most popular street in downtown Kyiv). When they ascended by Prorizna street, they noticed that they were
followed by three unknown young men (aged about 20) in clothes with nationalist symbols. When the unknown men approached the victims, they began to question why Oleksandr painted his nails, why this hairstyle, why such a bag, why such an appearance, why he looks "like a girl". They asked whether he was not gay. Oleksandr did not respond, but suddenly one of the unknown men began to beat him in the ribs, legs and face, breaking his nose till it bled blood. The beating lasted about two minutes, then one of the unknowns said "Enough," and the attackers moved on. When applying to the police, the investigator asked several times the victim whether he would buy him two bottles of whiskey "Jack Daniels".

*Case 1014 (Kremenchuk, Poltava oblast, 2017)*
In early June 2017, while resting on the "wild beach", where Kremenchuk's LGBT community traditionally rest, a few unknown men approached the victim and his friends. They showed "some certificate" (supposedly of the Security Service of Ukraine). All the friends scattered, and the unknown attackers beat the victim and broke his jaw in two places. The victim was very frightened and also was afraid of disclosure at his work, so he did not appeal to the police.

*Case 1049 (Kyiv, 2017)*
On November 23, 2017, 15-year-old Yevhen was waiting for public transport at a transport stop in Kyiv when he was approached by three aggressive guys who attended his university in a different year. They started to insult him with homophobic statements, and to throw plastic cups. Soon one of them began to choke Yevhen, and the others hit his face with their fists while shouting calls to beat him up because of his homosexual orientation. It lasted about 10 minutes, after which the victim was released. He has not contacted the police because he fears disclosure of his sexual orientation, particularly before his parents.

*Case 1053 (Dnipro, 2017)*
On August 1, 2017, Valerii (aged 32), nearby his home in Dnipro city, met a group of unfamiliar boys. They started to insult him with
offensive remarks of a homophobic character, and said that they had seen him with a guy. Then one of them took out a pistol, put it to the victim's temple and said to go to the courtyard. There they hit the victim on the head and started kicking him, so that he fainted and only later regained consciousness. The victim filed a crime report with Soborne Police Department in Dnipro city.

Case 1085 (Kyiv, 2017)
After participating in KyivPride 2017, Inessa (aged 40) faced offensive homophobic insults and threats from her stepfather that lasted a long time. On October 28, 2017, at 1:20 pm, during a conflict initiated by the stepfather, he caused a number of injuries to the victim. The victim received severe psychological shock and multiple physical injuries of varying severity. For a long time the victim could not go out of her apartment for fear, on the one hand, and her face mutilated by beating, on the other. The incident was reported to the police, and a criminal proceeding was initiated.
5. Opinions of the LGBT Community on Homophobic Violence and Discrimination in Ukraine

In order to enhance legal awareness and to encourage the protection of their rights, activists of Nash Mir held in 2016 a series of training sessions and focus group researches on hate crimes among local LGBT communities in Kharkiv, Dnipro, Lviv, Odesa and Kyiv. We provide below the most informative and typical, in our view, opinions and testimonies of participants of these events, responding about the problems associated with homo / transphobic violence and discrimination that they face in their everyday lives. The direct words of focus groups' participants are shown in quotation marks.

The focus groups' participants were asked a number of questions which garnered replies, and of particular note were the following answers:

Have you been a victim of hate crimes motivated by homo- / transphobia?
Do you know cases of hate crimes / incidents in your city?

All focus groups turned out to contain victims of hate crimes motivated by homophobia or transphobia. The participants of all groups were aware of other similar cases in their cities. We do not cite their stories about such incidents, inasmuch as they are included in the total dataset of the monitoring network.

How effective was investigation of hate crimes committed in your city by the law enforcement agencies?

Kharkiv: Most participants argued that the investigation of such cases is a very difficult matter and faces very high resistance from the law enforcement agencies.

Odesa: "No results." "The issue of qualification is being decided, as is establishment of any homophobic motive as a main motive of the crime. Investigators and prosecutors strongly resist such a turn of affairs, arguing that the mentioned motive is not there."
Kyiv: "In our city [Sumy] was "queer Andryushka"; he dressed all in women clothing but still wore a huge red beard. Two years ago he was murdered on ground of hatred towards LGBT people, but the case is still not investigated." "Last year, the police worked very quickly in one case: they came to the victim and by the use of physical force forced him to take back a statement about the crime." "In those incidents / crimes where applications were submitted to the police, investigations are not carried out; that has a frankly negative impact on the attitude of the victims to this issue."

Do you know about the activities of organized hate groups in your region?

Kharkiv: "Okupay-pedofilyay (although they are not so active now), Modnyi Prigovor ["Fashion sentence"], Sokil ["Falcon"], the Right Sector, ultras, groups working on the same principle but not identifying themselves in any way." Everybody also noted the growing number of small groups of guys (about 3 persons) whose main activity consists of extortion and robbery of gay men using dating through social networks.

Dnipro: Most members know of organized hate groups that conduct their activity through social networks. In Zaporizhzhya they are White Terror and Modnyi Prigovor, and they operate not through official channels, but through active youth. One respondent from Kyiv also mentioned the group Buratino.


Odesa: "[I have] seen how the youth from Modnyi Prigovor beat a gay man in the present Green Theater." "Okupay-pedofilyay, Modnyi Prigovor." "The Right Sector, Samooborona ["Self-defense"]." "Football ultras from Molodaya Nenavist ["Young Hatred"] and Soborka."

Kyiv: "Some groups identifying themselves either with The Right Sector or Azov corps". "The Right Sector, Aidar, Azov, Modnyi Prigovor." "Besides the groups said earlier, I know of a few groups in
VKontakte with Nazi symbols (for instance, Misanthropic Division)." "Aidar, Azov, the Right Sector, Modnyi Prigovor, Okupay-pedofilyay, Tryzub ["Trident"], Svoboda.

**Do you know cases of crime / hate incidents by the police?**

Kharkiv: "This winter there was a fight in our gay club. They called the police. The patrol force arrived quickly, behaved very calmly and tolerantly, even though we were after the show and on heels." "The militia [the previous law enforcement agency that had remained since Soviet times, but is now replaced by the new police] "figured out" a beach was gay on the river, and for a very long time were engaged in extortion under various pretexts. Many people there were in trouble. When the police appeared, trouble stopped."

Dnipro: "Yes, we know: homophobia, unfriendly attitude, refusal to perform their direct functions." "My acquaintance was literally beaten by a police officer to whom he turned for help, after he was beaten in the street by homophobes."

Lviv: Such cases are unknown.

Odesa: "When submitting an application, a police officer cracked jokes; we were kept in the police station together with the people who assaulted us. When we indicated that we are gay, a police officer noted: "So, maybe they even tried to rape you fags?"

Kyiv: Such cases are unknown.

**How do you consider, whether criminal responsibility for hate crimes has to be more severe?**

Kharkiv: "No, it does not. If we want and demand equal treatment for ourselves, then we should not ask for stricter punishment for crimes. Since it would distinguish us from the majority." "Yes, sure, it will create the preconditions to ensure that their number decreases." "This should be a lesson for everyone, so [I] agree." "Yes, but it should apply not only to LGBT people but to all vulnerable groups." Most of the participants called for strengthening the responsibility for hate crimes.
Dnipro: All participants felt that the responsibility for hate crimes should be definitely stricter than in cases of ordinary crimes.

Lviv: "Committing a hate crime on grounds of SOGI has to be an aggravating circumstance, along with the commission of a hate crime based on race, nationality or religious beliefs." "Yes, we in Ukraine must adopt an analog of the American Matthew Shepard amendment. It can cause a considerable public response. Since gays are usually beaten to the very end." "Yes, because these crimes bear a message to society. Impunity creates a ground for new crimes against LGBT people, contributes to their spread." "There should be an additional penalty in the form of educational training." The majority of respondents answered the question positively.

Odesa: "Yes, provided high-quality ‘re-education of the criminal’". "Strict to the maximum, that they do not want to do so." "No, as this way LGBT people would attract extra attention." Opinions of the audience were divided.

Kyiv: "Yes, because the violence inflicted during the commission of crimes has a more cruel character." "This must be a qualifying feature when determining punishment." "We need to fix the clear legal concept of hatred, particularly referring to the Universal Declaration of Human Rights." "Yes, a [hate] crime committed not because of the personal hatred to a person but through her/his membership in a particular group." "Yes, without accepting all-human values, there cannot be further development." "Yes, since it's a manifestation of xenophobia." "Yes, any discriminated group needs more serious protection."

**Would you turn for help if you were sure that your case would be investigated?**

Kharkiv: Most participants would appeal to the police in any case. One participant said that he feared disclosure of his personal life.

Dnipro: All participants responded positively.

Lviv: All participants responded positively.
Odesa: The views of the participants were divided. Most would turn to the police in any case. Some feared vengeance and disclosure of their personal lives. "It is necessary to appeal with such applications, no matter whether the case is investigated or not, because your every request is already a step towards overcoming criminality. Each undeclared fact occasions hidden statistics that in our country are very significant, especially concerning LGBT".

Kyiv: All participants responded positively.

Do you know the facts about hate speech towards LGBT? From whose side?

Kharkiv: The church, politicians, the city mayor and his team, representatives of the local media.

Dnipro: Most participants knew of cases of hate speech, some faced such incidents regularly. One participant mentioned the police officers who provided security at a queer party at KyivPride. According to him, they were indignant: "Why should we protect these queers here?"

Lviv: "Politicians, religious leaders, at all levels, in fact." "Christian churches". "Church leaders". "Colleagues, neighbors." "The church, the interior minister." "Artem Skoropadskyi, Dmytro Korchnytskyi, Illya Kyva, the leader of Svoboda in Dnipro Ihor Tokovenko, a Svoboda member in Lviv Vasyl Moldovan, the chaplain of the Ukrainian Greek Catholic Church in Lviv, Sadovyi, the secretary of the Lviv City Council" [activists of far-right nationalist organizations and the city management].

Odesa: Most participants knew cases of hate speech, some faced such incidents regularly. "Teachers in Odesa Academy of Law." "Svoboda [political party]." "Kyva, Arsenii Yatsenyuk, Orthodox churches, Artem Skoropadskyi" [conservative and nationalist politicians].

Kyiv: "In the region – one hundred percent of representatives of government agencies, prosecutors, police." Identified were
representatives of the church, police, public activists, civil servants, former militia, some members of LGBT organizations, Love Against Homosexuality (a religious and homophobic group).
6. **Nash Mir Center Activities in Setting Up Mutual Understanding and Cooperation to Combat Hate Crimes**

During 2017 Nash Mir’s team, in cooperation with other organizations and individual LGBT activists, held seven round tables in various regions of Ukraine aimed at strengthening dialogue between civil society, local authorities, and the National Police in terms of prevention of discrimination and hate crimes. These events took place in Chernivtsi, Dnipro, Kharkiv, Zhytomyr, Zaporizhzhya, Odesa, and Kherson. After each of these events, its organizers met with the local LGBT community to discuss issues relevant to their particular region.

Each meeting had its own distinctiveness, depending on the cultural and political realities of the region. In particular, the meeting in Chernivtsi, held on May 24, was visited by Mayor Oleksii Kaspruk who pointed out that Chernivtsi positioned itself as a pro-European and tolerant city, because since ancient times different nationalities, ethnic groups, and religious denominations have peacefully coexisted there.

A distinctive feature of the meeting in Dnipro on June 25 was that, in addition to the invited members of the police and local authorities, the gathering was visited by authoritative members of the local Jewish community, representatives of local libraries and cultural centres, and the event was held in the main Jewish centre of the city. In addition to the usual discussion of anti-discrimination legislation and statistics on hate crimes in the region, the topic of solidarity of the LGBT community with the Jewish community and other members of vulnerable groups was touched upon in order to overcome discrimination jointly.

The round table held on 18 September in Kharkiv raised for discussion two high-profile cases of discrimination and hate crimes against LGBT people in the region: murder of a 26-year-old gay man in 2015, when the court ignored the motive of hatred in committing crime; and the disrupted action to the International Day against Homophobia and
Transphobia on May 17, 2017. Lawyers present at the meeting, who deal with these cases, reported disappointing results after their attempts to achieve recognition of these offenses as hate crimes. Also, the event was attended by a human rights activist dealing with the rights of people with disabilities, and representatives of local feminist organizations that helped make the event truly inclusive.

Zhytomyr round table on combating hate crimes and discrimination, held on 6 October, was marked by its orientation on interaction with wider society, youth, and the education sector. Patrol Police representatives shared their experiences of educational and prevention activities within local schools to prevent violations and crimes. The police told those present that among teenagers training to combat bullying in school is the most popular training. In particular, such instruction draws attention to bullying stemming from another’s sexual orientation or gender identity. For her part, however, a representative of Zhytomyr Regional Association of Social Workers shared her disappointing experience of training on tolerance: it was found that not only teachers but also psychologists and social workers cannot speak freely on the topic of sex in general, let alone on sexual orientation and gender identity issues.

Meeting in Zaporizhzhya with representatives of local authorities, human rights activists, the police, and all involved in ensuring adequate protection of human rights -- has become extremely relevant. This relevancy is the outcome of an attempt by right-wing radical groups to disrupt the Equality Festival, and attacks on the LGBT centre of Charitable Foundation Gender Z after the "Rainbow Flashmob" on the International Day against Homophobia / Transphobia. Such a round table was held on December 6 with the participation of local LGBT activists' mothers united within Parental Initiative Tergo. Stories from mothers about how their children repeatedly suffered from violence and abuses because of their sexual orientation, moved everyone present.

It is important to note the immediate practical consequences of our meetings on establishment of cooperation between the local LGBT
communities and the National Police: thus, within a few days LGBT activists of Zaporizhzhya decided to conduct a regular human rights flashmob and appealed for help (in protecting against possible aggression by enemies of the LGBT movement) to the Main Police Department in Zaporizhzhya oblast -- consequently resulting in a high level of safety at the event. A few weeks onward the situation repeated with a new rally where the result was the same: a high level of professionalism and understanding between organizers and the police, who removed the threat to the event and confirmed the effectiveness of the round table.

Another meeting was held at a round table in Odesa on December 8. This event was the first having an interregional character because the assistance of LGBT Association LIGA, which was a partner in organizing the event, ensured the presence of investigators, civil society, and human rights defenders not only from Odesa but also from Mykolayiv. The presence of investigation department representatives of both regions allowed those present objectively to discuss existing problems around effective investigation of hate crimes in southern Ukraine. Unfortunately, representatives of the local authorities of these regions ignored the meeting.

The last round table in 2017 on combating discrimination and hate crimes took place in Kherson on December 18. The main idea of the meeting was formulated by the regional Coordinator on public relations of the Parliamentary Commissioner on Human Rights in Kherson, Oksana Tropina: "Educating society on maximum tolerance towards vulnerable groups will reduce the degree of tension in society, and the very concept of discrimination will become clear to everyone. Thanks to the constructive dialogue we can reach agreement, so we need to establish joint cooperation and work out effective measures in combating hate crimes."

Thus, the conducted meetings in the regions altogether demonstrated the willingness of both local communities and the National Police, and sometimes local authorities, to cooperate in addressing the problem of hate crimes. However, communication
with representatives of various structures within the National Police showed that fundamental changes in this area are possible only under a fundamental reform of the current legislation and policy of the Interior Ministry on human rights protection. Currently, the police have no satisfactory legal basis nor the knowledge, skills and guidance for combating hate crimes in general, and particularly for those motivated by intolerance on grounds of homophobia / transphobia. A major obstacle is also the sustained ignoring of this problem by the Office of Public Prosecutor.
7. REVIEW OF THE CURRENT LEGISLATION AND JUDICIAL PRACTICE,
CONCLUSIONS, PLANNED REFORMS

The Criminal Code of Ukraine contains a number of articles (namely, 67, 115, 121, 122, 126, 127, 129, 293) providing for more severe punishment for crimes committed under motives of racial, ethnic or religious intolerance, and Article 161, which establishes criminal responsibility for incitement of national, racial or religious enmity and hatred, as well as for discrimination on the open list of grounds. Thus, despite the fact that currently the very concept of "hate crime" in the Ukrainian legislation is absent, in fact this category of crimes is recognized but only on the three aforementioned grounds. If such a crime were committed, in particular, under homophobic or transphobic motives, the current Ukrainian legislation does not provide for it a heavier penalty and, therefore, does not recognize it as a hate crime.

In the opinion of Ukrainian human rights organizations, this situation is unacceptable, so they have long been trying to convince lawmakers to expand the list of motives of intolerance, which aggravate in severity penalties for committing such crimes – in particular by adding intolerance on grounds of sexual orientation and gender identity. Meanwhile, they also support the decriminalization of discrimination, which, in their view, should be seen not as a criminal but as an administrative offense, and should entail less strict liability. Eventually, the Ukrainian government agreed with the proposals of civil society. Adopted in 2015 the Action Plan to Implement the National Strategy on Human Rights for the Period until 2020 contains provisions (paragraph 105, measure 3) about the "removal from the disposition of Article 161 of the Criminal Code of Ukraine the part concerning criminal liability for discrimination (direct or indirect restriction of rights or direct or indirect privileges on various grounds) – along with the amendments made to the Code of Ukraine on Administrative Offences and the Civil Code of Ukraine, providing for fines, damages, etc."
The same paragraph provides for "ensuring punishment for crimes committed under motives of intolerance on grounds such as race, skin color, religious beliefs, sexual orientation, transsexuality, disability, language (amendments to paragraph 3 of Article 67, the second paragraph of Articles 115, 121, 122, 126, 127, 129, Article 293)."

As regards Article 161, a group of members of Ukraine's parliament registered Bill 3501 which was adopted at first reading on 16.02.2016. This bill, in particular, removes responsibility for discrimination from Article 161 while adding to the Code of Ukraine on Administrative Offences Article 188 Violation of legislation on preventing and combating discrimination." Unfortunately, this bill does not add sexual orientation and gender identity to the list of grounds on which discrimination is explicitly prohibited (contrary to that envisaged in the Action Plan and recommendations of the Council of Europe's experts) – thus the prohibition of discrimination on SOGI grounds remains only implicit ("or other characteristics") and that, in practice, is not sufficient to combat effectively discrimination on these grounds.

Quite unexpectedly, the Chief Investigation Department of the Ministry of Interior in 2016 began to collect information on cases of hate crimes for motives different from those three mentioned in the Criminal Code (i.e. racial, religious or national / ethnic intolerance) without its waiting for the reform of criminal law.

Also in 2016 specialists of Lviv State University of Internal Affairs, together with employees of the Chief Investigation Department, developed guidelines on investigation of hate crimes that are designed for "heads of departments of the preliminary investigation, investigators, employees of operational units, experts as well as for students and scholars of legal schools." Overall, the recommendations combine recommendations of the OSCE / ODIHR regarding hate crimes with the findings of the so far scant practice of investigating these crimes in Ukraine.
In general, we can only welcome the emergence of at least any such guidelines for police officers encountering crimes motivated by prejudice and intolerance, but the mentioned publication contains a number of significant drawbacks. First, although it explains that "an investigator at the initial stage of investigation should find out with which kind of xenophobia he will work" and then lists the following manifestations (racism, ethnophobia, religious intolerance, language antipathy, sexism, intolerance on grounds of age or health, homophobia), – in fact throughout the text it refers only to investigation of crimes committed under motives of intolerance on grounds of race, national (ethnic) origin and religious beliefs. The guidelines contain no mention of crimes committed under motives of intolerance on other grounds. Annex 3 to these guidelines, which contains a list of expert institutions in the field of investigation of hate crimes, begins with the National Expert Commission of Ukraine on Protection of Public Morals, which was abolished in 2015, a year before the publication of the guidelines. Appendix 5 contains, in particular, the "symbols of racist, neo-Nazi, extremist and other organizations in various countries" – Poland, Italy, Russia, Croatia, Romania, Germany, Spain, Greece – yet the text of the guidelines nowhere mentions Ukrainian organizations and groups of this kind.

In addition, some practical recommendations to investigators raise serious doubts – for example, on the legal qualification of violent crimes motivated by intolerance at the initial stage of pre-trial investigation. The authors of the recommendations, on the one hand, believe that this qualification is possible only after "the establishment of a criminal suspect, because the motive for the crime is an element of mens rea that is virtually impossible to prove without the suspect / accused," thus, "when investigating crimes of this category, the primary criminal legal qualification of a criminal offense always will be qualification of it as a crime against the life and health of an individual without any qualifying characteristics or with other qualifying characteristics which are evident at the time of including information in the Register." On the other hand, they warn that "in no way may be allowed reluctance to include relevant information in
the Unified Register of Pre-trail Investigations about committing crime on grounds of racial, ethnic or religious intolerance." Thus, the motive of intolerance is still not so unobvious, but in any case investigators are recommended to leave it outside the URPI. It should be noted that publications of the OSCE / ODIHR provide a number of objective signs / indicators which give reason to believe that the motive of prejudice is present, even without the identification of persons of specific offenders. Thus, in order to be a truly effective tool in the investigation of "hate crimes," the above LSUIA/CID publication clearly requires broader consultations with stakeholders, and at the least, a substantial improvement regarding national or religious intolerance so the motive of intolerance is still not so obscure, but in any case investigators recommend leaving it outside YERDR. It should be noted that the publications of the OSCE / ODIHR provide a number of objective signs / indicators that give reason to believe that the motive bias occurred, without specific identification of persons as offenders. Thus, in order to be a truly effective tool in the investigation of hate crimes, the mentioned publication obviously requires, at least, a substantial revision.

Comparing the results of the investigation of crimes and incidents motivated by homo / transphobia for the period of 2014-2016 with the results of a similar previous study for the period 2012-2013, Nash Mir can see that the situation of violence and discrimination against LGBT people in Ukraine over the past three years did not evidence any signs of improvement. As evident from Table 8, in 2013 among all types of LGBT human rights violations sharply increased their share of such violations as insults / humiliations and threats of disclosure or disclosure of confidential information, as well as physical violence. We attribute this to the fact that some informal Russian homophobic groups (first of all, Okkupai-pedofilyai) at this time extended their activities into the territory of Ukraine. The leader of this movement, Russian neo-Nazi Maksim Martsinkevich nicknamed Tesak ("Slasher"), held in 2013 a kind of "tour" through

7 Please see note 1.
major cities of Ukraine. There on tour he met with his supporters and conducted workshops on abuse and public humiliation of homosexuals, who were enticed via the internet allegedly on a date.\(^8\)

Against the background of the Russian aggression, in 2014 the number of such cases slightly decreased, but we can see that in 2015-2016 informal homophobic groupings again intensified their activity. All participants of the focus groups conducted by Nash Mir in 2016 complained about this. The Russian-import Okkupai-pedofil'yi now meets Modnyi Prigovor of the same origin. In Zaporizhzhya operates the similar group Naslediye ("Heritage") which specializes in provoking gay men to have sex with minors, expecting that the victim, who could break the Criminal Code, will not complain to the police about the violator's action. Unfortunately, the police, knowing about illegal activities of the group, still turn a blind eye to it.\(^9\)

While the above-mentioned groups are engaged only in bullying and extortion of single gay men, such organizations as the Right Sector, Aidar, Azov, Svoboda etc., mentioned in focus groups, do not even hide that they stand behind organized attacks on LGBT events and venues – in particular, attacks on the Equality March in Kyiv, the Equality Festival in Kyiv, Lviv, Odesa, community centers in Odesa, Kryvyi Rih and others. It is clear that such activities involve not all members of those political movements and veterans or volunteers of the respective military forces; however, it is also clear that the leadership of these structures not only does not dissociate themselves from manifestations of homophobic aggression, but rather openly supports and encourages it. All these groupings, without exception, existing in Ukraine, which have been noticed in their planned attacks on LGBT events and venues, profess ultra-right wing and racist ideology. They consider their homophobic activity as the struggle for the future of the Ukrainian nation and the "white

\(^8\) Please see, for instance, Nash Mir Center, *Report on Hate Crimes against LGBT Persons in Ukraine in 2013, 2014*, gay.org.ua.

\(^9\) Please see, for instance, the video of TV5, *They among Us*, 30.09.2016, youtube.com.
“race” that only emphasizes the fundamental similarity and equal social significance of crimes under motives of national or racial hatred, which are actually recognized by Ukrainian law as hate crimes, and crimes motivated by homophobia or transphobia.

An unacceptably high level of homophobia and transphobia expressions among law enforcement officers, demonstrated by the results of our monitoring, leads to the fact that Ukrainian LGBT people do not trust such officers and do not see opportunities to protect their rights with their help. This results in the impunity status of LGBT rights abusers as well as to an underestimation of the prevalence of crime and incidents under homo / transphobic motives – already low due to the fact that the victims of such crimes are simply afraid or find it nonsensical to inform the law enforcement agencies of their own enforcement staff peers. It should be noted that the reputation of the newly formed patrol police among the Ukrainian LGBT community is much better than for the rest of the MIA's structures. The number of complaints about patrol police work has noticeably diminished, and gratitude for their help indeed has significantly increased compared to the situation observed before the reforms. Similarly should be noted the readiness of the National Police leadership to work with LGBTs and human rights organizations in developing and implementing policies of tolerance, prevention of discrimination and protection of vulnerable minorities.

However, it should be noted that the structures of law enforcement are altogether an integral part of Ukrainian society, and therefore cannot but in general share its characteristic views. Addressing the Ukrainian LGBT community's problems requires overcoming their prime source cause: homophobic prejudice that holds dominance in Ukrainian society. For example, a recent poll conducted by the Kyiv International Institute of Sociology at the request of Nash Mir, showed that 60% of the Ukrainian public perceive rather negatively or definitely negatively people of homosexual orientation, including 42% who responded with a definitely negative attitude to such
people. This result underlines the need for broad educational campaigns, inclusion of sexual orientation and gender identity issues in school curricula, and for programs of training and professional development for teaching staff, lawyers and law enforcement officers.

The overview of the judgments (sentences, decisions) in criminal proceedings mentioned in the Unified State Register of Court Rulings showed that the majority of decisions were taken in respect of crimes against life and health (murder, bodily injuries of varying severity), most often committed on the "ground of personal hostile relations connected with non-traditional sexual orientation" or under lucratively inclined motives. The victims are solely gay men.

Viewed overall, here are the general trends observed:

1) most crimes are classified as grave and especially grave (punishment for which provides for imprisonment up to 10 years, and more than 10 years or life imprisonment, respectively);

2) the majority of crimes were committed with extreme, unjustified cruelty to the victim (for example, a large number of stab wounds, attempts to commit a demonstrative execution, dismemberment of the corpse);

3) a standard practice of defendant / defender is to choose a defense tactics which provides that the actions of the defendant were caused by the (gay) victim's illegal encroachment on his health and sexual freedom and integrity. At that, such actions allegedly committed by the victim, in terms of the defendant have resulted in a state of affect that has significant influence on the qualification of the crime. However, the courts are critical of this position of the
defense, generally, objectively assessing the real motives of the crime. Only in one case did the court of appeal change the qualification of a crime from murder (part 1 of Article 115 of the Criminal Code of Ukraine) to murder committed in a state of extreme emotion (Article 116 of the Criminal Code);  

4) quite often is the situation when criminals choose their victim on the basis of sexual orientation, believing that the victim will not turn to law enforcement – because, for instance, of being ashamed of his/her sexual orientation;  

5) most cases involve a set of crimes, namely crimes against life and health in connection with crimes against property.  

The Ministry of Interior of Ukraine stated in its letter that it finds it necessary to introduce in paragraph 3 of part 1 of Article 67 of the Criminal Code of Ukraine (CCU) "Circumstances aggravating punishment" amendments which would "create a more effective prevention and combating discrimination system by creating a norm based upon the 'enmity model.'" The Interior Ministry also points out that "changing dispositions of certain articles of the Criminal Code [that is changes to the second parts of Articles 115, 121, 122, 126, 127, 129, and Article 293 envisaged in the Action Plan (para. 105, measure 3)] by adding another qualifying feature of 'commission for motives of intolerance' is inappropriate."11  

Given the position of the Ministry, it is worth paying attention to the provisions of the Criminal Code of Ukraine and the relevant jurisprudence regarding the imposition of punishment by the courts. Imposing penalties, courts in each case have to comply with the requirements of the criminal law and must take into account the severity of the offense, the identity of the perpetrator and the circumstances mitigating or aggravating punishment (Decision of the Supreme Court of Ukraine "On the practice on imposition of criminal  

11 Ministry of Interior of Ukraine, Department for Formation of Policies on the Minister-Controlled Governmental Agencies and Monitoring, Letter 14/223i,23i of 15.07.2016, 2016, the archives of Nash Mir Center.
punishment by courts" No. 7 of October 24, 2003). The circumstances aggravating punishment are provided for under Article 67 of the Criminal Code. One of these circumstances is commission of the crime on ground of racial, national or religious enmity or discord (paragraph 3 of Article 67 of CCU). Listed in part 1 of Article 67 of the Criminal Code, the list of circumstances aggravating punishment is exhaustive, so the court has no right to refer to other circumstances as aggravating and to take them into account in sentencing, unless they are explicitly mentioned in this Article. Thus, the aggravating circumstances – particularly, the motives of intolerance on grounds of SOGI – should be enshrined in paragraph 1 of Article 67 of the Criminal Code.

The Plenum of the Supreme Court in the above-mentioned decision emphasizes that, pursuant to paragraph 2 of Article 67 of the Criminal Code, the court, having established the presence of aggravating circumstances stated in paragraphs 2, 6, 7, 9, 10, 12 of part 1 of this Article, is obliged to mention them in its judgment and take them into account in sentencing (please note with attention that above-mentioned paragraph 3 is absent from this list). According to part 2 of Article 67 of the Criminal Code, the court may, depending on the nature of the offense, not recognize any of these circumstances mentioned in part 1 of this article, except the circumstances specified in paragraphs 2, 6, 7, 9, 10, 12, as aggravating, providing the reasons for its decision in the judgement. Therefore, even if amendments to paragraph 3 of part 1 of Article 67 should expand the existing list of motives of bias / intolerance, the court in each case will have the right not to consider those circumstances when assigning punishment as aggravating. Thus, the effective application of Article 67 in cases of crimes motivated by homophobia or transphobia will be impossible without amendments not only to part 1 but also to part 2 of Article 67 of the Criminal Code – for example, unless it will be provided as follows:

2. The court may, depending on the nature of the offense, not recognize any of the circumstances
mentioned in part 1 of this Article, except the circumstances specified in paragraphs 2, 3, 6, 7, 9, 10, 12, as such that aggravate punishment, when providing the reasons for its decision in the judgement.

Part 1 of Article 11 of the Criminal Code says that crime is "provided for in this Code a socially dangerous act (action or inaction) performed by the subject of a crime." Public danger consists in that the act / omission either causes damage to relations protected by law, or involves the real possibility of causing such damage. This feature of crime is one of the criteria relevant to classifying offenses. Thus, the degree of public danger (gravity) defines:

1) a general crime – contains the basic elements of a crime and contains no mitigating or aggravating (qualifying) circumstances (for instance, murder, i.e. intentional illegal infliction of death to another person);

2) a crime with mitigating circumstances – characterized by circumstances which greatly reduce the social danger and punishment for this type of crime (e.g. murder committed in a state of extreme emotion);

3) a crime with aggravating circumstances, i.e. those aggravating and influencing qualification of the crime (such as murder for motives of racial, national or religious intolerance);

4) a crime with particularly aggravating (particularly qualifying) circumstances, that is providing special public danger because of the crime (e.g. theft committed on large scale or by an organized group).

The content of the social danger of the crime as one of its features, and its impact on the classification of crimes according to their severity, are essential in the context of the delimitation of hate crimes from other crimes. This is explained in that the damage caused by hate crimes to society as a whole may be significantly higher compared with the damage from crimes caused without prejudices.
The very serious consequences (i.e. higher public danger, gravity) are a key reason why hate crimes are classified as crimes of the relevant type with aggravating circumstances.

Currently homophobia and transphobia, widespread in society, are considered by many Ukrainians as some kind of "traditional values" that incite their desire to protect them in any way, and that instigate criminals to use them for their own purposes. Gays look like convenient victims for blackmail and robbery who will not want to apply to the police for protection, fearing publicity. The homophobic beliefs of the criminals are often used in the courts as arguments which are to mitigate the extent of their guilt. Thus, in Case 337/6787/15-κ, which was considered on 06.02.2016 in the Court of Appeal of Zaporizhzhya oblast, the defense of the persons accused of robbery and extortion made an appeal citing the fact that "the indictment does not make clear at all that the guys wanted in an unusual way to establish justice in society, to punish those relating to sexual minorities, that PERSON_4 had no intent to take possession of another person's property, but had only a desire to teach a lesson." In our view, the situation when homophobic or transphobic motives of crimes are not considered by law as socially dangerous only contributes to maintaining a high level of hate crimes against LGBT people.

Therefore, in our opinion, the position of the Interior Ministry to limit amendments in the Criminal Code to extension of the list of circumstances that aggravate punishment, is one-sided and leads to leveling the value and nature of hate crimes as those having a much higher level of public danger compared to "ordinary" crimes. It is not enough to punish severely crimes committed for motives of hatred on certain grounds – the law has to treat them as a separate class of crimes, emphasizing their particular public danger.

In addition, under part 1 of Article 65 of the Criminal Code, the court shall appoint punishment "within the limits set in the relevant article (a part of the article) of the Special Part of this Code" – that is, unless an article provides increased punishment for a hate crime, the
punishment for this crime may not exceed the maximum penalties for an "ordinary" crime. If to consider consistently the motive of hatred on certain grounds only as circumstances aggravating punishment but not affecting the qualification of a crime, it will lead to sanctions provided for committing hate crimes being significantly lighter than those provided for the commission of qualified crimes.

Finally, it should be noted that, of course, deliberate actions aimed at inciting enmity and hatred, humiliation of honor and dignity or causing offense on certain grounds, as provided in Article 161, are also hate crimes. For some reason this article was not mentioned in the Action Plan among those which are to impose "punishment for crimes committed for motives of intolerance on grounds such as race, skin color, religious beliefs, sexual orientation, transsexuality, disability, language", but it is clear that appropriate changes should be made to this article as well.
8. **Recommendations**

The Action Plan to Implement the National Strategy on Human Rights for the Period until 2020 contains provisions aimed at addressing most of the aforementioned legal and political issues, without which it is impossible to overcome homophobia and social problems caused by it. The task of the Ukrainian authorities, civil society and our foreign partners consists in achieving its strict and timely implementation. In particular, LGBT components of the Action Plan include:

- paragraph 39, measure 5; deadline – III quarter of 2016: adoption and revision of governmental normative acts on the protection of peaceful assemblies in accordance with modern international standards in the field of peaceful assemblies, taking into account the specifics of controversial gatherings, including events of the LGBT community;

- paragraph 105, measure 1; deadline – I quarter of 2016: development and submission to the Cabinet of Ministers of Ukraine of a draft law on amendments to the Law of Ukraine "On Principles of Prevention and Combating Discrimination in Ukraine" on [...] complying with the provisions of the EU's legal acts the list of grounds on which discrimination is prohibited, including prohibition of discrimination on grounds of sexual orientation and gender identity;

- paragraph 105, measure 3; deadline – II quarter of 2016: development and submission to the Cabinet of Ministers of Ukraine of a draft law on amendments to the Criminal Code of Ukraine on [...] removal from the disposition of Article 161 of the Criminal Code of Ukraine the part concerning criminal liability for discrimination (direct or indirect restriction of rights or setting indirect or direct benefits on grounds) – along with the amendments made to the Code of Ukraine on Administrative Offences and the Civil Code of Ukraine, providing for fines, damages etc.; the provision of penalties
for crimes committed under motives of intolerance on grounds such as race, skin color, religious beliefs, sexual orientation, transsexuality, disability, language (amendments to paragraph 3 of Article 67, the second parts of Articles 115, 121, 122, 126, 127, 129, Article 293);

- paragraph 106, measure 2; deadline – II quarter of 2016: development and placing of posters for victims of hate crimes in the police and ambulance stations;

- paragraph 107, measures 5 and 6; deadline – since the first quarter of 2016: development, involving international experts and civil society representatives, of a training course for law enforcement officials to prevent discrimination and to keep law enforcement officers from effecting discrimination towards vulnerable groups; introducing the respective course in training, retraining and advanced training of law enforcement officers;

- paragraph 109, measure 1; deadline – III quarter of 2016: approval of a protocol / instructions on accepting application about a criminal offense taking into account the motive of intolerance mentioned by the victim;

- paragraph 109, measure 2; deadline – IV quarter of 2016: development and inclusion of a course on effective and proper investigation of hate crimes in training, retraining and advanced training programs of law enforcement officers;

- paragraph 109, measure 3; deadline – IV quarter of 2017: development and adoption of joint guidelines of the MIA and Prosecutor General of Ukraine to investigate hate crimes by law enforcement bodies with regard to the methodology of the OSCE;

- paragraph 109, measure 4; deadline – IV quarter of 2018: development and adoption of the order on introduction of specialization (imposing duties) for prosecutors and
investigators responsible for monitoring the investigation of hate crimes in each region.

At the time of drafting this report (February 2018) we can state that only partial fulfillment of some above-mentioned provisions are realized. Fundamental changes to the Criminal Code, which should ensure criminalization of hate crimes motivated by homophobia / transphobia provided in the measure 3, paragraph 105 of the Action Plan for the second quarter of 2016, have not been developed and submitted to the Cabinet of Ministers. Moreover, the position of the MIA on this issue is tantamount to revision of this provision of the Action Plan and narrowing of the planned changes. We cannot accept such a proposal and we believe that the planned changes have to be made to all mentioned articles of the Criminal Code (paragraph 3 of Article 67, parts 2 of Articles 115, 121, 122, 126, 127, 129, Article 293) as well as to Article 161. The exact mechanism for the implementation of these changes is a subject of discussion, but they certainly must meet the following criteria:

- the penalties for crimes motivated by intolerance on grounds of race, skin color, national or ethnic origin, language, religion, sexual orientation, gender identity should be higher than for offenses without aggravating circumstances;
- the grounds of race, skin color, national or ethnic origin, language, religion, sexual orientation, gender identity must be explicitly specified in the text of the Criminal Code as aggravating penalties for crimes committed under motives of intolerance on certain grounds;
- the court should be obliged to consider the motive for commission of crimes listed above as a circumstance aggravating the penalty;
- deliberate actions aimed at incitement of enmity and hatred, insult of the feelings of citizens, humiliation of honor and dignity of citizens on grounds listed above must be criminalized.
9. LGBT HUMAN RIGHTS NASH MIR CENTER

LGBT Human Rights Nash Mir Center is a Ukrainian public organization which aims to implement and protect the rights and freedoms, meet public, social, cultural, political, economic and other interests of the Ukrainian LGBT community. Our history dates back to the mid-1990s, when a small group of enthusiasts from the East Ukrainian city of Luhansk decided that it was a time for those public activities. The official registration of Nash Mir Center took place in 1999.

Our activities are aimed at both the LGBT community and Ukrainian society as a whole. Now we focus our efforts on:

- Monitoring LGBT rights violations.
- Legal aid and counseling to victims of discrimination and hate crimes on grounds of sexual orientation or gender identity.
- Legal education of the LGBT community.
- Joint action with other organizations to protect the equal rights for LGBT people on the legislative and political levels.
- Strategic litigation.
- Support for local initiative groups in their activities of providing social and psychological support for LGBT people, mobilization of the LGBT community at the local level.
Tab 14
ON THE RISE
LGBT SITUATION IN UKRAINE IN 2017

Kyiv
2018

This publication presents information that reflects the social, legal and political situation of the LGBTI (lesbian, gay, bisexual, and transgender) people in Ukraine in 2017. It contains data and analyses of the issues related to LGBT rights and interests in legislation, public and political life, and public opinion, provides examples of discrimination on ground of sexual orientation or gender identity and more.

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The report (in Ukrainian and English) is available on the website of Nash Mir Center.
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SUMMARY

In 2017 the position of the Ukrainian LGBT community and the attitude of Ukrainian society and the state towards LGBT issues do not demonstrate any fundamental changes in comparison to the previous year. The central government continues declaring equal rights for LGBT people, while being in no hurry to fulfil its obligations under the Action Plan on Human Rights. The police force, in general, provides rather reliable protection measures against LGBT homophobic aggression under a prior agreement, but reluctantly and inefficiently investigates hate crimes against LGBT people.

Ukrainian society is gradually becoming more aware of the real problems and demands of their LGBT compatriots, and more tolerant to manifestations of homosexuality and transgender identity. Right-wing radical nationalist forces and the churches remain the main adversaries of LGBT people, but while the former do not weaken (on the contrary, they increase their homophobic activity and rhetoric) the latter are trying to avoid evident "hate speech" and direct calls for discrimination against LGBTs.

Ukrainian LGBT community shows a rise in its activity and visibility in society. With varying success, but firmly, it establishes contacts and cooperation with the central and local authorities, police, government agencies and non-governmental organizations across the country. The main obstacles to its activities are the limited material and financial capacities of LGBT organizations and individual activists, as well as the significant increase in homophobic / transphobic aggression by right-wing radical groups.

Nash Mir Center in 2017 documented 226 cases of acts motivated by homophobia / transphobia, discrimination and other violations of LGBT people's rights in Ukraine. Most homophobic / transphobic aggression, discrimination and other violations is suffered by representatives of LGBT communities of big cities, where they are most visible: Kyiv, Kharkiv, Odesa, Dnipro, and Zaporizhzhya.

Because after the annexation of the Crimea by Russia homophobic Russian law actually took effect there, any public activity of the LGBT community...
on the peninsula is now impossible. Meanwhile, no laws at all are in place and act in the occupied part of Donbas, thus not only social activity, but also the very lives of LGBT people are at risk in this area.

The main recommendations we make to the Ukrainian authorities on LGBT issues remain strict implementation of the Action Plan on human rights and combatting manifestations of homophobia and transphobia in all areas of life.
1. Legislation and the Judiciary

Since the beginning of 2017, Ukrainian legislation regarding LGBT rights and interests has not changed. Discrimination on grounds of sexual orientation and gender identity (SOGI) is still explicitly prohibited only in employment, and the Family Code and secondary legislation keep their set provisions openly discriminating against LGBT people. The motives of homophobia and transphobia are not considered as aggravating circumstances in the commission of crimes.

Since the end of 2016, realization of the LGBTI components of the Action Plan to Implement the National Strategy on Human Rights for the Period until 2020 has been nearly halted. Inter alia, the following among its items remain unfulfilled (the implementation period of which expired in 2016-2017):

- Para. 60 Measure 8 and identical Para. 62 Measure 1 (working out the medical standards to treat intersex persons);
- Para. 105 Measure 1 (regarding introduction of sexual orientation and gender identity (hereinafter abbreviated as "SOGI") as protected grounds in the Law of Ukraine "On Principles of Prevention and Combating Discrimination in Ukraine") – the Ministry of Justice plainly refuses to implement it;
- Para. 105 Measure 3 (amending the Criminal Code to criminalize offenses on motives of intolerance, particularly on grounds of SOGI, and to decriminalize contagion by HIV and other infectious diseases) – the Ministry of Interior does not want to implement this provision of the Action Plan in its current form, and is waiting for approval of amendments to the Action Plan that would allow it not to implement the current form;
- Para. 105 Measure 6 (development and submission to the Cabinet of Ministers of Ukraine a draft law to legalize registered civil partnerships for both opposite-sex and same-sex couples in Ukraine) – up to now the Ministry of Justice and the Ministry of Social Policy each have shifted the duty to draft this bill upon the other Ministry, and at the end of 2017 the Ministry of Justice decided that, given the numerous objections of homophobic
organizations and politicians to drafting this bill, "sub-item 6 of item 105 of the Action Plan cannot be implemented";

- Para. 7 105 Measure (lifting the ban on adoption of children, particularly by transgender and HIV-positive people) – to our knowledge, the Ministry of Health has developed a corresponding draft order, but it received a negative feedback assessment during a public discussion before a conservative religious audience, and a draft order has not been approved;

- Para. 109 Measure 2 (development and inclusion of a course on effective and proper investigation of hate crimes in the training of law enforcement officers).

The above list is not exhaustive; we mention only the most important (in our view) and still unimplemented LGBTI components of the Action Plan. In an informal conversation, representatives of the Ukrainian government told us that these items currently lack a "political will" behind them – that is, direct approving instructions from the Administration of the President or leadership of the Cabinet of Ministers. It should be noted that the overall level of implementation of the Action Plan according to civil society organizations does not exceed 25% – that is, the Ukrainian authorities sabotage implementation of it as a whole, and not just its LGBTI components. The specificity of the latter components lies in their special importance for the Ukrainian LGBT community existing in a very vulnerable and disadvantaged position.

Also, because of the resistance of churches and religious organizations, ratification of the Istanbul Convention (on prevention of violence against women and domestic violence) was halted. A common demand of the major Ukrainian churches is avoiding the use of the concepts of "sexual orientation", "gender" and their derivatives, in the Ukrainian legislation in general; and many Ukrainian MPs are ready to fulfil any wishes of the All-Ukrainian Council of Churches and Religious Organizations.

1 Міністерство юстиції України, Звіт про виконання плану заходів з реалізації Національної стратегії у сфері прав людини на період до 2020 року, с. 258, minjust.gov.ua.
However, despite the opposition of churches and their parliamentary lobbyists, the current version of the anti-discrimination article of the draft Labour Code of Ukraine remains without changes, thus providing a clear prohibition of discrimination in employment on grounds of SOGI. It should also be noted that in late 2016 the Cabinet of Ministers submitted to the Verkhovna Rada Bill 5511, which provides for the introduction of SOGI as specific grounds protected from discrimination in Article 11 of the Law "On Employment". Further, it adds sexual orientation to the list of grounds prohibited in advertisements on employment (Article 241 of the law "On Advertising"). However, against the background of the current problems with already planned legislative initiatives to protect LGBT human rights, the adoption of this bill in its current state seems unlikely.

Ukrainian courts in 2017, as far as we know, did not pronounce obviously illegal judgements to ban LGBT public actions as often happened before. In the only known case when local authorities tried to ban the Equality March in Konotop through their alleged inability to ensure its effective protection by the police, the court refused to satisfy the plaintiff's claim.²

² 05447.com.ua, Суддя Сумського адмінсуду дозволила гей-паради в Конотопі, 03.06.2017, 05447.com.ua.
2. THE STATE AND LOCAL AUTHORITIES, LAW ENFORCEMENT AGENCIES

Official representatives of the Ukrainian government in 2017 mentioned LGBT people rarely and rather indirectly, but, in general, showed a positive or at least neutral attitude to protection of their rights. Vice-Prime Minister for European Integration Ivanna Klympush-Tsintsadze, like last year, strongly supported the Equality March in Kyiv and the overcoming of negative stereotypes about LGBT people in Ukrainian society. Worth mentioning is the interview of Andriy Mahera, Deputy Head of the Central Election Committee, given to Mir’s internet edition, who, inter alia, said: "For example, the issue of LGBT rights – it causes resistance in society, thus a politician thinks so: ‘They may call me somebody like this – so I would not raise the issue.’ But human rights – either they exist or they don’t. Here is the question of principle. There are no exceptions." Also Anastasia Dyeyeva, Deputy Interior Minister for European Integration, clearly stated in support of equal rights for LGBT people in her Facebook comment: "For me, all citizens of Ukraine, including representatives of LGBT and people with disabilities, are absolutely equal and enjoy equal rights. This is the key to a strong and healthy society!"

Very important was the statement of the President of Ukraine Petro Poroshenko on the efforts of religious and conservative MPs to remove an explicit prohibition of discrimination on SOGI grounds from the new draft Labour Code: "I want to warn some MPs on their intention to revise those laws which became the basis for the adoption by our partners the decision to grant visa-free regime. Whether trying to cancel or make non-public electronic declaration, or attempts to dispose of anti-discrimination amendments to the Labour Code, or decrease of authority of the NABU [National Anti-corruption Bureau] or the NACP [National Agency on Corruption Prevention]." There is no doubt that such a consistent and
firm position of the head of state led to the rejection of this amendment at the sitting of the relevant parliamentary committee.

However, a campaign of the public movement “Vsi razom!” (All Together!) – a new project of well-known homophobic journalist and activist Ruslan Kukharchuk – has been recently spread through local councils across Ukraine. This campaign adopts appeals to the leadership of Ukraine to ban "propaganda of homosexuality" and to keep LGBT-discriminating provisions in Ukrainian legislation. Currently, such statements (with almost identical texts, based on the resolution of the festival "All Together – for a Family!" signed by five hundred of the event’s participants) have been adopted by Rivne, Ternopil and Poltava oblast councils as well as Khmelnytskyi, Ivano-Frankivsk, Ostroh, Kamyanets-Podilskyi and Fastiv city councils. As it later became known, members of Ivano-Frankivsk City Council, who unanimously voted for the proposed resolution, did not even see its text. However, it is worth noting a very small number of local councils that adopted corresponding appeals to the state leaders: for instance, such initiatives by representatives of Svoboda party were not supported in Kherson city and Zhytomyr oblast councils. Dnipro city Mayor Boris Filatov reacted to the decision of Ivano-Frankivsk deputies in a very emotional manner: "Fags were impeded by gays. ... Colleagues, I am, of course, sorry, but that beats everything. Do you have nothing to do anymore?"

Also noteworthy are some positive trends by local authorities to build a modern democratic society in Ukraine: for example, a statement appearing on the official Facebook page of Uzhhorod City Council strongly condemned the attack of right-wing groups on participants of an action in support of women’s rights and for the ratification of the Istanbul Convention. Further, Chernivtsi Mayor Oleksii Kaspruk, who already condemned a similar attack on an LGBT event in the city, this year welcomed in person the participants of the round table on combating hate

7 Kurs.if.ua, Франківська міськрада вимагає заборонити пропаганду гомосексуалізму в Україні, 15.12.2017, kurs.if.ua.
9 Ужгородська міська рада. Офіційна сторінка, 09.03.2017, facebook.com.
crimes against LGBTs and stressed the importance of this work for the city community. In 2017, the number of local authorities’ applications to courts to limit public LGBT events has decreased significantly: even Odesa City Council, which in recent years consistently tried to ban mass public LGBT events in the city, this year did not do so. Meanwhile, Konotop Mayor Artem Semenihin and the City Council still tried to ban the Equality March in their town, but the court rejected their claim (it should be noted that in fact this march was not planned and was not performed).10

As in recent years, the office of the Ukrainian Parliamentary Commissioner on Human Rights was the most active public institution in monitoring violations and protecting the rights of the Ukrainian LGBT community. The Ukrainian ombudsman's annual report on the situation of human and citizen's rights in Ukraine, published in early 2017, already traditionally includes a chapter titled "Discrimination on grounds of sexual orientation and gender identity." As stated in this chapter, "In 2016, special attention of the Commissioner was also drawn to the situation of the right to peaceful assembly for LGBTIs. [...] However, it should be noted that in most cases the organizers stated an obstruction in carrying out those events by individual representatives of the authorities. Regarding each such incident, the Commissioner in her appeals to law enforcement agencies emphasized the positive duty of the state to guarantee security during a peaceful assembly in accordance with the European standards."11

Considering the obvious positive changes in attitudes towards LGBT actions by local authorities and police departments in 2017, we believe that the activities of the Commissioner to protect the legitimate rights of the Ukrainian LGBT community are quite vigorous and effective at this stage.

In 2017, the practice of granting asylum by our country to persons persecuted for their civic activities and belonging to the LGBT community in other countries was totally negative. In particular, the State Migration

10 Please see note 1.
Service refused to grant asylum to Belarusian LGBT activists, journalists and showman Edvard Tarletskyi\textsuperscript{12} and to Russian trans activist Soldado Kowalisidi.\textsuperscript{13}

In 2017 cooperation between the National Police of Ukraine and the LGBT movement has been continuing and expanding – in particular, representatives of the Patrol Police, the Chief Investigation Department, and the Department on Human Rights participated in events organized by Nash Mir Center and other LGBT organizations in various regions of Ukraine. The main issues discussed at these meetings were combating hate crimes stemming from motives of homo- and transphobia, providing security at public LGBT events, and tolerant and professional treatment of LGBT persons by police officers.

This year there were no attempts by the local police to withdraw from protecting public LGBT activities and no recommendations of theirs to local governments for them simply to ban such events, as always happened in previous years. As in 2016, the Kyiv police very professionally and efficiently provided protection to the Equality March from homophobic aggression; protection of this similar event in Odesa was also quite adequate. However, despite a quite sufficient number of police officers at the sites, the police failed to prevent attacks of very aggressively homophobic youth groups on small LGBT actions in Kherson and Kharkiv, which LGBT actions as a result of police negligence were all completely thwarted. Generally, inaction or too passive reaction to the harshly aggressive behaviour of LGBT events’ opponents remains quite typical of the Ukrainian police, who in such cases only try to protect the victims of the attack from the aggressors, but hesitate to put an end to the obvious violation of public order and to the civil rights of an action’s participants.

\textsuperscript{12} Українські новини, Україна не дала політичний притулок організатору гей-парадів у Білорусі і травесті-діві Мадам Жужу, 09.10.2017, ukranews.com.

\textsuperscript{13} Demion Simagrl, Убежище для транс* активиста, 15.11.2017, Нігіліст, nihilist.li.
The practice of investigating hate crimes based on homo- or transphobia remains very unsatisfactory. Investigators still try in any way to ignore the homophobic motivation of suspects, and often even permitted themselves openly homophobic and unprofessional behaviour towards LGBT victims of crime. In part, the reluctance of investigators and prosecutors properly to classify and investigate such crimes is explained by imperfections in the Ukrainian legislation, which does not consider homophobic motives to be an aggravating circumstance in the commission of crimes. This deficiency ostensibly had to be corrected according to the Action Plan to Implement the National Strategy on Human Rights; but, as already noted, the Ministry of Interior consistently opposes the respective amendments to the Criminal Code provided for in this Action Plan. Despite the fact that the deadline for implementing this provision (Para. 105 Measure 3) expired in the previous year, the Ministry of Interior has not yet developed the required draft law, and instead is waiting for a decision of the Cabinet of Ministers that would change the wording of this paragraph of the Action Plan. Meanwhile, the National Police continues to collect and publish information on "hate crimes" motivated by homophobia or transphobia, which are registered by the police, although their declared number (11 cases)\(^{14}\) is much lower than data documented by Nash Mir Center and other organizations.

Though not always and not everywhere, nonetheless the Ukrainian police did begin responding to incidents of homophobic behaviour among its employees. In June 2017, police officer Anatoliy Formanyuk from Lutsk posted on the website of the Unified System of Local Petition the petition entitled "To ban holding actions (parades) of sex-minorities in Lutsk". Nash Mir Center lodged complaints against such unacceptable, in our view, behaviour of a police officer with the Head of the Patrol Police Department in Lutsk and the Parliamentary Commissioner for Human Rights. According to the results of consideration of the complaint to the police department, the police command held a prevention-themed conversation with the said officer during which was strongly emphasized the necessity to avoid failure to perform or improperly perform of the

\(^{14}\) Національна поліція України, У 2016 році поліція розпочала 76 проваджень за вчинення злочинів на ґрунті нетерпимості, 01.02.2017, dn.npu.gov.ua.
current legislation within official activity that may lead to violation of rights and legal interests of citizens. After considering a request from the Secretariat of the Commissioner, the Patrol Police Department in Lutsk reported that A. Formanyuk was dismissed from the police, and the police staff was informed of the need to keep the principle of non-discrimination within the patrol police activity.¹⁵
3. Politics and Society

While in the previous year many Ukrainian politicians and political parties spoke about LGBT issues, especially in relation to the Equality March in Kyiv, this year their interest in such matters was significantly less noticeable. An illustration of this lessening of attention may be the fact that Kyiv Equality March 2016 was attended by seven Ukrainian MPs, while this year – only by Svitlana Zalishchuk.

Traditionally, much attention and aggressive hostility to LGBT events was demonstrated by the right-wing nationalist politicians and political groups, including Svoboda, the Right Sector, Sokil ("Falcon"), Bratstvo ("Brotherhood") and more. Unlike the other political forces, in recent years the right-wing and the like only strengthened their homophobic rhetoric and aggressiveness throughout the country: it seems the fight against LGBT people is becoming one of the main directions of the right’s socio-political activity in general. This year the radical nationalist groups tried again to disrupt all public LGBT events, and also began selective harassment of public figures who openly support LGBT people. Thus, in August they disrupted presentation of the book "A Shooting Calendar" by Olena Herasymyuk on political repression in the Soviet Ukraine at the Bandershtat festival in Lutsk, just because the author declared her support of the Equality March in Kyiv.

Non-aggressive political opposition to LGBTs is represented by the conservative forces that are willing to lobby the interests of churches and religious organizations: MPs from the Opposition Bloc, Popular Front and others. The particular activity should be noted of Pavlo Unhuryan MP, who is the very active main lobbyist for church interests and the author of the vast majority of homophobic legislative initiatives in the current convocation of the Ukrainian parliament. Such initiatives usually are supported by a large number of representatives of almost all factions of Parliament. Unless the party leadership clearly express their position

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16 For instance, please see Александр Карбачинский, Нападение на трансгендерную группу в Киеве 09.07.17, 09.07.17, youtube.com.
17 Перехрест О., Форум видавців звернувся до СБУ через погрози з боку ультраправих організацій, 11.09.2-17, Zaxid.net, zaxid.net.
otherwise, then among those who are willing to vote for homophobic laws and demonstrate corresponding rhetoric one can see even many members of the ruling coalition of the Petro Poroshenko Bloc and Popular Front. Typical is the case of the PPB Sumy organization spokesperson Olha Panfilova: after she went to picket in support of Kyiv Equality March, she was called to account by Marina Nahorna, the Head of the PPB Sumy territorial organization Secretariat. Nahorna in a very rude manner told her that this act of hers disgraced the party and for that she would be dismissed. Then Olha Panfilova left her post herself, not wanting to work in such an organization.\textsuperscript{18} It should be noted, however, that when Maxim Savrasov MP, the head of the PPB Secretariat, learned from the press and the Internet about these events, he publicly condemned the behaviour of the Sumy organization leadership, brought an official apology to Olha Panfilova, and stressed that his party "has always defended human rights and strongly condemns any form of discrimination."\textsuperscript{19}

Even after many meetings of the stakeholders, the conservative majority of MPs still ignores the arguments for the ratification of the Istanbul Convention without reservations and amendments. The bills, adopted by the Parliament as a part of its implementation, do not contain references to gender and sexual orientation that, according to some liberal MPs, is contrary to the essence of the convention and will not be recognized by the Council of Europe as Ukraine's fulfilment of its obligations under this international instrument.\textsuperscript{20}

The positive trend from non-aggressive homophobic social and political forces is this: in the past couple of years they moved from making calls and attempts to ban public LGBT action to holding their own, so to speak, counter-actions that have a peaceful and non-confrontational nature. The above-mentioned public movement "All Together!" specializes in festivals, marches and other activities in support of the "traditional Ukrainian family". Such actions, under the active support and participation of the

\textsuperscript{18} Центр інформації про права людини, Організаторку сумського пікету рівності змусили звільнитися з роботи, 20.06.2017, humanrights.org.ua.
\textsuperscript{19} Maxim Savrasov, 20.06.2017, facebook.com.
\textsuperscript{20} УНІАН, ВР ухвалила закон про протидію домашньому насильству без визначення щодо гендерних стереотипів, 07.12.2017, unian.ua.
clergy of various denominations, were held this year in a few cities of Ukraine – particularly, in Kyiv and Odesa – as some kind of planned opposition to the Equality Marches.\textsuperscript{21} The slogan of "supporting the traditional family", however, has already been adopted also by right-wing radical groups: particularly, in July about twenty young people under the banners of neo-Nazi Social-National Assembly of Ukraine marched through the centre of Mykolayiv chanting "The traditional family – Great Ukraine!" and "One race, one nation, one motherland – this is Ukraine!"\textsuperscript{22}

\textbf{Figure 1.} "March for the traditional values" in Mykolayiv, 07.15.2017.

The contradictory modern Ukrainian attitude towards LGBT issues is well illustrated by the results of a survey among residents of Kyiv that was conducted by the Research and Communication Centre «Active Group» in

\textsuperscript{21} Всі разом!, Півтисячі людей підписали Резолюцію учасників фестивалю "Всі разом – за сім’ю!", 08.06.2017, vsirazom.ua.

\textsuperscript{22} Inshe.tv, Наши ответ на прайды: в Николаеве прошел Марш за традиционные ценности, 15.07.2017, inshe.tv.
April 2017: 38% of respondents agreed or rather agreed to allow, and 57% wanted or rather wanted to ban a "gay parade" in the capital; at the same time, restrictions on freedom of assembly in Ukraine were supported by only about 26% of the respondents.\textsuperscript{23} The sociological survey, conducted in 2017 by the New Europe Center and the Friedrich Ebert Foundation in cooperation with GfK Ukraine among the Ukrainian youth aged 14 to 29 showed that 40% of the respondents did not want to see homosexuals among their neighbours.\textsuperscript{24}

Although in Ukraine businesses are gradually emerging that openly position themselves as friendly to LGBT people, as journalist investigation revealed they are mostly limited to small cafes, restaurants, shops or other enterprises in the goods and services sector.\textsuperscript{25} The vast majority of Ukrainian enterprises and companies have not and do not follow the policy on promotion of tolerance and equality, and would rather listen to claims of homophobic consumers than to take into account the interests and problems of the LGBT community. For example, the management of the Kyiv Metro responded to complaints on advertising HIV tests, which depicted same-sex couples, with a request to the advertising agency to take "a more careful and cautious approach when choosing advertising topics to place."\textsuperscript{26} Journalists of mainstream mass media mostly observe quite professional standards in their publications on LGBT subjects, although openly biased and homophobic publications still happen, especially in internet editions.\textsuperscript{27}

\begin{itemize}
\item \textsuperscript{23} Шедловський В., Киїни проти обмеження мирних зібрань хоча й не підтримують проведення гей параду, 18.05.2017, Active Group, new.activegroup.com.ua.
\item \textsuperscript{24} Дзеркало тижня, Молоді українці найбільше ненавидять наркоманів, колишніх зеків, гомосексуалів та циган, 27.11.2017, dt.ua.
\item \textsuperscript{25} Горчинская С., Эффект радуги. Как украинский бизнес поддерживает ЛГБТ, 30.07.2017, charitum.com.
\item \textsuperscript{26} Гей-альянс Україна, Адміністрація Київського метрополітену приняла сторону гомофобів, узревших в рекламі тестов на ВІЧ "пропаганду гомосексуалізма", 06.03.2017, upogau.org.
\item \textsuperscript{27} Please see, for instance, Маннанов А., НХЛ: атака с черного хода, 12.08.2017, sportarena.com.
\end{itemize}
The monitoring of the press and social networks on the Internet shows that LGBT themes in Ukraine are gradually becoming a routine part of the public discourse, with ever more people becoming aware of the real problems faced by LGBT people in their lives and the need to address them. Events around colouring the Friendship of Peoples Arch in rainbow hues during Eurovision 2017 in Kyiv (radical nationalists stopped the action, and the arch remained painted only in part) clearly demonstrated that LGBT symbols cause significantly less irritation in the vast majority of socially active Ukrainians than ridiculous attempts to combat them. As well-known journalist Pavlo Kazarin noted, "Denial, anger, bargaining, depression, acceptance. In each case, society goes through these four classic stages of adaptation to the new reality. So it was with gender issues, then racial. [...] This is a battle between the past and the future. Between superstitions and knowledge. Between obscurantism and the logic of humanity development. On one side of this barricade is 'the party of the past' and on the other – 'the party of the future.' And we all know which of these two camps is doomed to defeat." The Eurovision 2016 winner, popular Ukrainian singer Jamala, reaffirmed her support for the LGBT community, saying: "We have to appreciate people regardless of [their] ethnicity, religion and sexual orientation."

On the eve of the Eurovision contest, Nash Mir Center placed a dozen billboards in a few Kyiv districts to support the introduction of same-sex partnerships in Ukraine. In our opinion, it is very significant that for a month while these large and visible posters towered without any protection over quite busy highways, only one of them was despoiled, and the Kyiv authorities have received no complaints about their public placement.

29 Кацун Ю, Джамала: Если у тебя есть свое мнение – ты враг. Это очень огорчает, Комсомольская правда в Украине, 23.02.2017, kp.ua.
Obviously, LGBT issues are not causing noticeable strong feelings in the vast majority of Ukrainian society, as evidenced by the results of the worldwide public opinion survey on attitudes towards sexual and gender minorities, which was conducted in 2016 by the world’s largest LGBT organization ILGA (The International Lesbian, Gay, Bisexual, Trans, and Intersex Association) in cooperation with RIWI Corp.\textsuperscript{30} Comparing the results of this research for Ukraine and other European countries, the relative level of public homophobia / transphobia in Ukraine is rather more similar to the EU member states than to the post-Soviet countries such as Russia and Azerbaijan (please see diagrams below).

IF YOU HAD A FEMALE HOMOSEXUAL NEIGHBOR, YOU WOULD

- affirm and support her
- accept her as she is
- spend less time with her
- publicly distance yourself
- try to change her

<table>
<thead>
<tr>
<th>Country</th>
<th>Affirm</th>
<th>Support</th>
<th>Accept</th>
<th>Less Time</th>
<th>Distance</th>
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<td>Ukraine</td>
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</tbody>
</table>

IF YOU HAD A MALE HOMOSEXUAL NEIGHBOR, YOU WOULD

- affirm and support him
- accept him as he is
- spend less time with him
- publicly distance yourself
- try to change him

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<thead>
<tr>
<th>Country</th>
<th>Affirm</th>
<th>Support</th>
<th>Accept</th>
<th>Less Time</th>
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Support for the LGBT community has been expressed and provided by ever more civil society organizations – for example, Mariupol art platform "TYU!", a project of NGO "Development of Azov Region", in August 2017 held in the city a mass public action in support of the festival "Odesa Pride 2017".\textsuperscript{31} Interesting and noteworthy is the confession of Anastasia Serdyuk, who actively publishes articles on ideological themes in editions of far-right organizations Azov Civil Corps, and the National Corps party formed on ACC’s basis: "Society is able indeed to tolerate the introduction of 'same-sex partnerships' (without adoption)".\textsuperscript{32} Obviously, the Ukrainian society described in her article rather reflects the ideological view of Ukrainian far-right political forces on society rather than an objective picture of the current reliable sociological studies of public opinion – but even this imaginary right-wing conservative Ukrainian society looks to the author as being, in principle, ready to recognize same-sex partnerships. In general, we agree with this opinion.

\textsuperscript{31} Платформа ТЮ, 13.08.2017, facebook.com.

\textsuperscript{32} Сердюк А., Протистояння з ліво-лібералами і політичні рейтинги, 27.11.2017, nationalcorps.org.
4. CHURCHES AND RELIGIOUS ORGANIZATIONS

With the exception of the UOC (MP), in 2017 the central leadership of the Ukrainian churches have refrained from active discussions of LGBT issues, limiting themselves to calls to support "the traditional family" and protests against the introduction of the terms "sexual orientation" and "gender" into the Ukrainian legislation. This campaign also spread in the regions – thus, a call against the ratification of the Istanbul Convention was voiced not only by the All-Ukrainian Council of Churches and Religious Organizations (AUCCRO), but also by the Volyn Council of Churches and Religious Organizations, in this case addressing MPs of Volyn oblast.

In 2017, only Metropolitan Onuphrius, the head of the Ukrainian Orthodox Church of Moscow Patriarchate, addressed the Kyiv city authorities not to allow the Equality March in the capital. The rest of the heads of Ukraine’s major religious organizations in their opposition to the March relied on prayer and God's help rather than upon administrative instruments – as, for instance, the Council of Evangelical Protestant Churches of Ukraine that took the respective decision noted above, on June 14.

Equality March in Odesa, however, was traditionally preceded by a press conference of local clergymen of various denominations, where they as always appealed to the city authorities to ban the festival Odesa Pride 2017, which includes the March as one part. In past years, the Odesa City

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33 Всеукраїнська Рада Церков і релігійних організацій, Рада Церков пояснила депутатам свої зауваження до Стамбульської Конвенції, 07.03.2017, vrciro.org.ua.
34 Волинська єпархія УПЦ Київського Патріархату, Звернення ВРЦ щодо ідеології одностатевих відносин, 16.08.2017, pravoslaviavolyni.org.ua.
35 Українська Православна Церква, Синодальний Інформаційно-просвітницький відділ УПЦ, Звернення Представителя УПЦ до вірних чад та до представників Київської міської влади щодо спроб провести у Києві акції з пропагандою статевих пороків, 14.06.2017, news.church.ua.
36 Рада Євангельських Протестантських Церков України, Просимо церкви долучитися до посту і молитви, 14.06.2017, hercu.org.
37 Таймер, Священнослужители против ЛГБТ-парада в Одессе: это грех и мерзость перед Богом, 08.08.2017, timer-odessa.net.
Council always tried to fulfil such a ban demand, but this year it ignored the clergy’s appeal, who had to satisfy themselves only with the organization of an alternative march for "the traditional family."

The general mood of the Ukrainian churches’ leadership and many religious activists towards the current state policy on LGBT issues was voiced by noted religious scholar Yurii Chernomorets in his Facebook comment: "When this government was the opposition, they gave a guarantee to the All-Ukrainian Council of Churches and Religious Organizations (representing 95% of believers) that here would be as in Poland, in Hungary – we would go to the EU, but at that would have priority for the preservation of family, welfare of children, would not take the western culture of total relativism, with all its ideological broad interpretations of human rights. Yes, politicians merely swindled the Ukrainian churches."38

In the Ukrainian Catholic University (UCU) – the main scientific and theological institution of the Ukrainian Greek Catholic Church – scandal lasted for the third consecutive year over too liberal (according to conservative circles within the UGCC) views and actions of some teachers and students of this university. In 2016 the vice-rector of UCU, the famous Soviet dissident Myroslav Marynovych, even wrote a letter in which he appealed to the higher hierarchy of the UGCC regarding the campaign to discredit the university: "Yes, people who work and study in the UCU are far from holiness. Thus one can say in advance that here may, unfortunately, still happen instances of unbelief, aggressive tricks against the Church, which we have always fought and will fight. We may not understand something in the typical identity of the UCU, so look forward to friendly advice and tips. Yet we must not return to the "pretending" past and try just to look and not to be. Hypocrisy is not a virtue."39

Obviously, the efforts of the University to protect freedom of thought and the right to freedom of expression were not very effective: in particular, journalist and member of the Ukrainian parliament Serhii Leshchenko

38 Юрий Павлович Черноморец, 17.06.2017, facebook.com.
39 Zaxid.net, Йде брудна й цинічна кампанія з рейдерського захоплення УКУ. Мирослав Маринович про атаку на УКУ, 09.08.2016, zaxid.net.
stated that he and his colleague Mustafa Nayyem were denied the prolongation of their contracts to teach at UCU: "After we were elected as MPs, I and Mustafa were called to teach a course, and we did it for two years. Now the contract is not prolonged. Because of strange reasons – because we, for example, participated in an LGBT pride. This served as a reason to stop the contract". 40

5. LGBT COMMUNITY

This year maintained the trend of a rapid increase in the activity and visibility of the Ukrainian LGBT community, a trend which already had become obvious last year. After the very successful previous Equality March in Kyiv, the number of participants doubled at this year's march – from 2.5 thousand (according to the police) to 3.5 thousand (according to the March's organizers) people showed up. Similarly, the Odesa Equality March this year also saw in total about twice the number of participants (above 100) than attended the previous one (50-70). Nash Mir Center and other active LGBT organizations face ever increasing requests and proposals from the LGBT community throughout Ukraine to participate in their activities. The main obstacle to the expansion of LGBT activism is only a lack of commensurate covering funds for maintenance of the necessary increased infrastructure and permanent paid new staff members.

Figure 3. Kyiv Equality March 2017 for the first time included a carnival platform.
The growth of activity and visibility of the LGBT community was demonstrated specifically by increases in the number and size of various activities not only in the capital but also in many regions: in particular, such as public events in support of LGBT people and protection of their rights; round tables and workshops on LGBT topics for various professionals (police, school psychologists, journalists, doctors, etc.); lectures for and meetings with interested members of the public; a spreading movement of LGBT children's parents, and so on. More events appeared on LGBT topics which organizers and participants were not LGBT, or at least not only LGBT, people but also from other organizations and civil society activists. For instance, on February 7, 2017, NGO "Gender club Dnipro", in cooperation with the Fund to Support Small Initiatives "Allies in Action", announced a competition for journalistic materials named "LGBTIs and the Media: A Step to Meet". On February 19 the NGO conducted a training for journalists to improve tolerance and awareness of the problems around implementing LGBT people's rights. All leading LGBT organizations of Ukraine in 2017 successfully continued their activities. In particular, on March 21, Nash Mir Center held in Kyiv the conference "Same-sex Partnership in Ukraine: Today and Tomorrow" which was attended by about a hundred participants: LGBT activists, human rights defenders, members of other Ukrainian and international NGOs, academics, journalists, etc. from all over Ukraine. Nash Mir Center also held a series of roundtables to strengthen dialogue between civil society, local authorities and the National Police on issues of preventing discrimination and hate crimes in cities such as Zaporizhzhya, Chernivtsi, Odesa, Kherson, Dnipro, Kharkiv, and Zhytomyr.

NGO "Insight" in 2017 succeeded in conducting Equality Festivals Zaporizhzhya and Mariupol (very difficult cities for LGBT activism) where there are many radical far-right groups that unhesitatingly resort to violence in attempts to damage any LGBT events. The training for doctors

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from many regions of Ukraine on health care for trans people that this organization held in Kyiv should be noted as an essential aid for the Ukrainian transgender community.\textsuperscript{44}

Mykolayiv LGBT Association LIGA, which remains the most active and prominent regional LGBT organization in Ukraine, in 2017 held the Days of Equality and Pride in Mykolayiv, Odesa and Kherson, that included a number of different cultural, educational, advocacy and other activities.\textsuperscript{45} The seminar for specialists of the Department of Education and Science of the Odesa City Council "Peculiarities of working with LGBT teens" may be called very useful to meet the needs of the LGBT community and build relationships with a wide society.\textsuperscript{46} The Association also conducted seminars for Ukrainian LGBT families, social workers who work with LGBT families, and physicians of Kherson and Mykolayiv oblasts\textsuperscript{47} – generally, a sharp increase of such events where representatives of local LGBT communities meet and establish relationships with various professionals, civil servants, and representatives of civil society, etc. became a characteristic feature of the current state of LGBT activism in Ukraine. Indeed, we are witnessing the process of integration of the LGBT community into the social and political life of Ukraine.

Gay Alliance Ukraine in 2017 supported the activities of their Queer Homes (local LGBT community centres) in Kyiv, Vinnytsya and Zhytomyr, on which base were conducted a wide variety of activities. GAU was one of the main organizers of the Queer Culture Festival "Odesa-pride 2017" that included, inter alia, the Equality March in this city. Also, Gay Alliance Ukraine financed the publication of currently the only periodical LGBT edition in Ukraine of a newspaper (actually a journal) Stonewall.\textsuperscript{48} Column

\textsuperscript{44} Інсайт, Рік Інсайту: що ми встигли зробити для вас у 2017, insight-ukraine.org.
\textsuperscript{45} Ассоциация ЛГБТ "ЛИГА", Дни равенства и гордости в Одессе. Взгляд изнутри, 2017, lgbt.com.ua.
\textsuperscript{46} Ассоциация ЛГБТ "ЛИГА", Семинар на тему "Особенности работы с ЛГБТ-подростками", 2017, lgbt.com.ua.
\textsuperscript{47} Асоціація ЛГБТ "ЛІГА", Створено першу в Україні мережу лікарів, що допомагають ЛГБТ-сім'ям, 2017, lgbt.com.ua.
\textsuperscript{48} Гей-альянс Україна, Газета "Stonewall", upogau.org/uk/gazeta-stonewall.
of the Equality March in Odesa (comprising about 140 participants) was able to progress only a few hundred meters, then it ran into a border of aggressive homophobic youth. Fearing violence on their part, the police did not allowed the marchers to move on and eventually took them away by buses to a safe place.\footnote{Корреспондент.net, В Одесі пройшов ЛГБТ-марш, 13.08.2017, korrespondent.net.}

Figure 4. The start of Equality March 2017 in Odesa. The banner’s translation reads "Glory to Ukraine! Glory to equality!"

High levels of aggression by right-wing nationalist groups, which, as already mentioned, in recent years have moved to tactics of constant intimidation and obstruction of LGBT organizations and individual activists remain a significant problem for the development of Ukrainian LGBT movement. All visible public events and many closed LGBT events in 2017 were accompanied by threats and attacks by groups of this kind, and in such cases the police do not always react smartly adequately and professionally. This year, participants of most public LGBT events,
including the Kyiv and Odesa Equality Marches, the action for International Day against Homophobia and Transphobia in Kharkiv, the Equality Festival in Zaporizhzhya, the March against Discrimination in Kherson, etc. – all faced very aggressive behaviour from apparently radical nationalist groups. Because, according to statements and documents of many right-wing groups, fighting against LGBT activism is becoming one of their major program goals, we should expect that homophobic aggressive policy on their part will continue in the short-time outlook.

Figure 5. The Rainbow Flashmob of Gender Zed in Square of Heroes, opposite the Oblast State Administration, 05.06.2017.

РБК-Україна, Міжнародний день боротьби з гомофобією: В Харкові спалили прапор ЛГБТ та напали на поліцейських, 18.05.2017, styler.rbc.ua.
112 Україна, Напад на фестивалі ЛГБТ у Запоріжжі: 17 затриманих, потерпілих шпиталізували, 01.10.2017, 112.ua.
Факти, Напад на Марш ЛГБТ у Херсоні: учасникам не дали пройти 100 метрів, 17.05.2017, fakty.ictv.ua.
In our opinion, among all the leading Ukrainian LGBT organizations, Zaporizhzhya Regional Charitable Foundation "Gender Z" most successfully and dynamically developed its activities in 2017. In addition to several public actions in defence of LGBT rights and promoting tolerance and equality, they had mounted a number of different kinds of trainings and roundtables for journalists, school psychologists, police officers, doctors, trainers on SOGI issues, social workers and others.53

After a significant reduction in funding (by foreign and international donors) of projects to prevent and combat HIV and other sexually transmitted infections, NGO ALLIANCE.GLOBAL still remains a leading organization providing services to the gay community in this area. In 2017 they supported a network of express testing points in Kyiv, Chernihiv, Poltava, and Bila Tserkva, and conducted a series of trainings for local LGBT communities in various cities of Ukraine. A representative of the organization, Andrii Chernyshev, was elected to the National Council on TB and HIV/AIDS – an intersectoral coordinating body headed by the Vice Prime Minister of Ukraine for humanitarian affairs. This became possible because in April 2017 the Ukrainian government approved a decree under which the National Council must include a representative of the groups at high risk of HIV infection. Andrii Chernyshev convincingly won the election to be the representative of this group among 38 non-governmental organizations working in this field.

ACO Fulcrum maintained the Ukrainian Corporate Equality Index which is dedicated to monitoring policies of equality and non-discrimination in Ukrainian companies, supported the service "Friendly Doctor" for the LGBT community, and was one of the organizers of the Equality March in Kyiv. Further, it held "The National Research of School Environment" on problems faced by LGBT students in Ukrainian schools, the training "Prevention of stigma and discrimination towards members of the LGBT community among medical workers"., and workshops in Kyiv, Lviv, and Poltava for journalists writing on LGBT issues etc.

53 ЗОБФ "Гендер Зед", Новости "Гендер Зед", genderz.org.ua.
Parents' Initiative Tergo, which brings together parents of LGBT children and which relies on the Fulcrum's resources, developed its activities in 2017 very successfully. This year they extended their activity to a few new regions of Ukraine, held several meetings of LGBT children's parents, and a training for school psychologists. In December 2017, together with the Institute of Psychology of the National Academy of Psychological Sciences of Ukraine, the Ukrainian Association of Organizational Psychologists and Labour Psychologists, Tergo held the round table "Psychology of the LGBT community: research results, problems, perspectives", which was attended by more than sixty scholars, representatives of psychology and sociology departments of all leading Kyiv universities, and representatives of LGBT organizations.\footnote{TERGO, 05.12.2017, facebook.com.}
The Kyiv Equality March revealed a new problem that apparently reflects the growth and complexity of the Ukrainian LGBT movement: the beginning of a political and ideological differentiation within it. While the majority of the march’s participants shared the display of liberal-democratic and patriotic slogans, nonetheless a small number of demonstrators marched under slogans rather typical for the radical left and anarchists. As an integral part of Ukrainian society, the national LGBT community started to demonstrate a diversity of ideological preferences and approaches to solving their problems; this evolution generally corresponds to similar processes which are taking place now in our country.

Figure 7. One of the controversial posters at Kyiv Equality March in 2017. The banner’s translation reads "To hell with your patriotism! Our choice is queer feminism!"

6. VIOLENCE, DISCRIMINATION AND OTHER VIOLATIONS OF LGBT PEOPLE’S RIGHTS

Nash Mir Center in 2017 documented 226 cases of acts motivated by homophobia / transphobia, discrimination and other violations of LGBT people's rights in Ukraine. 20 cases included events that happened in 2016, the rest – 206 cases – occurred in 2017.

Table 1. The distribution of cases documented in 2017 by regions of Ukraine.

<table>
<thead>
<tr>
<th>Region</th>
<th>Number of cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kyiv and oblast</td>
<td>57</td>
</tr>
<tr>
<td>Kharkiv and oblast</td>
<td>34</td>
</tr>
<tr>
<td>Dnipro and oblast</td>
<td>26</td>
</tr>
<tr>
<td>Odesa</td>
<td>22</td>
</tr>
<tr>
<td>Zaporizhzhya and oblast</td>
<td>13</td>
</tr>
<tr>
<td>Zhytomyr and oblast</td>
<td>12</td>
</tr>
<tr>
<td>Lviv and oblast</td>
<td>9</td>
</tr>
<tr>
<td>Donetsk oblast (controlled by Ukraine)</td>
<td>8</td>
</tr>
<tr>
<td>Cherkassy and oblast</td>
<td>8</td>
</tr>
<tr>
<td>Kherson</td>
<td>5</td>
</tr>
<tr>
<td>Vinnytsya</td>
<td>4</td>
</tr>
<tr>
<td>Rivne and oblast</td>
<td>4</td>
</tr>
<tr>
<td>Sumy and oblast</td>
<td>4</td>
</tr>
<tr>
<td>Poltava and oblast</td>
<td>3</td>
</tr>
<tr>
<td>AR Crimea (occupied by Russia)</td>
<td>2</td>
</tr>
<tr>
<td>Donetsk region (occupied by Russia)</td>
<td>2</td>
</tr>
<tr>
<td>Uzhhorod</td>
<td>2</td>
</tr>
<tr>
<td>Ivano-Frankivsk and oblast</td>
<td>2</td>
</tr>
<tr>
<td>Luhansk oblast (controlled by Ukraine)</td>
<td>2</td>
</tr>
<tr>
<td>Ternopil</td>
<td>2</td>
</tr>
<tr>
<td>Chernivtsi</td>
<td>2</td>
</tr>
<tr>
<td>Lutsk</td>
<td>1</td>
</tr>
<tr>
<td>Mykolayiv</td>
<td>1</td>
</tr>
</tbody>
</table>

56 In this section, the number of documented violations of LGBT people's rights may exceed the number of cases, because in some cases more than one sphere of rights was affected.
Most homophobic / transphobic aggression, discrimination and other violations is suffered by representatives of big city LGBT communities in urban areas where they are most visible: Kyiv, Kharkiv, Odesa, Dnipro, and Zaporizhzhya.

**Acts of hatred towards LGBTs**

Actions motivated by homophobia / transphobia and hate speech on the part of persons not vested with official authority were observed in 172 cases. 99 of them (13 in 2016 and 86 in 2017) may be described as *hate crimes*, and 71 (1 in 2016 and 70 in 2017) – as *hate incidents*. In 7 cases manifestations of *hate speech* were recorded. (Italicized terms correspond to the classification of the OSCE / ODIHR).

The following types of violations were noted (please see Table 2):

*Table 2. Number of different types of rights violations of LGBTs in 2017.*

<table>
<thead>
<tr>
<th>Types of violations</th>
<th>Number of cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>insults, humiliation of human dignity, threats</td>
<td>134</td>
</tr>
<tr>
<td>physical violence of varying severity</td>
<td>92</td>
</tr>
<tr>
<td>homophobia / transphobia in family</td>
<td>27</td>
</tr>
<tr>
<td>illegal collection, disclosure (or the threat of disclosure) of confidential information</td>
<td>25</td>
</tr>
<tr>
<td>extortion and blackmail</td>
<td>22</td>
</tr>
<tr>
<td>robbery</td>
<td>15</td>
</tr>
<tr>
<td>brigandage</td>
<td>7</td>
</tr>
<tr>
<td>damage to property</td>
<td>7</td>
</tr>
<tr>
<td>homophobic inscriptions / appeals</td>
<td>6</td>
</tr>
<tr>
<td>obstruction to peaceful actions</td>
<td>6</td>
</tr>
<tr>
<td>threats with weapons and their application</td>
<td>3</td>
</tr>
<tr>
<td>fraud</td>
<td>2</td>
</tr>
</tbody>
</table>
attacks on LGBT centres or events | 2
---|---
sexual violence | 1
offensive language | 1
attempted robbery | 1
attempt to deny parental rights | 1
kidnapping | 1
torture or inhuman treatment | 1

Most of the action motivated by homophobia / transphobia in 2017 can be divided into several groups:

- Attacks of right-wing or other homophobic groups upon peaceful LGBT actions, community centres, or events, as well as individual LGBT activists.
- Crimes of an acquisitive nature when attackers specifically look for LGBT victims; although perpetrators may not hold personal prejudices against this group, they act as if hoping that homosexuals are easy prey.
- Actions motivated by domestic homophobia / transphobia, when traditional social prejudices cause various kinds of manifestations of aggression towards ordinary homosexual or transgender people. Such actions can be perpetrated by neighbours, acquaintances or strangers whose acting-out can be interpreted as stemming from subjective judgemental thoughts that the victim's appearance or behaviour does not meet certain "traditional standards". Often such aggression can lead to a banal robbery that complicates any further relevant qualification of such crimes by the police.

In this regard, homophobia / transphobia in the family should be mentioned separately, because the consequences of such displays of aggression are often much more negative than those caused by strangers: firstly, because the victims (often teenagers or young people who depend on their families) have nowhere to go; secondly, the harassment may be of very long duration, causing some psychological problems even for a strong-willed person; and thirdly, this is coming from the very people from
whom a dependent person is entitled to expect understanding and support.

Case 1060
October 22, 2017, around 9 pm, two unknown men who identified themselves as activists of the Radical Party of Ukraine, attacked LGBT activist Oleksandr at his home in Kyiv. They beat the victim and cut his hand with a knife, trying to get from him the names, addresses, telephone numbers of LGBT activists he knew, and the places and dates of the upcoming LGBT events. The victim asked for medical help and put in an application report on the crime to the police. Then he was phoned by unknown persons with threats; also homophobic threats appeared on the walls of his home's entrance in a week after the attack. He was forced to leave Kyiv. As far as we know, the police found no suspects in this crime.

Figure 8. The knife cut on one forearm of LGBT activist Oleksandr (Case 1060).
Case 1013

In early September 2017, after the announcement of the Forum of Publishers 2017 in Lviv that included the presentation of the book by Larysa Denysenko *Maya and Her Mums* telling of same-sex families, Illya, an organizer of the event, his colleagues and family members began to receive messages containing threats. In particular, they received a letter in which 17 little-known right-wing organizations opposed the presentation of the book and threatened the breakdown of this event. The forum was forced to cancel the presentation. Now this case is being investigated by the Department of Security Service of Ukraine in Lviv oblast.

Case 1022

In September 2017 the victim with several other men was returning home by a car to Horlivka located in the Russia-occupied part of Donetsk oblast. Nearby the city they were stopped by the so-called "Military Police" of the occupation administration – two men armed with machine guns. They ordered everyone out of the car, checked the documents of passengers and the driver, searched the car and then all persons present. Studying the contents of the victim's smartphone, they found a few photos of homoerotic content, and then began grossly to insult the victim, and to interrogate him where he worked, where his parents lived, ask did his friends know about his homosexual orientation, and so on. Threatening to throw the victim "in the basement" (i.e. to unlawfully imprison him under the inhumane conditions in which Russian occupation authorities hold arrested persons), the attackers seized all the victim's money, and eventually released him, commanding him not to encounter them anymore.

Case 1023

July 1, 2017, the victim was relaxing with her friends in a gay club in Dnipro city. In the morning they went from the club to a supermarket, and noticed that they were followed by two unknown persons. When the victim and friends came out of the supermarket, unknown men approached them and started shouting insults. Eventually, the men took out weapons (a gun and a knife), beat one of the victim's friends, stole the victim's bag, gold objects and telephone. The victims approached the police and submitted a statement about the crime.
**Case 1024**

June 1, 2017, after the Equality March in Odesa, in a street nearby the site of the march, the victim and three friends of his were attacked by four young men shouting "Ah, here they are!" A friend of the victim managed to escape. Then the offenders hit the victim, after which he fell; they struck his friend with two blows. The victim identifies himself as a transgender man but looks very feminine. Therefore, one of the attackers apologized and helped him stand up. Then the attackers fled. The victims did not seek help from the police because they do not believe in the effectiveness of making such an appeal.

**Case 1029**

The injured man aged 29, a resident of Kryvyi Rih, met through the social network VKontakte a guy who called himself Serhii and invited him for an evening stroll on May 1, 2017. During the walk they came upon the five men who asked for a cigarette. Serhii knew them, and gave them a cigarette. However, the next moment an attack took place: two guys held the victim, the third beat him. The others threatened, shouted homophobic insults, and photographed the victim. They seized 400 hryvnia from the victim, then let him go. The victim received severe psychological shock and for more than a year has communicated with almost no one because before this incident he had met friends and partners mainly in social networks and he does not know other ways of socializing.

**Case 1034**

September 30, 2017, at 16:00 in Kyiv at Loft Art Centre, the Equality Festival was to begin when about a hundred masked men blocked the entrance of the art centre building. Natalia and her partner came to the event. Near the main entrance they met a group of youth who began to ask the girls mockingly, "Are you girls or guys?" Once they received answers the young men said that the girls were lucky because they did not beat girls. Nevertheless they did not let them pass to attend the event. The girls turned and went in the opposite direction. A few meters onward they were surrounded by a group of 8-10 aggressive girls who began to shout "Are you lesbians?" Then a group of 5-6 persons attacked Natalia's partner and started to beat her. The girl fell to the ground. At this point
Natalia was held by other attackers. When she began to break loose, she was also beaten, resulting in a head injury and numerous bruises. Natalia's partner also suffered scratches and bruises. Overall and in general, 4 people suffered in the clashes: a pair of the event's attendees and two organizers (all women). The victims filed applications to the police. Currently the case is being investigated under Article 296 part 2 of the Criminal Code "Hooliganism committed by a group of people."

Figure 9. Victims of homophobic attacks at the Equality Festival in Zaporizhzhya, 30.09.2017.

Relations with the law enforcement authorities

In 26 cases abuses by law enforcement agencies were reported. Most often the police violated the following rights (please see Table 3):

Table 3. Violations of LGBT rights in 2017 by the police.

<table>
<thead>
<tr>
<th>Violated rights (by what actions)</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>The right to an effective remedy (failure to protect the rights, improper performance of duties to protect the rights)</td>
<td>18</td>
</tr>
<tr>
<td>Freedom from discrimination (insults, threats and</td>
<td>8</td>
</tr>
</tbody>
</table>
humiliations of human dignity, complicity with offenders)

The right to respect for private life (blackmail, threats of disclosure and disclosure of confidential information) 4

The right to liberty and personal security (violation of procedural rules, illegal detention, physical violence, extortion of a bribe) 4

Hate speech (homophobic inscriptions / calls) 1

As in previous years, the main police violation category remains their inadequate responses to appeals for protection of LGBT people. Violations include the refusal of the police to accept applications reporting offenses or including in them essential testimonies of victims on homophobic / transphobic motives of the offenders. On the part of investigators, it includes attempts to reduce the investigation of crimes having signs of hate crimes to mere hooliganism cases convenient for them, or to bodily injury etc. – as well as delaying investigations and closing of proceedings because of alleged inability to establish the personal identities of the offenders.

Some police officers still demonstrate dismissive and discriminatory attitudes to LGBT people. Primarily these attitudes are typical of older cadres, especially investigators; among the new patrol police such behaviour occurs much less frequently.

Case 909
May 29, 2017, about 5 pm, two guys (aged 24 and 26) were kissing in a secluded corner of Hidropark – a traditional river-view gay cruising site in Kyiv – when they were attacked by three men of about their age. The attackers beat and robbed the victims while shouting homophobic insults. One of the attack victims managed to keep his mobile phone, thus he could immediately call the police. The patrol police acted quickly, and arrested the attackers on a bridge over a strait of the Dnieper River.
One of the victims was hospitalized with multiple bruises and suspected broken ribs. On the same evening about 9.30 pm, the victim was visited in the hospital by two investigators from the Dniprovske Police Department in Kyiv to record his testimony. These police officers behaved unacceptably, using homophobic vocabulary and causing disclosure of confidential information about the sexual orientation of the victims in the presence of medical staff and other patients. Further, in violation of the law, the investigators did not include information about this crime in the Unified Register of Pre-trial Investigations. That was done only after the ruling of an investigating judge. Although the offenders did not hide the
homophobic motive of the attack, the investigation refused to take such into account and qualified this crime as ordinary hooliganism. Again, only after the ruling of an investigating judge subsequent to the complaint of the victims' lawyer, was information included into the URPI regarding the possible commission by the suspects of the offense provided for in Article 161 of the Criminal Code of Ukraine.

*Case 905*
A resident of Berdyansk aged 44 arranged through the social network VKontakte a meeting with an unknown guy on March 26, 2017. In place of the meeting he was awaited by a group of youth who badly beaten the victim, sprayed tear gas into his eyes, and forced him to confess to paedophilia before a camera. From conversations between the attackers, the victim learned that they have some relation to the police. Some passers-by called the police. The patrol police officers talked to the attackers but did not detain them nor carry out any further action. Upon the request of the victim to call an ambulance, one of the police officers wished him to "Die here, scoundrel." After that the police left the scene. The victim connects the attackers with the movement Naslyediye in Zaporizhzhya which states that it combats paedophilia; and apparently, it has some support within the local police.

*Case 960*
June 22, 2017, Vitalii, a resident of Odesa, appealed to NGO Dzherela Prava ("Sources of Law") requesting legal assistance because a group of unknown persons committed crimes against him that are provided for in Part 3 of Article 161, Article 146 and Article 189 of the Criminal Code. Together with the chairman of the organization Oleh Byelov, Vitalii came to Prymorskyi Police Station to file and register a statement about the crimes committed, but the inspector on duty S.I. Osachuk, in violation of the law, initially refused to accept the application. Only after an hour of lengthy disputes (with police officers present who made illegal demands upon the victim and his companion, disclosed confidential information in the presence of strangers, and rebuked Oleh Byelov for representing the interests of the gay victim) the application was eventually registered.
Employment

21 cases of violations of LGBT human rights were recorded in this sphere (please see Table 4):

Table 4. Violations of LGBT rights in 2017 in the field of employment.

<table>
<thead>
<tr>
<th>Violated rights (by what actions)</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discrimination (inaction of the administration, compulsion to resign, unlawful dismissal, unlawful refusal to hire, insults, humiliations of human dignity, threats, biased attitude, sexual harassment, bullying)</td>
<td>21</td>
</tr>
<tr>
<td>Respect for private life (illegal collection, disclosure, or threat of disclosure of confidential information)</td>
<td>3</td>
</tr>
</tbody>
</table>

In a third of cases of labour rights violations the victims were transgender persons; their portion of cases is therefore obviously much higher than their share in the LGBT community.

Unfortunately, even after the adoption of anti-discrimination norms, protection of LGBT rights in this area remains an extremely difficult task because the mechanisms bringing the perpetrators to justice in practice do not work, and victims usually do not see the sense of this process.

Case 1093

October 21, 2016, the victim (a transgender person in transition from male to female gender and subjected to hormonal therapy) got the position of seller in Kyivske LLC (Odesa). Shortly the changes in her appearance became visible to the staff and management of the trading facility, they then started insulting, harassing and demanding that the victim observe the appearance of a "passport sex." Eventually, the victim was forced to resign, ostensibly voluntarily.

Case 918

The victim – a man of 28 – for eight years has worked at a factory in Nikopol in Dnipropetrovsk oblast. He did not hide his homosexual orientation, and his co-workers were quite tolerant. However, a year ago a new group of workers came into the company. After learning about the
orientation of the victim, they began to insult him roughly on this ground, throw soap at him in the bath and so on. The victim repeatedly complained to the authorities, but they did nothing to resolve the conflict and stop the bullying. The victim ponders over whether to apply to the police, but fears that he would then be immediately fired from his job.

Case 949
The victim – a transgender homosexual woman – since 2013 has worked as a scene mounter in the Mykolayiv Arts Academic Russian Drama Theatre. For long years she suffered from gender dysphoria, and in early 2017 began hormone therapy in order to make a transition to her desired (female) gender. She began to change her appearance and confessed her transsexuality to one of her co-workers. In just a day, the rest of her crew learned about it, and they began to pour ridicule and insults upon her. After a week drunken co-workers tried to set fire to her hair at the workplace. The employee, to whom she had admitted her transsexuality, hit the victim in the face when she reminded him about the performance of his professional duties. According to the victim, the head of the assembly shop where she worked did not offend her excessively, but immediately told that there is no place for gays and similar persons in his shop. On May 16, 2017 she was approached by the head of her shop and the head of all the theatre's workshops with a proposal to resign voluntarily because "it is already difficult to her to perform her duties" and because she "should not disgrace a state institution." Open mockery and insults made the victim do it – she finished off the month and left. The victim applied for violation of her rights to the Parliamentary Commissioner for Human Rights.

Education
Violations in this sphere were recorded in 9 cases (please see Table 5):

<table>
<thead>
<tr>
<th>Violated rights (by what actions)</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discrimination (bullying, threats, inaction of administration)</td>
<td>8</td>
</tr>
<tr>
<td>Hate incident (insults, humiliations of human dignity, threats, physical violence)</td>
<td>3</td>
</tr>
</tbody>
</table>
Discriminatory treatment in this area took place both in the administration of educational institutions (including schools) and by the fellow students. Victims of bullying were not only young people but also homosexuals and children being raised by same-sex parents.

According to the results of the study conducted by NGO Fulcrum in 2017 among Ukrainian LGBT schoolchildren, about half of the respondents (48.7%) felt at risk in their schools because of their sexual orientation, and about one third (31.5%) at risk because of their gender expression (i.e. appearance and behaviour). More than 60% were subjected to verbal harassment because of their sexual orientation and roughly the same percentage because of gender expression, including from teachers and school staff. About a quarter of the respondents were subjected to physical bullying (for example, being pushed), and more than 13% – to physical attacks (for example, beating) for each of those grounds. Almost a half experienced sexual harassment. 65.8% of the victims never sought help from school staff, and 55.3% of those who did in response received an instruction not to pay attention to it. 57

Case 1090
In one of the schools in Sumy, in December 2017 at a parents meeting, a class teacher told parents of her pupils that a lesbian was studying in the class, voicing the name of this student. The parents present at the meeting told this to their children. The next day, the children began openly to mock and bully the child. Because of bullying, which was caused by the disclosure of the girl's sexual orientation, her parents had to move the child on to another school.

Case 1075

57 ВБО "Точка опори", Національне дослідження шкільного середовища в Україні: резюме, 2018, t-o.org.ua.
15-year-old Yevhen, a transgender boy and a student of one of Odesa's private schools: "In 2016 I graduated from the 10th form at the school. There are wonderful teachers there who supported me, knowing that I am a transgender. However, it also had its own peculiarities. Such as the "mandatory rules of the Lyceum". One of the rules read: "Boys are required to wear classic trousers, girls – a lyceum chequered skirt." It's very difficult for me to wear a skirt, for obvious reasons, so I went in classic pants. After some time and a certain number of comments about the uniform, I was called in to see the director. There we started talking about the reason for my abrupt refusal to wear a skirt. I said that I have felt like a guy since my childhood and it's really insane for me to dress completely like a girl. But I did not behave completely as a guy would, and did not order people to address me in a masculine gender, it was enough for me that the teachers accept the elementary – pants, not the skirt. Well, the headmistress could not stand it and started relating an interesting story about how wonderful it is to be a girl. There were phrases like: "As for me, there are only men and women, the rest is of Satan and the Devil," "you need to be placed in a male society, for example, a military unit, to be screwed like a street cat, and then you will understand: such people have either something broken in the head or something is wrong with their psyche," "your parents seem normal, why are you this." And, ultimately, the phrase: "Either you come in a skirt tomorrow or you take away your documents." Therefore, unfortunately, I had to take the documents and move to another educational institution."

**Access to Goods and Services**

In this sphere seven cases were documented (please see Table 6):

*Table 6. Violations of LGBT rights in 2017 in the provision of goods and services.*

<table>
<thead>
<tr>
<th>Violated rights (by what actions)</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discrimination (threats, refusal to rent, biased attitude)</td>
<td>5</td>
</tr>
<tr>
<td>Hate incidents (insults, humiliation of human dignity, threats, physical violence)</td>
<td>3</td>
</tr>
<tr>
<td>Hate speech (homophobic inscriptions / calls)</td>
<td>2</td>
</tr>
</tbody>
</table>
Typical for this sphere is that almost in all documented cases victims in one way or another tried to protect their consumer rights and to oppose discriminatory attitudes by the service personnel.

Recently, "humorous" signboards of homophobic nature were noticed in some public places (please see Figure 11).

Figure 11. Homophobic "humorous" ads in the fitness centre GOOD ZONE in Severodonetsk and alcoholic drinks shop (Kyiv, 26. Perova Blvd.). The subject of both ads refers to the widespread use of homophobic terms instead of general insults.

Also worth noting is that such cases of homophobic / transphobic treatment were evident not only in public venues but also in specialized ones, targeted for LGBT audience.

Case 1092
December 16, 2017, four guards of the gay club Lift in Kyiv beat a transgender woman and made transphobic mockery over her appearance.

Case 878
In March 2017 a group of LGBT activists in Zhytomyr decided to organize a party for the local community. To do this, earlier in February they had reached an oral agreement with the administrator of one of the city's cafes over holding the event: she was explained to that clients would be
LGBTs, and she had no objections. But in a few days this administrator phoned the organizers and proposed that they now come back and pick up the previously paid deposit. She said the owners had learned about the nature of the party and did not want to see such customers. The organizers did not agree with such discriminatory treatment and appealed to the representative of the Parliamentary Commissioner for Human Rights in Zhytomyr oblast with a statement alleging discrimination. However, the representative of the Ombudsman did not find sufficient evidence to bring the administrator to justice.

Case 934
For several months the staff of the shop "Kumushka u doma" in Pecherskyi district of Kyiv, which was often visited by 21-year-old Dmytro and his female friend, indulged in nasty remarks towards the young persons: Dmytro was called "pink", his friend – "slut", and other obscenities. Dmytro telephoned the head of the mini-markets network and accused her staff of homophobia. The head initially denied the fact of homophobia, but nevertheless went to the store to conduct a check-up. The check-up confirmed the facts of homophobia and insults. The shop manager, a guard and a cashier were fined. The guard immediately left the shop, and the rest of the staff now are well informed about the incident and its consequences, and so behave politely. It is worth noting that the head of the chain stores is an IDP from the Russia-occupied part of Donbas. She told Dmytro that she previously "had a huge business in Donbas, and came to Kyiv having lost everything to live in democratic society."

Health
Violations in this sphere were recorded in 5 cases (please see Table 7):

Table 7. Violations of LGBT rights in 2017 in health services.

<table>
<thead>
<tr>
<th>Violated rights (by what actions)</th>
<th>Number</th>
</tr>
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<tr>
<td>Discrimination (denial of medical care or partial provision of it not in full, compulsory treatment)</td>
<td>3</td>
</tr>
<tr>
<td>The right to health care (denial of medical care or partial provision of it not in full)</td>
<td>2</td>
</tr>
<tr>
<td>Respect for private life (illegal collection, disclosure, or</td>
<td>1</td>
</tr>
</tbody>
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threat of disclosure of confidential information)

In four cases violations by hospital staff were made against transgender persons. Violations were connected with a biased attitude towards them or ignorance of professional duties under the new order of the Ministry of Health which regulates gender reassignment issues.

In one case (case 896) an 18-year-old gay boy reported about his parents' attempts to "cure" him from this "disease" with the help of a homophobic psychologist who, among other things, prescribed heavy tranquilizers to his "patient".

Case 997
In August 2017 a transgender woman turned to Endocrinology Clinic No. 2 of Solomenskyi district of Kyiv to receive a certificate of conducted hormone therapy. The doctor tried to refuse, redirecting her to another medical facility, but she insisted on his performing his professional duties. In addition, the doctor in the presence of other patients (this happened in the hospital corridor) loudly discussed details of this transgender women's diagnosis with another physician in her presence.

Legal proceedings
In one case (case 875) was recorded the homophobic attitude of a judge of a district court in Sumy oblast towards a lesbian. It happened during the consideration of a civil action regarding this matter: with which of the parents would live the little baby of this lesbian woman – and involving a judgemental attitude that could adversely affect the passing of fair and impartial decision on this matter.

The central and local authorities
In two cases some homophobic rhetoric by local authorities was recorded. Thus, in February 2017 (case 879) Rubizhne Mayor Serhii Hortiv spoke disparagingly about LGBT people during a meeting of a City Council's commission. In June 2017 (case 1032) Vadym Kudiyarov, a member of Vinnitsa City Council, placed a homophobic post on his page on Facebook page after the Kyiv Equality March: "If, God forbid, an LGBT community
appeared in our hometown of Vinnitsa, then we are the first who will destroy them by the roots."

Another two cases mention transgender persons facing refusals by representatives of government agencies such as the Civil Status Register (Desnyanskyi district of Kyiv, November 2017, case 1065) and the State Migration Service (Prymorskyi district of Odesa, December 2017, case 1096) to fulfil their functions to replace the relevant documents in connection with the official change of sex by the stated persons.
7. **SITUATION IN THE OCCUPIED TERRITORIES**

Because, after the annexation of the Crimea by Russia, homophobic Russian laws actually become in operation there, any public activity of the LGBT community on the peninsula is now impossible. Meanwhile, in the occupied part of Donbas there is no law at all, thus in this area not only social activities, but also the very lives of LGBT people are at risk.

Russian LGBT activist Nikolay Alekseev, known for his support of Putin's regime, extended his activity into the Crimea. As in other cases within the territory of the Russian Federation itself, he, with the help of assistants in the region, submitted to the occupying administrations of Simferopol, Kerch, Dzhankoy, Feodosia, Krasnoperekopsk and Armyansk requests for holding a "gay parade" (Alekseev's own terminology) and pickets in defence of LGBT rights. Like all previous applications of N. Alekseev within the territory of Russia itself, they were rejected by local authorities.58 It should be noted that all these actions of Alekseev and his assistants are not designed for the actual conduct of any LGBT actions. They are made by him with the sole purpose of gaining further appeals against decisions of the authorities, and eventually to receive money compensations pursuant to decisions possibly to be rendered by the European Court of Human Rights. In fact, the local LGBT communities in the Russia-occupied territory (as well as in the territory of Russia proper excluding the biggest cities) do fear any public disclosure of their very existence.

Nash Mir Center received in 2017 information about two minor homophobic incidents in the Crimea, and two more significant cases that occurred in the occupied part of Donetsk oblast. The first incident concerned the Russian artist Oleg Vasiliev, also known as Masha Shtern and Syeroye Fiolyetovoye, who probably consider her/himself an LGBT or queer activist. Vasiliev tried, in violation of Ukrainian law, to enter the occupied part of Donetsk oblast from the uncontrolled-by-Ukraine part of the Ukrainian-Russian border – further to conduct some art performance. But he was detained, interrogated and deported back to Russia by the

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occupation authorities. The other case is described in section 6 of this report (case 1022).

8. CONCLUSIONS AND RECOMMENDATIONS

In addition to legislative reforms bringing Ukraine closer to modern European standards protecting the rights and interests of LGBTI people, the problem of homophobic violence needs urgent attention. Law enforcement authorities, within their reformation process, also have to learn experience and attitudes regarding homo-violence from their colleagues in developed Western countries. Thus,

1. **The Verkhovna Rada of Ukraine** is recommended to eliminate all provisions in the Ukrainian legislation that lead to discrimination on grounds of sexual orientation or gender identity – in particular, in Article 74 "The right to property of a woman and a man who live as one family but are not married to each other or are not in another marriage" and Article 91 "The right to maintenance of a woman and a man who are not married to each other" as well as the respective clauses of Article 211 "Persons who can be adoptive parents" of the Family Code of Ukraine. We also recommend that the Ukrainian parliament passes a law on registered partnership for same-sex couples. In the process of reforming the Ukrainian legislation, sexual orientation and gender identity should always be mentioned explicitly as characteristics that are protected from discrimination and incitement to enmity and hatred. Homophobic/transphobic motives for committing a crime should be defined as aggravating circumstances in Articles 161, 121, 122, 126, 127, 129, 293, 296 of the Criminal Code of Ukraine.

2. **The President, the Cabinet of Ministers of Ukraine, and the Commissioner of the Verkhovna Rada of Ukraine on Human Rights** are advised to adopt national policies to combat inequality, discrimination, increase tolerance and mutual respect in society, and always explicitly to mention sexual orientation and gender identity in the policies as protected characteristics, and LGBTIs – as a vulnerable group.

3. **The Ministry of Health of Ukraine** is recommended:
   - to amend the MoH Order 479 from 20.08.2008 "On Approving the List of Diseases Having Which Disables a Person to Be an Adoptive
Parent" by removing from it the code F64 (item 9 "Gender identity disorders");

– to organize a revision of all textbooks and other teaching and learning materials for medical schools to bring them into compliance with the ICD-10 with the purpose to eliminate any mentions of homo- and bisexuality as illnesses, mental disorders, sexual perversions etc. In addition, to ensure that new teaching materials are examined for correct coverage of issues of sexual orientation and gender identity.

4. The Ministry of Education and Science of Ukraine is recommended to include topics of sexual orientation and gender identity in the school curricula and programmes of universities and professional training of the teaching staff.

5. The Ministry of Interior of Ukraine is recommended:

– regularly to hold educational activities with their staff on the topics of tolerance and inadmissibility of human rights violations regarding LGBTIs, and (together with the prosecutors) thoroughly and impartially to investigate instances of human rights violations of LGBTI people committed by police officers and to bring the guilty persons to liability;

– to include topics of sexual orientation and gender identity in the programmes of juridical and law enforcement higher schools and in the professional training of the law enforcement staff.

6. State authorities, local self-governments and their representatives are recommended:

– to take into account and to be governed in their future activities by the principle enshrined in Article 35 of the Constitution of Ukraine, which states that "church and religious organisations in Ukraine are separated from the state, and schools – from the church" and that "no religion shall be recognized by the State as mandatory";
– to prevent and condemn public manifestations of homophobia, adhere to the principles of respect, equality and non-discrimination for all social groups.
9. Methodology and the Authors of the Report

The monitoring network of Nash Mir Center and publicly accessible mass media, especially electronic ones, were the main sources of information for this report. Our results cannot be considered statistically representative in terms of quantitative sociological data, but we state that they quite adequately reflect the current situation for LGBTI people in Ukraine, at least from the viewpoint of the Ukrainian LGBTI community. State institutions, except for the Parliament Commissioner for Human Rights, practically neither monitor themselves nor collect information on issues related to the observance of the rights and interests of this social group in Ukraine, therefore, more trustworthy statistics and analysis on these issues other than those published by the Ukrainian LGBTI and human rights organisations and individual activists, simply do not exist. Years of experience of our public work with the Ukrainian LGBTI community, cooperation with leading domestic and international human rights organisations and own life experience as ordinary Ukrainian LGBTI citizens are the guarantees of truthfulness and representativeness of our information – we write about what we feel and see around us in everyday life.

Our activities are aimed at both the LGBTI community and Ukrainian society in general. We are now focusing our efforts on:

- Monitoring violations of LGBTI people's rights.
- Legal aid and counselling for victims of discrimination and hate crimes on grounds of sexual orientation or gender identity.
- Legal education for the LGBTI community.
- Advocacy for the protection of equal rights for LGBTIs on legislative and political levels.
- Strategic litigation.
- Supporting local initiative groups, mobilizing LGBTI communities at the local level.

Nash Mir Center is a co-founder of the Council of LGBT Organisations of Ukraine (which currently brings together the vast majority of Ukrainian LGBTI organisations) and the Coalition for Combating Discrimination in
Ukraine – an association of various non-government organisations and individual activists who seek to promote equality and combat discrimination in Ukrainian society.
Tab 15
Ukraine

Equality and non-discrimination

A campaign appealing to authorities with demands to ban “homosexual propaganda” to “protect the traditional family” continued this year. In 2018, the campaign consisted of electronic petitions posted on the websites of the President, government, parliament, and local authorities. If a petition to the former three collects 25,000 votes, it must be considered by the corresponding institution, issuing a reply.

In April, Ukraine’s Ombudsperson had one of these petitions removed from the President’s official website. In addition to demanding a ban on propaganda, the petition also called adoption by same-sex couples “an act of violence” against children involved. The Ombudsperson affirmed that the petition was against Ukraine’s Constitution and the European Convention on Human Rights. The Ombudsman’s step was the first of its kind in protection of LGBT people in the country.

The rest of the petitions remained and received the necessary support to be considered. Petitions on the Verkhovna Rada’s (Parliament) website were reviewed by parliamentary committees, some of which issued homophobic opinions. The petitions on the Cabinet of Minister’s were also examined. The response to petitions on the President’s website stated that “any legislative initiatives to restrict constitutional rights are unconstitutional”. At the same time, the President promised to “examine the adoption of national strategies to protect and promote traditional family values and the institution of the family in Ukraine.”

Acting Minister of Health Ulyana Suprun stated that according to the law, an electronic petition may not include appeals to restrict human rights, and those who submit it could freely leave Ukraine. A lively public discussion started after the coming out of Viktor Pylypenko on 8 June, a veteran of the Anti-terrorist Operation in Donbas. The photo exhibition “We Were Here”, dedicated to him and other LGBT veterans and volunteers of the ATO, was held between 31 August and 7 October. Representatives of the Legal and Psychological Services of the Ministry of Defense attended the opening and assured the audience that the Ministry will apply the principle of non-discrimination and equality towards LGB military staff.

In July, the Ukrainian parliament adopted the law “On the legal status of missing persons”, which prohibits discrimination of missing persons and their relatives (art. 7), particularly on grounds of sexual orientation. It also recognises same-sex partners of missing persons as relatives. This is the second Ukrainian law, after the Labour Code, explicitly prohibiting discrimination on grounds of sexual orientation.

Freedom of assembly

The biggest problem of the Ukrainian LGBT movement in 2018 remained the high level of aggression by right-wing nationalist groups, who consistently tried to disrupt LGBT events. Attacks took place on a training event for psychologists on LGBT issues on 31 March in Poltava and the Equality Festival by NGO Insight in Chernivtsi on 19 May.

On 19 July, the Dnipropetrovsk District Administrative Court dismissed a claim of the Metallurhiyna District Council in Kryvyi Rih city to ban the Equality March in the city. On 22 July, the march was held under strong police protection. In October, the Ombudsman’s Office made a request to the Chernivtsi City Council to reverse its ban on LGBT events and observe the principles of equality and non-discrimination.

Freedom of association

Civil society is facing increasing repression by the government, in the lead-up to the 2019 elections. Pending draft amendments to the tax code (No. 6675) and the law on public associations (No. 6674) require NGOs to submit detailed reports about their finances and staff, including any external partners they work with or fund. NGOs that fail to submit the documents can be fined or shut down.
Health

During the second international trans conference (see under Legal gender recognition), the Deputy Head of the Medical Department of the Ministry of Health, Andrii Havrylyuk stated that the Ministry is ready to approve the new trans healthcare protocol. Yet, no steps were taken so far.

Legal gender recognition

On 23-25 of April, Insight NGO, in cooperation with the Ministry of Health, the Coalition against discrimination in Ukraine, the Secretariat of the Ukrainian Parliament Commissioner for Human Rights, and the Post Soviet Trans*Coalition, hosted the second international trans conference “Transgender issues: challenges and perspectives in modern Ukraine and world” in Kyiv.

The conference focused on legal gender recognition and access to trans healthcare. It stressed that the current LGR procedure discriminates against trans people who cannot or do not want to access hormones, or want to get a psychiatric diagnosis.

Since the 2016 Order No. 972 of the Ministry of Health “On approval and implementation of the medical-technological documents on standardisation of health care for gender dysphoria”, there have been several cases where trans people were able to access LGR without undergoing sterilisation. Hormone replacement therapy and a diagnosis however are still requirements.

FOR MORE INFORMATION VISIT RAINBOW-EUROPE.ORG
ILGA-Europe
Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe
2017
ILGA-Europe in brief

- ILGA-Europe are the European Region of the International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA).

- ILGA-Europe work for equality and human rights for lesbian, gay, bisexual, trans & intersex (LGBTI) people at European level.

- ILGA-Europe are an international non-governmental umbrella organisation, bringing together over 480 organisations from 45 countries in Europe.

- ILGA-Europe advocate for human rights and equality for LGBTI people at European level organisations such as the European Union (EU), the Council of Europe (CoE) and the Organization for Security and Cooperation in Europe (OSCE).

- ILGA-Europe strengthen the European LGBTI movement by providing trainings and support to our member organisations and other LGBTI groups on advocacy, campaigning, community organising, fundraising, organisational development, and strategic communication.

- ILGA-Europe was established as a separate region of ILGA and an independent legal entity in 1996. ILGA was established in 1978.

- Since 1997, ILGA-Europe enjoy participative status at the Council of Europe.

- Since 2006, ILGA-Europe enjoy consultative status at the UN's Economic and Social Council (ECOSOC) and we also advocate for equality and human rights of LGBTI people at the UN level.

- ILGA-Europe's office is in Brussels.

- ILGA-Europe receive funding from public and private donors.
ILGA-Europe
Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2017

This Review covers the period from January to December 2016.
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* Included in this Review as a separate jurisdiction following UNSCR 1244/1999
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- Member organisations of ILGA-Europe, country experts and other contributors:
Introduction

Welcome to the sixth edition of ILGA-Europe’s *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe*. The publication includes events that occurred between January - December 2016. It provides a snapshot of what happened during the year, at national, regional and international levels, and it documents progress and trends regarding the human rights situation of LGBTI people.

While the institutional reviews and country chapters focus on 2016, our highlights section puts these trends in context, with reference to further developments that took place in early 2017, prior to the Review’s publication.

Since it was last published, the Annual Review has undergone some changes. The most obvious of those is the size of the physical publication itself. The reason for this reduced size will be become clear when readers turn to the country chapter section. While the institutional chapters and highlights section remain the same, the country chapters now feature a visual snapshot of what the legal situation in a particular country at the end of 2016. Colourful graphics show how many of the Rainbow Europe criteria each country had met in 2016.

The chapters will also feature a short introduction, emphasising the major developments, as well as a series of recommendations aimed at policy makers. The full country chapters contained in the *Annual Review* will be available to view online through our website and our updated Rainbow Europe web module.

Once again, we must stress that this document is not an exercise in apportioning blame. ILGA-Europe’s goal is not to point fingers at specific countries. Instead, this publication intends to serve as a tool for the exchange of best practices and policies, and as an open invitation for enhanced cooperation between governments and LGBTI civil society.

ILGA-Europe want this publication to meet our readers’ expectations and needs, and welcome any suggestions for improvement at annualreview@ilga-europe.org

We hope that you will find this edition of the *Annual Review* informative and useful.

ILGA-Europe’s Annual Review Team
May 2017
A note on data collection and presentation

Collecting and presenting data on developments at national level in 49 countries represents a significant challenge for ILGA-Europe. Not only are we dealing with original reports in many diverse languages, the use of terminology around LGBTI issues is often not harmonised across Europe. Nonetheless, all information within the Annual Review has been verified using original documents and the best available local knowledge. Where possible, information was checked against institutional and national reports, and reliable news sources.

In terms of language and terminology, we have tried to avoid causing confusion. For comparative reasons, the language within the Annual Review has been kept in line with ILGA-Europe’s standards, and moves away from country-specific legal terms that may have a different meaning elsewhere. At the same time, we respected the variety of terms used by LGBTI communities to self-identify in different countries. For example, this is why the Annual Review does not exclusively refer to LGBTI but also to ‘LGBT’, ‘LGBTQ’ and other formulations.

Recommendations for national policymakers have been included in country chapters for the very first time. These are intended to encourage policymakers to address the most pressing legal and policy priorities within the framework of our Rainbow Mpa/Index. While ILGA-Europe are urging national authorities to follow these recommendations, we did not come up with the suggestions unilaterally. The recommendations were gathered following an online consultation with a wide range of our member organisations. As a result, the recommendations are tailored to the needs of activists working on the ground.

Of course, the Annual Review cannot cover every development in all 49 countries in intricate detail. Firstly, the event itself may not have been adequately reported, or perhaps the reports were confusing or contradictory and ILGA-Europe were unable to verify them.

Secondly, the primary goal of the Annual Review is to reflect the human rights situation of LGBTI people and their position in society. This means that our primary focus is on events and LGBTI NGO work that represent important milestones towards the acknowledgement of the rights of the LGBTI community in that country.

Thirdly, information on intersex issues was collected where available but unfortunately intersex people’s human rights remain largely unaddressed at national level.

Finally, this is our sixth Annual Review and we always strive to develop our rigorous data collection system. However, a number of limitations remain. We will incorporate the lessons learnt during the previous four Annual Reviews and continue to improve the quality of our reporting on LGBTI issues in Europe.
How to use this Annual Review?

This Annual Review covers developments at national, European and international level between 1 January 2016 and 31 December 2016.

The Review itself is divided into two main sections. Institutional reviews provide an overview of developments at the European Union, the Council of Europe, the Organization for Security and Cooperation in Europe, and the United Nations. The second section, Country reviews, contains 49 chapters covering all European countries in alphabetical order.

For the first time, the layout of the country chapters has been updated. In the revised layout, all country chapters open with a short introduction. This is followed by a colourful graphic, showcasing what the legal and policy situation was like in each country at the end of 2016. This graphic ‘wheel’ features the six main categories found on ILGA-Europe’s Rainbow Index/Map and is based on the graphics used on the Rainbow Europe web module – www.rainbow-europe.org

Each of the country chapters concludes with a series of recommendations. We hope this will help to direct policymakers to the areas where they can improve the legal and policy situation for LGBTI people. It is not intended to be an exhaustive list. Rather, it will pinpoint where respective national laws are lacking and suggest where legislators can start to be proactive.

The full text of all the country chapters is available online at www.rainbow-europe.org. As in previous years, the presentation of information in each country chapter is ordered by thematic categories, marked by introductory bullet points and follows a chronological order, without distinguishing between positive and negative developments.

ILGA-Europe also include an editorial-style highlights section at the start of the Annual Review, where we outline what we see as the major trends and developments that took place in Europe in the past year.
2016 – Where to begin? It was a year that was filled with breaking news stories, events that at times seemed increasingly unbelievable. ILGA-Europe’s Annual Review cannot begin to distill everything that has happened in Europe over the past 12 months, as the task would be almost impossible given the space constraints! However, this highlights section will attempt to outline the major trends and developments as witnessed in our work. One thing was crystal clear – as we discuss the major political, social and cultural developments that have taken place since 2016, LGBTI issues are always at the heart of the conversation.

Throughout 2016, the LGBTI movement in Europe witnessed just how much their own work at national level was inextricably linked with wider global events. No matter what the issue in the media headlines was, there was an element of LGBTI equality woven into it. Some were bluntly apparent; the impact of the horrific attack on the Latinx night at the Pulse club in Orlando, Florida reopened conversations in Europe about hate crime and whether governments and institutions are doing enough to keep LGBTI people safe.

Other headlines may not have been LGBTI-specific at first glance, but the experiences of LGBTI people in those scenarios cannot be overlooked. Behind discussions on asylum, immigration and the procedural issues associated with these processes were the stories of the very complex situations faced by LGBTI asylum-seekers. The news of the UK’s decision to leave the European Union was followed by reports of a rise in hate crimes, including homophobic and transphobic violence, in various parts of the UK. The spread of “populist” political discourse across Europe and beyond raises serious questions for the LGBTI community, as politicians either use the community as a scapegoat or directly appeal for their votes in an attempt to prove their ‘human rights credentials’. Attacks on democratic institutions such as media and courts directly affect LGBTI activism too, as it limits activists’ options for visibility and accessing justice.

When zooming in on the specific LGBTI landscape in Europe, it is clear that we have entered into a period where the legislative process is slowing down. Now is the time when implementation of laws and policies on LGBTI equality gained over the past 15 years becomes vital. Not only is it a priority to ensure that the legal wins translate into real change in the lived experience of LGBTI people, but also to ensure that there is no ‘rolling back’ or erosion of those gains.

This said, one area where legal progress is still moving forward at pace is legal gender recognition. In 2016, Norway’s parliament voted in favour of legislation based on the principle of self-determination. It became the fourth European country to take this progressive step, joining Denmark, Malta and Ireland. In France, a legal gender recognition (LGR) procedure that removed references to sterilisation and medicalisation was passed. Greece took inspiration from the existing Maltese Gender Identity, Gender Expression and Sex Characteristics Act, as the Greek authorities began to draft a gender recognition law. Belgian ministries continued to work on their own reform bill and politicians in Luxembourg suggested changes to current legal requirements. The United Kingdom committed to reviewing its own legislation, with activists calling for a move to self-determination, while the government in Portugal pledged to introduce plans for self-determined LGR in 2017.

While not all the new laws passed in 2016 chose to follow the optimal model of self-determination, jurisprudence is establishing clear principles to guide policy-makers. Even as this Annual Review was going to print, the European Court of Human Rights handed down a landmark decision in three French cases that found that the sterilisation requirement in legal gender recognition violates the European Convention on Human Rights. There is also a growing level of awareness among policymakers dealing with trans issues and a broader understanding of the needs of trans people: from the Maltese government addressing the needs of trans people in prisons, to the UK’s new instructions on the care of trans prisoners, and the publication of new clinical protocols in Ukraine to improve the healthcare system for trans people. Sweden also acknowledged historical human rights violations by pledging to compensate trans people who had been forcibly sterilised.
Another positive trend is the visibility of the human rights of intersex people. In 2016, more institutions and governments explicitly included intersex issues in their work. Bosnia and Herzegovina added sex characteristics to its anti-discrimination law, meaning intersex people are now protected against discrimination in all spheres of life. Countries like Belgium, Greece and the Netherlands initiated political discussions towards adopting more inclusive legislation. The Cypriot Parliamentary Committee on Human Rights convened to analyse a report on the rights of intersex children. The European Parliament held its first-ever formal hearing on intersex rights. Various UN treaty bodies including the Committee on the Rights of the Child and CEDAW gave focused attention to the lived experiences of intersex people in Europe and integrated those issues in their work. Public attention also increased when Belgian supermodel Hanne Gaby Odiele came out as intersex in January 2017 – immediately raising awareness.

In this context, the human rights of intersex people are rapidly becoming the marker of advances in terms of LGBTI equality laws and policies. Countries that have historically been viewed as ‘leading’ on our Rainbow Map/Index will start falling down if they do not take steps to ensure that intersex people are protected by law.

Milestones continued to be marked in the area of family law in several European countries. Same-sex couples celebrated in Greece and Cyprus as the first partnerships were signed in both countries in early 2016. Italian lawmakers passed a historic civil unions law, after months of intense and divisive debate. Slovenia’s long awaited bill to extend rights and protections for couples in registered partnerships also became effective in early 2017. Even in the absence of all implementing legislation, Estonia’s Registered Partnership Act became enforceable in 2016. Marriage equality came into force in Finland, Gibraltar, Greenland and the Isle of Man. Joint and second parent adoption became an option for same-sex couples in Portugal, and the same country also opened access to medically assisted reproduction to all women (ensuring automatic parental recognition for same-sex couples). Reforms to existing adoption law that will extend step-parent adoption to registered partners were also finalised during 2016 in Switzerland.

The European courts also issued significant rulings in the area of family, as the European Court of Human Rights delivered verdicts in Pajić v Croatia (the first ruling by the Court on family reunification of same-sex couples) and Taddeucci and McCall v Italy (Italy’s refusal to grant one partner in a same-sex couple a residence permit violated their rights). It is also noteworthy that in a few countries, deliberations around full recognition of all forms of rainbow families flourished. The Netherlands and Denmark are both currently discussing the possibility of inclusive laws to recognise families with more than two parents and different kinds of parenting roles, such as legal parents with parental rights and social parents who are recognised as part of the family. In other countries, activists undertook awareness-raising around the very existence of rainbow families, as the first TV ad to feature a same-sex couple and their children was broadcast in Albania.

This good news sits in stark contrast to the ongoing discussions on restricting the definition of family life or marriage through referendum – in Georgia, Romania and Lithuania. Romania’s very public referendum debate was also accompanied by an equally visible court case taken by a same-sex couple who wish to be recognised as spouses in the country. As this Annual Review is being printed, questions in the case are under consideration at the Court of Justice of the European Union. However, one vote on family issues had a positive result in the past year. A popular initiative in Switzerland, initially described as a vote on tax reform, was discovered to have potentially damaging consequences for same-sex couples. Following an intensive campaign by activists, voters opted not to amend the existing gender-neutral constitutional definition of marriage.

As things progressed in many countries, the ongoing gaps in neighbouring states become even more apparent. Marriage equality still eludes couples in places like Germany, Malta and Northern Ireland. As already alluded to, the civil union debate in Italy was memorable for many
reasons. One of the negative memories associated with the bill’s passage was the derogatory language used by parliamentarians and the eventual removal of second parent adoption from the law.

Sadly, there are several negative trends to report on in 2016. Civil society groups in a number of European countries faced additional stress imposed by their respective governments. Pressure on civil society was notably increased in Turkey in the wake of the attempted coup in July. The offices of LGBTI NGOs were shut down amidst apparent fears of terrorism. Multiple violent threats were publicly issued by extremist groups, attempting to intimidate Pride organisers and curtail LGBTI events; activities that subsequently fell foul of the authorities’ bans. Their Polish activist counterparts saw their offices attacked on several occasions. In Hungary, the southern village of Ásotthalom gained notoriety at the end of the year as it introduced an ‘anti-propaganda’ law targeting ‘non-traditional’ marriage. (Update: as the Annual Review was going to print, Hungary’s Constitutional Court annulled the Ásotthalom regulations.)

Of course, a claustrophobic atmosphere for LGBTI activists is not just created by laws or practices that deliberately target LGBTI people. The pressure is increased when other critical voices are silenced, such as independent media outlets, universities, human rights bodies and other watchdogs, or prevention of events run by NGOs working on other human rights issues. All attempts to shut down dissent and maintain the status quo have a knock-on effect on the activism of the LGBTI movement. LGBTI activists in Croatia saw funding cuts, for NGOs and for independent media groups, including LGBTI sources of information. A large question mark hangs over future LGBTI events in Poland, as a public assembly bill that proposed preferential treatment for gatherings of ‘national importance’ was approved by parliament in December.

In addition to this, counter-terrorism measures are increasingly being used to justify limiting fundamental freedoms, such as the right to peacefully protest, to form associations, organise public LGBTI events or speak out freely. The disruption caused to the 2016 Pride march in Paris or the fact that the authorities in two Italian cities only authorised Prides following heavy pressure are prime examples. LGBTI activists can never take the safeguarding of their spaces for granted. Pride marches have always been a visible symbol of fundamental human rights and an indicator of how well democracy is functioning. However, Europe’s rapidly changing political context means that past successes are no guarantee for the future – Istanbul was a particularly shocking and physical regression. In many places, such as Poland and Hungary, Pride marches are still being held successfully but activists are working in a climate that is becoming more hostile to their work. Happily, the opposite can also be true; Kyiv Pride saw its largest attendance and Odesa held its inaugural march in 2016. Prides have been viewed as litmus test for democracy, but this test cannot be one-off – it needs to be applied every year.

Bias-motivated speech by public figures sadly continues to be a very prominent feature of our Annual Review. There were several cases of derogatory comments about sexual orientation or how people choose to identify and express their gender made in a public forum. Such comments were identified in TV programmes in Armenia and Georgia, textbooks in FYR Macedonia and Poland, in Belarusian media following monitoring work by Journalists for Tolerance, and via social media in Bosnia and Herzegovina. When bias-motivated speech comes from the mouth of a well-known public figure, politician, or other influential leaders, its message is often widely disseminated – increasing the negative impact on LGBTI people who hear it, and potentially emboldening others who hold discriminatory views. LGBTI activists in Italy also emphasised the offensive nature of some of the arguments employed by politicians during the acrimonious civil union debate. NGOs documented many examples of bias speech by elected officials; some of the most callous remarks were directed at rainbow families. In 2016, examples of anti-LGBTI speech also could be found on election posters in Georgia, on the social media pages of politicians in FYR Macedonia (also in advance of
elections), a high school professor in Serbia, and from church officials and the man who would become president by the end of the year in Moldova.

One puzzling feature of this year’s Review concerns asylum. It is puzzling because despite the fact that it has become such a clear priority for many LGBTI organisations, there are limited positive developments to report on from the national and European authorities’ side. Latvia finalised an asylum law with references to sexual orientation and gender identity, but in many other countries, activists spoke out with concerns. Swedish NGOs criticised the effect that legal changes could have on LGBTI asylum seekers and their families. Worries over the lack of safe housing for LGBTI asylum seekers started to be raised more systematically by civil society, for example in Spain, Finland, Iceland and the UK. The EU Fundamental Rights Agency started to monitor the situation. Civil society groups across Europe stepped up the support provided to LGBTI asylum seekers throughout the application process, and beyond where possible. But there is clearly a need for public authorities to step in to address safety concerns, as some German authorities started to do in 2016 by opening the first accommodation specifically for LGBTI asylum seekers. Indeed, it is surprising that we are not seeing more movement from the Rainbow Map’s ‘leading countries’ like Malta and Sweden. Opportunities to add LGBTI-specific protection to laws related to asylum were also overlooked by legislatures in several countries, including Bosnia and Herzegovina and Turkey.

The need for an intersectional approach to policymaking is clear. But, in spite of the fact that we know many LGBTI people are still not benefitting from recent advances, there are still limited improvements being reported at national level. There seems to be a disconnect between the concerns of the LGBTI movement and the public authorities’ actions. We hope to have more to report on in the next Annual Review. Additionally, another area ILGA-Europe are conscious that more proactive steps are needed in is the issue of HIV/AIDS. We know that the incidence of HIV remains high across parts of Europe. National authorities cannot turn away from the issue. In the next year, the focus of policymakers has to be on effective action as well as awareness-raising attempts.

For activists working directly with international or European institutions, their work is taking place at quite a perplexing time. On the one hand, there is a huge amount of potential contained in several LGBTI-specific tools and documents. On the other hand, the political will needed to operate these tools to drive change appears to be dormant. The increasing focus on policymaking at national level moves attention away from mechanisms, such as the EU’s LGBTI Guidelines or the Commission’s List of Actions. But these structures are already in place, providing a framework to improve the situation for LGBTI people inside and outside the EU – why not activate them too, alongside national laws? In this context, it is encouraging to see bodies like the Council of Europe continuing to give visibility to emerging human rights issues, through the PACE, the SOGI Unit and the office of the Commissioner for Human Rights. The UN’s historic introduction of the SOGI Independent Expert’s mandate was another highlight of 2016.

Even as we finish writing this particular Annual Review, we are reminded of the scale of the work that still has to be done in some parts of Europe. Arbitrary detention, torture and extra-judicial killing sound (thankfully) like alien terms to most of us, but this is exactly the reality faced by (perceived) gay and bisexual men in Chechnya. The true enormity of what is happening is unfolding as we go to print, and next year’s Review will hopefully include updates on how the international community was able to support the LGBTI community there. Let us not shy away from these challenges. Parts of the human condition are terrifying, but our work as an activist movement requires us to face it. The LGBTI movement has demonstrated, time and time again, that it can withstand and counter even the most entrenched opposition. In 2017, the European movement needs to call on all its determination, strength, and resilience to create the change we would like to see in the world.
2016 proved to be a historic step forward for the United Nations, with the creation of the mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (SOGI). This unique mandate, filled by Vitit Muntarbhorn, means that reporting on SOGI-based human rights violations has been included as part of the mechanisms of the UN’s Human Rights Council for the very first time. The celebratory mood was not universal however, as several states tried to hinder the work of the expert before they had even been appointed. Opponents questioned the legality of the mandate itself, essentially arguing that SOGI are not universally recognised in the human rights framework. These calls for the mandate to be postponed indefinitely were ultimately unsuccessful, and Vitit Muntarbhorn met with LGBTI activists in November. Alongside this new mechanism, more established human rights tools continued to operate. A total of nine European governments were called to report to the Human Rights Council as part of the Universal Periodic Review. An increased involvement in the UPR process has led to high and continuous visibility of LGBTI issues at each UPR session.
Equality and non-discrimination

- The mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity was created by the Human Rights Council. A resolution initiated by seven Latin American states (Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico and Uruguay) was adopted on 30 June. 23 votes were in favour, 18 were against, and there were 6 abstentions. Four subsequent attempts were also made, by states opposed to the mandate’s creation, to block the mandate at the UN General Assembly. However, all these attempts were successfully voted down. For the first time, reporting on human rights violations on the basis of sexual orientation and gender identity is now systematically integrated in the work of the Human Rights Council.

- In September, the Human Rights Council appointed international law professor Vitit Muntarbhorn for a term of three years as the first-ever UN SOGI Independent Expert. Mr Muntarbhorn was co-chairperson of the drafting committee of the Yogyakarta Principles in 2006. The Independent Expert is tasked with assessing the implementation of existing international human rights law in this area, and addressing the multiple, intersecting and aggravated forms of violence and discrimination and its root causes.

- The Independent Expert made the first public appearance of his mandate at the ILGA World Conference in Bangkok in November. In a keynote speech, he presented five topics as the cornerstones of his mandate: decriminalisation, destigmatisation, legal recognition of gender identity, cultural inclusion with sexual and gender diversity, and empathisation. The Independent Expert also met separately with delegations from various regions, including a European delegation, and different groups, such as the bisexual caucus and the trans caucus.

- Human rights violations against LGBTI people in Europe were brought to the attention of the Human Rights Council under the Universal Periodic Review through reports and statements. Final reports were adopted for Austria, Belgium, Denmark, Estonia, Georgia, Greece, Hungary, Ireland and Latvia.

- The government of Austria noted a number of recommendations on recognition of same-sex partnerships and inclusion of sexual orientation and gender identity in anti-discrimination legislation, but responded that it ‘is committed to the current European standards, in particular to those stemming from the case-law of the European Court for Human Rights’ and supports a common approach in the EU.

- Belgium accepted recommendations to consider abolishing the requirements for medical interventions for trans people to obtain legal gender recognition and prevent discrimination and violence based on grounds of homophobia.

- Denmark stated that Danish law contains a number of acts on non-discrimination in response to a recommendation to explicitly include grounds such as sexual orientation and gender identity. Denmark finds that the legislation on gender reassignment contains relevant safeguards already and is currently considering allowing minors to change their legal gender through the person with parental authority.

- Estonia seemed willing to adopt hate speech and hate crime legislation and to launch a public diversity debate. It also noted that the Registered Partnership Act entered into force on 1 January 2016.

- Georgia announced it will train specialised police officers for hate crime investigation and accepted to include LGBTI persons in the implementation of anti-discrimination legislation, to train and raise awareness among the judiciary and the wider public, to combat social stigmatisation, hate speech, discrimination and violence on the basis of sexual orientation and gender identity.

- Greece committed itself to legislate for legal gender recognition and stated that same-sex couples relationships have already been statutorily recognised in the new Civil Partnership Pact, thus fully guaranteeing the protection of family life. It is currently considering the possibility of instituting the marriage of same-sex couples and the joint adoption of children, in the context of a comprehensive review of the family law.
Hungary accepted all recommendations to adopt a comprehensive plan of actions to effectively combat discrimination, hate speech and hate crimes against LGBTI people.

Ireland extensively reported on steps taken, such as the new legal gender recognition law, its data collection on bias-motivated crimes (including homophobia) in accordance with the EU Victims Directive, and prohibition of discrimination on the ground of sexual orientation in admission policy for schools. However, a comment on unnecessary surgery on intersex children was neglected.

Latvia stated that “The Constitution of Latvia stipulates that the State shall protect and support marriage as a union between a man and a woman. Nevertheless any person can freely establish a private union with another person in Latvia, regardless of whether it is marriage or any other type of union. There are no obstacles for persons residing together, regardless of whether they have entered into marriage or established other type of a union, to settle their material relationship through various civil transactions with other persons.” Latvia also indicated its domestic legislation guarantees access to courts and investigation of criminal offences against LGBTI people and punishment of the perpetrators, but recognised the need for education of law enforcement authorities and improvement of victim support. In response to recommendations to include homophobic and transphobic motives in hate crime legislation, Latvia stated that criminal liability for inciting hatred or enmity due to a person’s belonging to a social group has recently been included in criminal law.

In order to improve the legal and policy situation for LGBTI people, ILGA-Europe recommend:

- Continuing to actively support and adequately resource the work of the UN SOGI Independent Expert.

- Encouraging dialogue between civil society and member states in UN spaces by ensuring access to key meetings, such as at the Human Rights Council, the Commission on the Status of Women, the General Assembly and ECOSOC.

- Supporting the participation of civil society groups as key stakeholders in the UPR review process, and encouraging states to actively follow up on UPR recommendations in cooperation with civil society.
In 2016, the Council of Europe (CoE) provided meaningful support for the protection and promotion of human rights standards for LGBTI people. It took active steps to integrate intersex issues in different parts of its work, from the Parliamentary Assembly starting to work on a report on intersex human rights, to the Bioethics Committee discussing protection of intersex children. The CoE also stepped up its technical support with national authorities – advancing adoption and implementation of LGBTI equality standards through the work of its SOGI unit. Important case law continued to come from the European Court of Human Rights; attacks on LGBTI activists, family reunification and the treatment of LGBTI asylum seekers in Europe were just a selection of the topical issues adjudicated on by the Strasbourg court. The institution also made its support visible, by speaking out on milestone days such as IDAHOT, Intersex Awareness Day and Trans Day of Remembrance.
Asylum

- In May, the Council of Europe, United Nations High Commissioner for Refugees (UNHCR) and the Greek Bar Association organised a roundtable in Athens. Discussions focused on the European Convention on Human Rights and the protection of asylum seekers. One session looked at the particular situation of LGBTI asylum seekers, targeted at asylum officials, lawyers and civil society groups. The event provided participants with knowledge of international human rights standards on asylum claims based on sexual orientation and gender identity, as well as practical tools for their everyday work.

- The European Court of Human Rights (ECtHR), in the case of OM v Hungary ruled unanimously that the two-month detention of an Iranian gay man applying for asylum was arbitrary and unjustified, in violation of Article 5 (right to liberty and security). The ECtHR found that Hungarian authorities failed to make an individualised assessment and to take the applicant’s vulnerability (in the detention facility) based on his sexual orientation into account (see Hungary).

Bias-motivated violence

- In April, the ECtHR ruled in the case of M.C. and A.C. v. Romania that the authorities had failed to conduct effective investigations into attacks on LGBTI activists, including ignoring possible homophobic motives, giving rise to a violation of Article 3 (prohibition of inhuman or degrading treatment) taken together with Article 14 (prohibition of discrimination) (see Romania).

- To mark Trans Day of Remembrance on 20 November, PACE General Rapporteur on the rights of LGBT people, Jonas Gunnarsson, made a statement "honouring the memory of the hundreds of transgender people whose lives have been cruelly cut short in the past year due to unspeakable acts of hatred and violence."

- In December, the Committee of Ministers, in supervising the execution of the ECtHR judgment in Identoba v. Georgia, put pressure on Georgia to conduct a prompt and effective investigation into those responsible for the violence against the 2012 Tbilisi IDAHOT march, and to provide further information on their measures to protect freedom of assembly at future LGBTI events.

Bodily integrity

- In June, the Council of Europe intergovernmental Committee on Bioethics discussed the protection of the human rights of trans and intersex children and young people, hearing expert evidence from NGOs, including OII Europe and Transgender Europe – TGEU.

- Rapporteurs for the Parliamentary Assembly of the Council of Europe (PACE) issued a statement to mark Intersex Awareness Day on 26 October. Jonas Gunnarsson (Sweden) and Piet De Bruyn (Belgium) called for an end to “shame, secrecy and unwanted medical interventions on intersex children”.

Education

- The PACE adopted a resolution on “Access to school and education for all children” in January. It called on CoE member states to ensure access to quality education for LGBTI children by promoting respect and inclusion, disseminating objective information, and addressing bullying.

- In May, in the run-up to IDAHOT, CoE Secretary General Thorbjørn Jagland spoke out against homophobic and transphobic bullying in schools in Europe, which he characterised as a grave and often disregarded problem.

Equality and non-discrimination

- ECRI, as part of its five-year monitoring cycle, adopted reports covering the rights of LGBTI people on Armenia, Azerbaijan, Cyprus, France, Georgia, Italy, Lithuania, Monaco, FYR Macedonia, Turkey, and the United Kingdom.

- In April, the Council of Europe launched a new five-year strategy on the rights of the child at a ministerial meeting in Sofia. It included plans to undertake research on the human rights situation of LGBTI children. It was followed by the publication of a

- The PACE Equality and Non-Discrimination Committee issued a statement to mark IDAHOT on 17 May. The Committee expressed concern at the continuing, serious human rights violations experienced by LGBT people in Europe, and called on parliamentarians and others to take a number of measures to combat these violations.

- In October, the PACE adopted a resolution on “Sport for all”. It called member states to put in place mechanisms for regular and systematic monitoring of discrimination in the field of sport, including where based on “sexual orientation, gender identity, gender expression or sexual characteristics”, to facilitate targeted prevention strategies and ensure investigation of complaints.

- The Sexual Orientation and Gender Identity (SOGI) Unit organised a roundtable meeting in November. Members of the governmental LGBTI focal points network and of member state representations at the Council of Europe were invited. The event’s speakers included: the UN Independent Expert on violence and discrimination based on sexual orientation or gender identity, Vitit Muntarbhorn; CoE Commissioner for Human Rights, Nils Muižniesks; and US Special Envoy for the human rights of LGBTI people, Randy Berry.

**Family**

- In February, in the case of Pajic v Croatia, the ECtHR found that preventing same-sex couples from obtaining residence permits for family reunification purposes because of their sexual orientation was unjustified discrimination, violating Article 14 (prohibition of discrimination) taken in conjunction with Article 8 (right to respect for private and family life) (see Croatia).

- A judgment in the case of Taddeucci and McCall v. Italy was handed down in June. The ECtHR found that the refusal of the Italian authorities to grant a residence permit to the foreign partner of an Italian national was unjustified discrimination, violating Article 14 (discrimination) taken in conjunction with Article 8 (right to respect for private and family life). This was the first time that the ECtHR has found that an important right reserved for married couples must be open to same-sex couples who are excluded from marriage. (see Italy).

**Freedom of assembly**

- PACE delegates tabled a Written Declaration in April documenting the breakup of the Lviv Equality Festival by right-wing extremists (with tacit support of city authorities and local police). It called on the authorities to prosecute those responsible (see Ukraine).

- In June, the Commissioner for Human Rights urged the Turkish authorities to reverse their decision to ban the Istanbul Pride march. In October, PACE delegates also tabled a Written Declaration condemning the denial of freedom of assembly to LGBTI people in Turkey as a serious violation of rights (see Turkey).

- In supervising the execution of the ECtHR judgment in Alekseyev v. Russia in December, the Committee of Ministers expressed serious concern at the continuing failure of the authorities to authorise similar freedom of assembly events (see Russia).

**Legal gender recognition**

- In June, CoE Secretary General Thorbjørn Jagland welcomed Norway’s adoption of a new law on legal gender recognition based on self-determination (see Norway).
In order to improve the legal and policy situation for LGBTI people, ILGA-Europe recommend:

- Setting out a clear procedure and timeline to ensure the review of the Committee of Ministers recommendations takes place in 2018.
- Continuing to strengthen the CoE’s own institutional mechanisms to ensure that the CoE’s support for the human rights of LGBTI people is coherent and visible.
- Increasing the level of technical assistance provided by the SOGI Unit for national level legislative and policy advances across Europe, ensuring close involvement of civil society and national authorities.
The European Union continued to hold considerable potential to drive change for LGBTI people in many spheres of life. 2016 was a mixture of achievement and unmet expectation. Asylum still featured prominently on the EU’s agenda, as its monitoring body (the Fundamental Rights Agency) stepped up reporting work with monthly updates on asylum issues. The European Commission’s reform attempts of the asylum system were met with a critical reaction from LGBTI activists, in particular the specific effects that ‘safe country’ lists and the arrangement between the EU and Turkey would have on LGBTI asylum seekers. The institutions were also involved in actions targeting online hate speech and proposals were tabled to increase protection against incitement to hatred. Several high-level groups were launched and the rights of LGBTI people continued to be a central part of the conversations in the assessment of countries on the path to EU accession. Intersex people were mentioned in a Parliament hearing for the first time ever, and LGBTI-specific Council conclusions were passed, in another major first. However, LGBTI activists and allies were left frustrated by what they see as an ongoing lack of ‘action’ on the Commission’s List of Actions.
Asylum

- The European Union Agency for Fundamental Rights (FRA) began publishing monthly reports on a variety of issues, starting in January. This included monthly monitoring on asylum issues, including on topics such as gender-based violence and hate crime. FRA also organised a panel debate on LGBTI refugees (with the Canadian Embassy) in Vienna, which took place on 1 December.
- The numbers of refugees and asylum seekers arriving in Europe remained high throughout 2016. In March and July, the European Commission launched another reform of the EU’s asylum system, aiming to streamline and accelerate procedures. LGBTI activists and NGOs expressed concern that the ‘safe country’ mechanisms would have a disproportionate negative impact on LGBTI asylum seekers. Other concerns included the fact that countries otherwise regarded as ‘safe’ (such as Turkey, Russia or states in north Africa) might be systematically unsafe for LGBTI people. Also in March, the European Council agreed the so-called ‘EU-Turkey deal’. The agreement aimed to address the flow of smuggled migrants and asylum seekers travelling Turkey to Greece, by allowing Greece to return “all new irregular migrants” arriving there to Turkey. In exchange, EU Member States would increase resettlement of Syrian refugees residing in Turkey, accelerate visa liberalisation for Turkish nationals, and boost existing financial support for Turkey’s refugee population.

Bias-motivated violence

- On 25 May, the European Commission tabled a proposal to reform the existing Directive on audio-visual media services. The draft proposal would oblige Member States to tackle any incitement to violence or hatred, including on the basis of sex and sexual orientation. Additional amendments were tabled in the European Parliament to strengthen protection against homophobic and transphobic hate speech. Committee or plenary votes had not taken place by the end of 2016.

Bias-motivated speech

- As part of the EU’s High Level Group on combating racism, xenophobia and other forms of intolerance (see Bias-motivated violence), the European Commission, Facebook, Twitter, Microsoft and YouTube adopted a code of conduct on countering illegal hate speech online. The code (adopted on 31 May) contained commitments to put in place processes against illegal hate speech, addressing reports within 24 hours. Subsequently, the European Commission reached out to civil society to monitor the implementation of this code of conduct, a process that started in October.

Bias-motivated violence

- Following 2015’s first Fundamental Rights Colloquium, in June the European Commission launched the EU High Level Group on combating racism, xenophobia and other forms of intolerance. It brought Member State representatives, EU agencies, European and international organisations together. The mandate of the group includes fostering exchange of best practices on how to better counter hate crime and hate speech and be a platform for dedicated discussions on how to effectively tackle particular forms of intolerance, including homophobic and transphobic hate.

Education

- In February, the European Commission Directorate-General on Education and Culture (DG EAC) created a “Working Group on promoting citizenship and the common values of freedom, tolerance and non-discrimination through education”. The group gathered representatives of education ministries (from the EU and accession countries) and civil society organisations (including ILGA-Europe). Members worked together on policy recommendations in areas such as the promotion of civic, intercultural, and social competences; ownership of democratic values; and the fight against discrimination, racism, segregation, bullying, violence and stereotypes.
- The European Commission Network of Experts working on the Social Dimension of Education and Training (NESET) published a report on school violence and how to prevent and tackle it (for the first time) in December. The report extensively covered homophobic and transphobic school bullying.
**Enlargement**

- In November, the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) published its annual Enlargement Package. The reports offered assessments of how individual accession countries are implementing key political and economic reforms en route to joining the EU. The human rights of LGBTI people were a central point within the fundamental rights section of the reports. The reports also made references to developments beyond the EU’s body of legal rights, including legal sex change and gender recognition procedures, same-sex cohabitation, and civil partnership.

**Equality and non-discrimination**

- On 16 March, the FRA launched its ‘Professionally speaking: challenges to achieving equality for LGBT people’ report. The report was based on interviews held in 19 EU member states, with public officials in government, human rights institutions and equality bodies, as well as health officials, teachers and police officers. It revealed that prevailing negative attitudes towards LGBT people endanger their fundamental rights and hamper efforts to counter discrimination and hate crime.
- Also in March, the Employment, Social Policy, Health and Consumer Affairs Council configuration (EPSCO) under the Dutch Presidency discussed the adoption of Council Conclusions on gender equality and LGBTI equality. 27 Member States unequivocally supported a proposal that asked the Commission to step up the implementation of their List of Actions to advance LGBTI equality. Only Hungary was unable to support the LGBTI equality conclusions. After further negotiations in June, the Dutch Presidency ensured the adoption of the first-ever LGBTI-specific conclusions that refer to equality within the EU. The conclusions set out a series of goals to be achieved by the various EU institutions, agencies and member states. However, in order to ensure unanimity, the text included a problematic reference to member states working with the EU to advance LGBTI equality while “fully respecting the Member States’ competences, national identities and constitutional tradition”. They also failed to acknowledge the instruments the EU already has to protect trans people based on EU case law, despite the fact that the title of the conclusions mentions LGBTI equality.
- The European Parliament adopted a report on gender mainstreaming in the work of the European Parliament in March, calling for the inclusion of “the rights, perspectives and well-being of LGBTIQ people” in all gender mainstreaming activities.
- For the second year in a row, the European Council Secretariat marked IDAHOT by organising a discussion for its employees on advancing LGBTI rights.
- In June, the human rights of intersex people were included for the first time in an official hearing at the European Parliament. An intersex activist was one of the speakers in a hearing on the fundamental rights of people with disabilities, Roma people and intersex people before the Committee on Civil Liberties, Justice and Home Affairs (LIBE).
- In November, Members of the European Parliament Terry Reintke (Greens-EFA), Ulrike Lunacek (Greens-EFA) and Igor Šoltes (Greens-EFA) organised the “Queer People Unite, Fighting Societal Backlash” event. With over 50 activists from across Europe present, the panel discussions aimed to address questions of how to tackle the attempts of repressive, neo-conservative, religious right-wing and right-wing movements to push back against the achievements in the area of LGBTI rights.
- Also in November, a group of European civil society organisations sent an open letter to Commission President Juncker and Parliament President Schultz about the comments made by Commissioner Günther Oettinger (see Germany) during a speech in Hamburg. ILGA-Europe, the European Women’s Lobby and ENAR - European Network Against Racism expressed concern over the homophobic, racist and sexist remarks made by the Commissioner, stating that the comments set an indefensible example to other institution staff and called on the Commissioner to resign.
Foreign policy

- As part of the European External Action Service’s (EEAS) campaign to raise awareness of global human rights issues (#EU4HumanRights), the Permanent Representation of the Netherlands to the EU organised a roundtable to mark IDAHOT. The discussion was entitled ‘Reconciling religion and LGBTI: Implications for the EU’s External Policy’ and heard perspectives from religious LGBTI people and organisations.

- In December, the European Parliament adopted the Annual Report on Human Rights and Democracy in the World. The report contained a strong reflection of the human rights of LGBTI people, recognising the importance of the EU’s LGBTI Guidelines adopted in 2013. It called on the European Commission and EEAS to ensure proper and active implementation of the Guidelines. It also highlighted the need for internal and external coherence regarding the rights of LGBTI people, the vulnerability of LGBTI asylum seekers, increased violence, ill-treatment and torture against LGBTI people.

Freedom of expression

- In June 2016, the European Commission ended the dialogue procedure with the Lithuanian government on the “Law on the protection of minors against the detrimental effects of public information” without any result. The procedure had been launched following a complaint from national NGO LGL and ILGA-Europe about the fact that a family equality video by LGL was banned under the law (the law was thus being used to curtail freedom of expression of LGBTI organisations).

Freedom of movement

- In October, the European Parliament’s Petitions Committee held a hearing on “Obstacles to EU citizen’s freedom to move and work in the Internal Market”, based on a recently published comparative report. In this report, discrimination on grounds of civil status and/or sexual orientation was addressed, with a particular focus on the lack of recognition by Poland of same-sex couples exercising their right to freedom of movement.

Health

- In March, the implementation of the Health4LGBTI project (a pilot project funded by the European Commission) started. The project aims to gain a better understanding of the specific health inequalities experienced by LGBTI people and of the barriers faced by health professionals. It also aims to raise awareness of the needs of LGBTI people and provides healthcare professionals with specific tools to ensure that they have the right skills and knowledge to overcome the identified barriers. The project will run from 2016 to 2018.

- Also in March, the FRA held a LGBTI health awareness-raising meeting in Vienna. It brought together policy makers and health professionals, as well as representatives of the LGBTI community, to raise awareness of the health inequalities that LGBTI people face.

Legal gender recognition

- As part of the framework of the European Commission’s High Level Group on non-discrimination, equality and diversity, the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth hosted a good practices exchange. The session focused on laws and policies for trans people and it took place in Berlin in September.

Participation in public, cultural and political life

- As part of its ‘List of actions to promote LGBTI equality’, the European Commission launched the ‘We all share the same dreams’ awareness-raising campaign in August. The campaign aims to improve social acceptance of LGBTI people across the EU. In addition, the European Commission participated in a EuroPride parade for the first time; Commissioner Vera Jourova joined the Canal Parade in Amsterdam on a Commission float.
In order to improve the legal and policy situation for LGBTI people, ILGA-Europe recommend:

- Ensuring full implementation of existing legislation and policies, in particular the European Commission’s ‘List of actions to advance LGBTI equality’ and the EU’s ‘Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex persons’.

- Continuing to strengthen the EU’s own institutional mechanisms to ensure the work of the European Commission’s different Directorates-General on LGBTI issues is coordinated and coherent.

- Stepping up the leadership of the European Union by visibly protecting and advancing the human rights of LGBTI people across the EU and in its external policies.
Throughout 2016, the OSCE continued to highlight the impact of hate crime and intolerance on society. For the second time, the entirely refurbished annual report and hate crime data were published, covering incidents in 41 countries. While the general level of reporting to ODIHR remains comparable to previous years, limited data on homophobic and transphobic bias motives continue to indicate under-reporting and gaps in recording.
Equality and non-discrimination

- At the annual OSCE Human Dimension Implementation Meeting from 19 to 30 September, a side event on tolerance and non-discrimination of trans people was organised by Dutch NGO COC Netherlands.
- The German OSCE Chairmanship organised a conference on tolerance and diversity on 20 October, including a pre-conference for civil society. During the conference, ODIHR Director Michael Georg Link highlighted challenges when it comes to issues of discrimination on the basis of sexual orientation, among other grounds.

Bias-motivated speech and violence

- During 2016, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) initiated new hate crime cooperation agreements with public authorities in Turkey, Ukraine, Kosovo, Iceland, Spain (Valencia) and Finland. In Ukraine specifically, ODIHR supported action against homophobic and transphobic hate crimes by including this topic in trainings for law enforcement, in a national capacity building event, and in its funding initiative to support civil society groups. OSCE/ODIHR also held workshops on countering hate crime for prosecutors in Poland, Bulgaria and Georgia, which included elements on homophobic and transphobic hate crimes.
- In November, ODIHR published its annual report Hate Crimes in the OSCE Region (covering incidents that occurred in 2015). 41 OSCE participating states submitted information to ODIHR. Although the overall number of reporting states decreased (43 states submitted information in 2015), two additional states did provide statistics on the number of recorded hate crimes against LGBT people (12 states). Civil society groups provided information about homophobic and transphobic incidents in 24 countries (5 fewer countries than in 2015). ODIHR noted that limited data on some bias-motivations continued to indicate under-reporting and gaps in recording.
- On 18 November, ODIHR organised a consultative meeting with experts in order to start developing guidelines for criminal justice agencies working with victims of hate crime, including homophobic and transphobic hate crimes.

In order to improve the legal and policy situation for LGBTI people, ILGA-Europe recommend:

- Strengthening the monitoring/reporting mechanisms on hate crime at all levels, including national and civil society monitoring mechanisms.
- Developing a more structured strategy for how the OSCE engages with civil society organisations.
- Making the OSCE institutions’/missions’ commitment to engaging with human rights defenders more explicit, and following up on reported attacks on human rights defenders.
Albania is a prime example of the difference between laws on paper and realities experienced by LGBTI people in their daily lives. Further legislative progress was made in 2016, with adoption of an action plan to promote and protect the human rights of LGBTI people, adding to an already comprehensive legal package protecting the human rights of LGBTI people. However, no efforts were made to address pervasive homophobic attitudes in society. As a candidate country, Albania is annually assessed by the European Commission on its progress towards joining the European Union. The low levels of social acceptance of LGBTI people was one of the areas highlighted by the Commission officials as an area of concern. In spite of Albania’s existing legislation in the areas of equality and hate crime, implementation of this legislation, including training of relevant staff and officials, is lacking. This was emphasised by several surveys, demonstrating that public officials do not think they are coming into contact with LGBTI people in their daily work. Even where legislation does exist, people may not be aware that its protections extend to LGBTI people, as was revealed by a report on young people’s understanding of anti-discrimination law. However, LGBTI activists are attempting to change the public narrative and create greater awareness. Milestones reached in 2016 included a rainbow family featuring on a television ad for the first time, displaying the rainbow flag prominently during IDAHOT, and continuing efforts to collect data on public opinion.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation for LGBTI people, ILGA-Europe recommend:

- Giving LGBTI people protection under the constitution, by expressly referring to sexual orientation, gender identity and sex characteristics.

- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).

- Adopting legal measures to recognise and protect same-sex couples, such as cohabitation legislation.
Access to goods and services
- LGBTQ NGO Pink Embassy published findings from their research on public officials’ perceptions of LGBT people on 17 March. “Perceptions of local staff on LGBT friendly services” was the first project of its kind and was conducted in cooperation with the Commissioner for Protection from Discrimination and the Ombudsman. The study interviewed 225 staff in six municipalities. 68% of those interviewed think LGBT people are citizens like everyone else; 67.9% said that they have not provided a service to any LGBT person; 42% of those interviewed supported equal marriage; and 34% think LGBT people have the right to found a family.

Asylum
- According to the ‘Report on the Status of LGBT rights in Albania’ compiled by the Alliance against LGBT Discrimination (Aleanca), in 2016 the NGO provided immigration offices in Belgium, France and Sweden with information on life for the LGBTI community in Albania. Aleanca received these requests as eight LGBTI people left to seek asylum in the three countries mentioned during the year.

Bias-motivated violence
- According to Aleanca’s 2016 report on the status of LGBT rights in Albania, the NGO had received reports of 532 cases of bullying from LGBT people by December. Only five of these cases had been reported to the authorities, and of these reported incidents, four out of the five victims said that they faced hostility from the police officers dealing with their case. NGO Aleanca also received eight reports of physical attacks on LGBT people, and 12 incidents of domestic violence against members of the community, during 2016.

Data collection
- On 18 May, details of a study carried out by LGBTQ NGO Pink Embassy (supported by the Commissioner for Protection from Discrimination and the Ministry of Education and Sports) were presented publicly. The ‘Adolescent experiences of discrimination at school’ study was the first national study with such large sample sizes – 1438 students and 248 teachers from six cities were interviewed. 1 in 4 adolescents stated that they could not accept the sexual orientation or gender identity of their LGBT peers, while 64% of adolescents said they did not respect their LGBT friends at school. 5% of adolescents said that they felt discriminated because of their gender identity. 82.3% of the students knew about the Law on Protection from Discrimination but 5.3% thought that it protected the LGBT community. 64% of students said they did not accept peers who are LGBT.
- As part of its 2016 report on the status of LGBT rights in Albania, NGO Aleanca published the results of an online survey it conducted between September and December with 78 members of the LGBT community. 47% of respondents said that they do not feel like they are supported or accepted. Fewer than 4% of those surveyed thought that the LGBT community was respected in Albania.

Employment
- Recruitment firm Headhunter launched the LGBTIQ Employment Equality Index – the first such system to rank how employers in Albania and other Balkan countries respect the rights of LGBTIQ people. 71 companies and organisations took part in the research and were assessed on their hiring, training, development and general employment practices. Awards were presented to several employers at a ceremony to mark International Day against Homophobia, Transphobia and Biphobia (IDAHOT).
- A rainbow flag was flown from a public building in Tirana for the first time as part of the 17 May IDAHOT celebrations. Pink Embassy had liaised with the Municipality of Tirana in advance, who displayed the flag outside the capital city’s opera house, the Palace of Culture.
- According to Aleanca’s 2016 report on the status of LGBT rights in Albania, 47 cases of discrimination (either while at work, or during the recruitment/selection process) were reported to the NGO by members of the LGBT community during the year.

Enlargement
- The European Parliament evaluated the situation for LGBTI people in April, saying that effective laws and policies that reinforce the human rights of minority groups were a key priority. It urged Albania to remove existing legislative provisions that discriminate against trans and intersex people, and to enhance the role of the State Committee on Minorities.
Albania was awarded candidate status by the European Union in 2014. In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission noted the adoption of an LGBTI action plan (see Equality and non-discrimination), the signing of a cooperation agreement between the Ministry of Social Welfare and the organisers of an LGBTI shelter and IDAHOT events as positive developments. It went on to detail how cohabitation agreements for same-sex couples have yet to be adopted and that social acceptance of LGBTI people remains low.

Equality and non-discrimination

An official action plan on protecting the rights of LGBTI people was discussed and adopted at a meeting of the Council of Ministers on 25 May. The National Action Plan for LGBTI people in the Republic of Albania 2016 – 2020 (which according to Albanian law is now legislation to be enforced) focuses on three main interventions. These are improving legislation and raising awareness on LGBTI issues, eliminating of all forms of discrimination against LGBTI people, and improving access to employment services, education, health care, housing and sports. A cross-ministerial working group responsible for implementation of the Action Plan was set up, which included representatives from government, the Ombudsman, Commissioner of Protection from Discrimination and all LGBTI organisations. The group met once in 2016.

During a parliamentary debate on 7 July, Mesila Doda MP (Party for Justice, Integration and Unity, PDIU; right-wing) used derogatory and discriminatory language in relation to LGBTI people. The comments were made in the Albanian Parliament when constitutional amendments regarding increased protection against discrimination based on sexual orientation and gender identity were being discussed. Pink Embassy filed a complaint about this to the Commissioner for Protection from Discrimination and formal proceedings against Mesila Doda were opened to address this case. No decision or recommendation had been issued by the end of 2016.

Both political parties in the government coalition, the Socialist Party (PS) and the Socialist Movement for Integration (LSI), withdrew their support for amendments to Article 18 of the constitution. This support was withdrawn two days before the bill was due to be presented to parliament for the vote. The changes, called for by LGBTI activists, suggested adding sexual orientation and gender identity to the grounds protected from discrimination. LGBTQ NGO Pink Embassy reacted in a press release, stating that the government change of mind had been due to pressure from religious communities. The constitutional changes (minus the LGBT protections) were passed in July.

In 2016, the Commissioner against Discrimination dealt with four claims relating to sexual orientation and gender identity. Discrimination was found to have occurred in a case involving the police in Shkodra; the police authority was fined. The Commissioner also found evidence of SOGI-related hate speech in online media. The third case involved the comments made by Mesila Doda MP (see above), and a fourth case (involving discrimination in education) was not proven.

Family

The first television ad to feature a lesbian couple and their children was broadcast to mark both International Day of Families on 15 May and IDAHOT on 17 May. The ad was produced by two LGBTI NGOs – Aleanca LGBT and Pro LGBT and featured the message “Family is about love and care.”

Freedom of assembly

An estimated 180 activists, community members and allies took part in the Tirana Gay (P)Ride on 14 May, marking IDAHOT. No incidents were reported.

Freedom from torture, cruel, inhuman or degrading treatment

Domestic violence against LGBT people remains an issue in Albania. STREHA - the first residential shelter for homeless young people aged 18 to 25 - was able to assist 23 beneficiaries in 2016. (The shelter was founded by NGOs Aleanca LGBT and ProLGBT in late 2014.) It has been officially acknowledged by the state as a national service and received an official license recognising the service that it offers. In spite of this, it operates only on private donations and receives no financial support from the state.

Health

According to its 2016 report on the status of LGBT rights in Albania, NGO Aleanca recorded 13 cases of discrimination against LGBT people when they tried to access community health services in 2016.
LGBTI activists continued to operate in a context where little law or policy exists to protect members of the community; the non-existence of legal or policy measures in the area of legal gender recognition, bodily integrity or anti-discrimination references to trans or intersex people is worrying. Activists highlighted the need for trans-inclusive healthcare and continue to call for name change options for trans people in the civil registry. Nonetheless, there were positive signs of increased government engagement with civil society on issues related to the lives of LGBTI people. 2016 saw a government department dedicated to equality issues – the Equality Policies Area – begin its work in earnest, following its establishment a year earlier. NGOs reported a significant improvement in communication with the government in 2016, with the Equality Policies Area in particular. Work on a White Paper on Equality was initiated, there was collaboration on events and trainings, and LGBTI NGOs were involved in advisory committees on social care.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Explicitly including all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in an equality action plan, accompanied by specific measures of progress.
- Introducing policies on asylum that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
- Developing and adopting equality legislation that expressly protects against discrimination on all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
Asylum
- The parliament (Consell General) commenced work on the country’s first national asylum law in August, to accommodate refugees from Syria that Andorra had pledged to host. The content of the text was still being prepared by the interior and foreign affairs ministries at the end of 2016; it was unclear if specific reference would be made to LGBTI asylum seekers. The law is due to be approved in 2017.

Bias-motivated speech
- On 24 October, LGBTI NGO Som Com Som participated in a conference on the topic of hate crime against LGBTI people. Organised following a recommendation from ECRI, it was the first event of its kind to be jointly organised by the government and the Andorran Police.
- In 2016, LGBTI NGO Som Com Som reported three cases to the police department responsible for recording hate speech; two incidents of bullying and one of homophobic speech.

Education
- On 26 May, NGO Som Com Som organised a training session for teachers on LGBTIQ issues. The workshop was run in conjunction with the Ministry of Education and was the first time that the NGO had provided such training to education professionals. This was followed on 27 May by a Som Com Som training session on LGBTIQ issues for clinical psychologists, another first for the NGO.

Equality and non-discrimination
- The government’s Equality Policies Area was operational from February. LGBTIQ equality is one of the specific focus areas of the government’s equality department and LGBTI activists reported an improved working relationship since the Area began its work. NGO Som Com Som worked with the Area to develop leaflets for an LGBTI tolerance campaign in September. The NGO also organised a conference on tackling LGBTI-phobia along with the parliament (Consell General) on 2 December.

Family
- NGO Som Com Som called on the government to legislate to end the situation for non-birth mothers in civil unions with a same-sex partner. Currently, in a family of two mothers where one is the biological parent, the partner who is not a birth mother will not be recognised as having any legal relationship with the children, under the terms of the civil registry law. The NGO asked parliament and the Minister of Social Affairs to amend the legislation; the laws had not been updated by the end of 2016.

Health
- During a meeting with the Ministry of Health in October, LGBTI NGO Som Com Som asked the ministry to fully implement the Social Security Law (Llei de la CASS) to allow trans and intersex people to receive hormone treatments through the public health system (Cartera de Serveis). The ministry was considering the recommendation at the end of the year.
- NGO Som Com Som worked closely with medical professionals during 2016; for the first time, the NGO began collaborating with the Hospital Clínic in Barcelona. The collaboration involved assessing how their internal medicine department can provide medical and psychological support to trans people, and Som Com Som also provided training sessions for doctors.

Participation in public, cultural and political life
- The National Youth Forum and Som Com Som organised a debate in the parliament (Consell General) on
equality policies to mark IDAHOT, the first time that the parliament had proactively recognised 17 May.

Sexual and reproductive rights
- In November, health minister Carles Alvarez Marfany announced that a draft bill on introducing assisted reproduction would be brought to parliament in early 2017. It was unclear whether the draft text, which was being prepared by the Health Ministry at the end of 2016, contained any reference to same-sex couples.

Social security and social protection
- A decree establishing the government’s COPEC commission was passed on 20 July. The advisory commission is composed of civil society groups linked to social care and services; LGBTI NGO Som Com Som was included as a full member.
The legal structure relating to the fundamental rights of LGBTI people did not undergo much change in 2016, leaving members of LGBTI community with very minimal law or policy to rely on. Support instead continues to be provided by civil society groups. NGOs assisted LGBTI people in a variety of ways, from recording and reporting episodes of discrimination, helping people to issue complaints, and providing backing in subsequent cases. Research, also compiled by LGBTI NGOs, emphasised the daily difficulties that LGBTI people encounter. Discrimination can be compounded by a traditional outlook on life and the situation is not helped when bias-motivated speech (still not prohibited) against LGBTI people continues. This prompted the Council of Europe’s monitoring body ECRI to recommend that parliamentary and media ethics codes be amended to protect LGBTI people. Public opinion data, once again gathered by NGOs, showed that over 97% of the people surveyed said it was unacceptable for same-sex couples to kiss in public – underlining that a more informed, less hostile conversation about the lives of LGBTI people is certainly required.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- **Adopting legislation that expressly protects against discrimination on the grounds of SOGISC (sexual orientation, gender identity, sex characteristics) when accessing goods and services.**

- **Introducing hate crime laws that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.**

- **Introducing hate speech laws that explicitly include sexual orientation, gender identity and sex characteristics as protected grounds.**
Access to goods and services
- An LGBT activist who had been attacked (see Bias-motivated violence) attended Yerevan’s N1 hospital on 16 February, the day after the incident. The activist made a complaint, stating that the medical professionals treating them said “Come, let’s do a blood test on you. Let’s see if you have a deviance”. LGBT NGO PINK Armenia submitted an administrative complaint about the staff’s conduct to the Ministry of Health. During the subsequent hearing, the representatives of the health inspection department said that the staff in question had not behaved inappropriately. Representatives of the medical centre agreed, saying they had watched a security video and that their colleagues had not acted in this way. The video was not played during the hearing as it had been self-deleted. On 25 March, the Ministry informed PINK Armenia that the case was being suspended due to the absence of any violation.

Bias-motivated speech
- During an episode of the ‘kisabac lusamutner / Half Opened Windows’ talk show in February, lawyer Garik Galikyan stated that gay people “…must be burnt”. The same episode featured other panellists who also displayed insensitive and homophobic attitudes. The topic at the centre of the programme was the discrimination faced by people based on their sexual orientation, gender identity and/or expression. The president of NGO PINK Armenia, Nvard Margaryan, and an LGBT-friendly doctor also took part in the discussion. NGOs New Generation Humanitarian NGO, PINK Armenia and the Anti-Discrimination Coalition submitted a complaint about Galikyan’s comments to the Ethics Committee of the Chamber of Advocates. On 13 June, the Chamber of Advocates found that Galikyan violated the Code of Advocate’s Ethics. A case was also filed by several NGOs, including PINK Armenia, but this was later rejected by the police.

Bias-motivated violence
- Five LGBT activists, including two staff members of LGBT NGO PINK Armenia, were attacked in Yerevan on 15 February. A group of three unidentified people verbally and physically attacked one of the activists and then also assaulted the other activists who came to their aid. An incident report was filed with the police but the case was subsequently suspended due to a lack of evidence.

Data collection
- The Solidarity Network for LGBTI in Armenia and Georgia project published ‘The Human Rights Situation of LGBTI Individuals in Armenia: a Practical Assessment’ report in June. The research paper, prepared by NGO Society Without Violence, concluded that traditional social perceptions of gender roles and heteronormative assumptions make it very difficult for LGBTI people to live openly. Participants in the focus groups reported discrimination in education, employment and when accessing goods/services as well as public harassment. The report concluded with a wide range of recommendations for civil society groups, international bodies, EU institutions, national courts and the government.
- ‘From Theory to Reality’, the results of a study by NGO PINK Armenia, was published in November. The report focused on hate crimes against LGBT people, looking at the existing legislative framework, examples of public intolerance, and the legal barriers. 198 hate crimes, that took place from 2010-2015, were examined as part of the study. In 79% of hate crime incidents, the victim themselves reported the attack; 20% of cases were reported by witnesses. The report recommended including sexual orientation and gender identity as aggravating circumstances for both crimes and punishments, amending national legislation to comply with international human rights obligations, and ensuring full and impartial investigation of hate crimes against LGBT people.
- On 2 December, the Heinrich Boell Foundation South Caucasus Regional Office, together with LGBTI NGO PINK Armenia and Society Without Violence NGO organised a presentation of a comprehensive LGBTI rights strategy document, titled ‘Realising the Human Rights of LGBTI
People in Armenia, based on the research papers published in June (see also Police and law enforcement).

**Equality and non-discrimination**
- LGBT NGO PINK Armenia held a support group session on 1 March, celebrated by the UN as Zero Discrimination Day. The meeting was the first event to bring together LGBT people living with HIV and allies in order to discuss how to eliminate stigma and support each other.
- In May, an American-Armenian man was told to leave a dance group (the Bekor Folk Dance Ensemble) by the instructor when he realised the participant was gay. NGO PINK Armenia brought the incident to the attention of the diaspora and culture ministries and called on them to prevent such incidents of discrimination at cultural events. There was no response from the ministries at the end of 2016.
- In the Ombudsman’s Annual Report for 2015, released in April, discrimination faced by LGBT people in the areas of healthcare, education and employment was highlighted. The report noted several cases where people had been refused medical care due to their sexual orientation. It referred to violent attacks on trans people who were then refused help by security guards, and the vulnerability of LGBT people in prisons was also mentioned by the Ombudsman.
- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Armenia on 4 October. ECRI was concerned at the level of hate speech and violence directed at the LGBT community during the last reporting cycle. The report notes that this is troubling when combined with the low levels of reporting of such crimes and the fact that intolerant speech is not condemned, or also perpetrated, by political figures. ECRI’s recommendations included adding sexual orientation and gender identity to the list of protected grounds in hate crime law, drafting an anti-discrimination law that applies to all areas of life, and reviewing legislation to see if it complies with ECHR Article 8 in relation to changing civil status and legal gender. It also recommends a code of media ethics and punishments added to the parliament’s code of conduct, both measures designed to protect LGBT people from hate speech.

**Freedom of expression**
- ‘Listen to Me: Untold Stories beyond Hatred’, a documentary about the lives of LGBT people in Armenia, was first shown at the Armenian Centre for Contemporary and Experimental Art on 11 October. Gagik Ghazareh’s film features 10 members of the LGBT community who came out publicly, speaking about their childhood, identity, self-recognition, family relations, homophobia and transphobia.

> “I have never heard my family say anything hurtful about a gay or lesbian person. Even after my coming out, that issue was not discussed in our family, because a person is a person…”
> Mel Daluzyan, as heard in the ‘Listen to Me: Untold Stories Beyond Hatred’ documentary, released 11 October 2016

**Human rights defenders**
- Mamikon Hovsepyan, the executive director of NGO PINK Armenia, spoke at a press conference on 24 February on the issue of anti-LGBT violence. In response to a question from one of the assembled journalists, Hovsepyan spoke publicly about his sexual orientation. Hovsepyan was openly gay but this was the first time he had come out via the media. NGO Chai Khana subsequently made a video ‘Life under the Rainbow’ about his public coming out to mark 17 May.
- Chair of Human Rights House Yerevan and LGBT rights advocate Michael Danielyan died on 24 August. He had supported the work of many human rights organisations and established the Helsinki Association in Armenia.

**Police and law enforcement**
- The Heinrich Boell Foundation requested adequate protection for the launch of their LGBTI strategy document in Yerevan on 2 December. Despite security
concerns, the event concluded without incident and was protected by 28 policemen, who also stopped several people who attempted to enter the venue without authorisation.

- The president of New Generation Humanitarian NGO spoke at a press conference on the topic of protecting prisoners’ rights on 28 June. Sergey Gabrielyan highlighted the ongoing issue of vulnerable groups in the prison system, including LGB people, saying that they are more likely to experience discrimination while incarcerated. The press event had been called by the Group of Public Observers Conducting Public Monitoring of Penitentiary Institutions and the Ministry of Justice.

Public opinion

- On 17 June, NGO PINK Armenia (also as part of the Solidarity Network for LGBTI in Armenia and Georgia) released the results of their study on societal attitudes towards LGBTI people in Armenia. ‘From Prejudice to Equality’ contained the results of public opinion surveys, carried out in Yerevan and in urban and rural regions outside the capital, between November and December 2015. 1071 people were interviewed, and of those 91% said they had no LGBTI acquaintances. Television was cited as the main source of information on LGBTI people and their lives, followed by social networks and online news; print or radio journalism was the least used resource. 33% of those surveyed said that homosexuality resulted from a child being brought up incorrectly. 11.8% think homosexuality is a personal choice, and 5.1% believed it could be caused by “homosexual propaganda”. 89% of those questioned said that gay men and lesbian women should not be allowed to work with children. 97.5% of the survey participants said that it was unacceptable for gay and lesbian couples to kiss in public.
Austria's strong base of existing law and policies on family issues was added to in 2016. Two amendments, initiated by the government, removed legal differences in how registered partners are treated compared to married couples. One was a logistical change, around where ceremonies could be held, the second amendment streamlined some of the terminology used for both unions. Several same-sex couples and rainbow families continued to press for full marriage equality through the courts in Vienna and Linz. The courtroom was also the setting for several announcements relevant for trans and intersex people. While trans prisoners were informed by a Vienna Court that they are entitled to receive treatment while serving their sentence, an intersex person was told that they could not have an alternative gender marker that was not ‘male’ or ‘female’ listed on their birth certificate. This case serves as a reminder of the very limited legal protection for intersex people living in Austria. A public ‘first’ was also celebrated by LGBTI activists, as the Federal Chancellor attended the capital’s Rainbow Parade for the first time.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Drafting and adopting legislation that expressly protects against discrimination on the grounds of SOGISC (sexual orientation, gender identity, sex characteristics) when accessing goods and services.
- Ensuring marriage equality and opening up the possibility to enter into a registered partnership for all couples.
Diversity

- The Ministry of the Interior produced a leaflet in February, depicting acceptance of same-sex couples along with other scenarios, that was distributed to asylum seekers who had travelled to Austria.

Equality and non-discrimination

- A final report under the UN’s Universal Periodic Review process was adopted for Austria in 2016 (see United Nations).

Family

- A group of five families announced in February that they would continue their legal challenge against the federal government over its failure to legislate for marriage equality. Five same-sex couples and their children had their case rejected by the Administrative Court in Vienna in December 2015 but announced their intention to appeal to the Constitutional Court. A decision had not been issued by the end of 2016.

- On 21 March, the Upper Austria provincial administrative court in Linz heard legal argument in a case seeking to challenge the lack of equal marriage for same-sex couples. Legal representatives of a lesbian couple and their four-year-old argued that the fact that same-sex couples can access joint adoption (since 1 January 2016) but not marry infringes the rights of children. Their case was rejected by the court on 15 April.

- Two differences in legal treatment of registered partners and married couples were removed by parliament in the closing weeks of 2016. Previously, registered partnerships could only be conducted at different district authorities (with the exception of certain large cities), not at the city hall where marriages were traditionally carried out. The legal amendment allows the same authority to conduct marriage and partnership ceremonies. A second amendment streamlined bureaucratic terminology for registered partners and married couples. Before the change, registered partners were assigned the name category ‘surname’, while the term ‘family name’ was used for married couples. From now on, ‘family name’ will be used in both cases. Both terms are used in everyday interactions but the distinction on official forms may have revealed the status of registered partners in situations where this was inappropriate. The two legal changes were approved by the Council of Minister in November and by the Federal Parliament on 15 December. The amendments will come into effect on 1 April 2017.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Austria, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Freedom of assembly

- The 20th annual Vienna Rainbow Parade took place on 18 June, attracting an estimated 100,000 participants and spectators. For the first time, the parade was attended by the head of the federal government, Federal Chancellor Christian Kern (Social Democratic Party of Austria, SPO).

Legal gender recognition

- On 29 April, the Regional Criminal Court of Vienna ruled that trans prisoners have the right to access hormone treatment and reassignment surgery while serving their sentence.

- An intersex person living in the city of Steyr requested that the incorrect binary sex marker be removed from their passport and be replaced by ‘inter’ or ‘others’. The person was registered as female at birth and changed legal gender to male. When the city registrar refused, saying that male or female were the only possible gender markers, the individual commenced legal proceedings in June. On 11 October, the request was rejected by the Upper Austrian Regional Court in Linz, as the judges stated that Austria’s legal system assumes every individual is either male or female. The case will now be heard before the Supreme Court.
Participation in public, cultural and political life

- An LGBTI-specific reference was included in the legislation making the former concentration camp at Mauthausen a federal institution from 1 January 2017. Under a law passed in July, the memorial will require two advisory boards. One of the members of the International Advisory Board must be a representative of NGO HOSI Wien – as far as LGBTI activists in Austria are aware, this is the first time that an LGBTI organisation is explicitly mentioned in a federal law.
The landscape for creating change for LGBTI people did not change drastically in 2016. Azerbaijan's legal and policy framework looks pretty much as it did during our previous Rainbow Europe assessment. An examination of the legal and policy criteria shows that LGBTI people continue to be faced with a near total absence of legal protection. Even the limited number of updates available from activists on the ground, and consequently the short length of the chapter, speaks volumes about the lack of developments in 2016. This minimal protection was emphasised by the Council of Europe, who noted that ongoing discrimination makes LGBTI people feel the need to hide their identities. ECRI, the Council of Europe monitoring body, put together a list of recommendations, including protecting LGBTI people against hate crime and encouraging the independent work of civil society. Local groups also received several worrying reports from LGBT people, who had been targeted by police raids in the capital city or blackmailed because of their sexual orientation, gender identity or gender expression.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Giving LGBTI people protection under the constitution, by expressly referring to sexual orientation, gender identity and sex characteristics.
- Introducing hate crime laws that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- Introducing hate speech laws that explicitly include sexual orientation, gender identity and sex characteristics as protected grounds.
Bodily integrity

- In September, the Ministry of Health commented on an operation carried out on a 12-year-old intersex child. The operation took place at a private clinic in Baku and the Ministry stated in media reports that they “…received the relevant documents from the Ministry of Health and Forensic Medicine, which allow us to do this operation. This operation is carried out lawfully. Even a little bit too late. This operation should be carried out before the child is aware of their gender.”

Equality and non-discrimination

- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Azerbaijan on 7 June. ECRI noted that, since its last reporting cycle, some LGBT civil society groups had been set up and commended police protection of LGBT people during events such as the 2012 Eurovision Song Contest in Baku. The report goes on to note that LGBT people are the targets of hate speech and violence; some attacks perpetrated by the victims’ own family members. The lack of any legal text to protect LGBT people from discrimination was pointed out, forcing many LGBT people to hide their identities on a daily basis. Among ECRI’s recommendations were using the Law on the Prevention of Domestic Violence to protect LGBT people against hate crime, adopting and implementing an LGBT action plan, and to encourage the development of independent civil society.

Freedom of expression

- Several domain names were blocked by IntraNS (the national company authorised to register web domain names) in 2016. The blocked domains included lgbt.az, lezbi.az and gey.az. According to IntraNS, these sites were blocked after homophobic messages and threats had been sent to the previous owners of the domain names. However, the previous owners of lgbt.az stated they had not filed any complaints or received threats regarding their domain ownership; they did say that they had received a phone call from IntraNS asking them to change the domain name. Subsequently, the Ministry of Communications expressed surprise at the situation in June, as there is no legal regulation that covers this particular situation (entering domain names on a blacklist following complaints of threats).

Freedom from torture, cruel, inhuman or degrading treatment

- On 27 August, several gay men, trans people and sex workers were detained following raids in Baku city centre by police from the Sabail district. One of the victims of the raids later recounted the incident to a local organisation (they also reported the incident to the Ministry of Internal Affairs). According to the victim, he was detained along with about 30 other gay men, trans people and sex workers. They were kept in police custody from 1am until 10am; the Criminal Procedure Code states that such detentions should not exceed three hours. The police told the detainees that tourists from Middle Eastern countries had complained about their behaviour, calling the behaviour of sex workers a ‘disgrace’. One tourist also alleged they had been robbed by a sex worker. (The number of tourists arriving from neighbouring Arab countries had increased substantially in 2016, after a simplified visa regime was introduced by the government.) The victim of the police raid who came forward to personally report the incident met with the police authorities to discuss what happened. He was later asked by the Ministry of the Interior to withdraw the complaint on the assurance that he would receive an official apology from the police. No apology had been issued by the end of 2016. Following the 27 August raids, the local organisation received 16 calls from individuals reporting that they had been targeted by police in a similar way in raids in Baku.

- In 2016, the same local organisation also received reports of two cases where LGBT people were blackmailed by police officers who threatened to disclose personal information at the individual’s homes or places of work.
A number of legislative changes took place in 2016, although it was not immediately obvious how their provisions would impact on the lives of LGBTI people in Belarus. A potentially positive amendment was made to the Criminal Code, introducing the offence of inciting hatred on the ground of ‘social hatred’. At the time of the change in April, activists suggested that this might be interpreted to include LGBTI people. No precedent had been set by the end of the year, which is unfortunate given the lack of protection against hate crime or hate speech for LGBTI people. Incidentally, a media monitoring exercise carried out by Journalists for Tolerance also reemphasised the existence of bias speech against LGBTI people. Another, more concerning, legal change occurred in May. A law professing to protect children from harmful information was enacted; raising clear questions for LGBTI activists over the law’s ultimate interpretation and possible knock-on effects for their freedom of expression. The practical effect of both these changes may become more obvious in subsequent Rainbow Europe analysis.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Including express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in policies designed to tackle hate crime.

- Including express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in policies designed to tackle hate speech.

- Draft and adopt legislation or policies to protect the human rights of trans people, for example to allow trans people to change their gendered ID numbers following legal gender recognition, to avoid disclosure of gender transition in the national ‘Passport’ database, and to stop the practice of recording a ‘mental disorder’ on the ID of trans men serving in the military.
Bias-motivated speech
- Journalists for Tolerance released the results of their annual media monitoring of coverage of LGBTI issues in September. The analysis of 315 articles from 36 media outlets took place from July 2015 to June 2016. Hate speech was identified in 156 publications, the most typical example being the use of incorrect or inappropriate language. Five examples of aggressive hate speech appeared in the Vecherniy Mogilev newspaper during the review period.
- In a Radio Svaborda interview in October, chair of the parliamentary committee on education, science and culture Igor Marzalyuk stated that he was against abortion, in favour of the death penalty and hated “the word ‘gender’”. Marzalyuk said that he supported a traditional values system, and that he is “…categorically against homosexual propaganda. I do not believe that perversion and deviation should be regarded as the norm… Feminists are women whose personal life is not successful. They are either latent lesbians or people who lack self-realisation in life.”

Bias-motivated violence
- In February, the Pervomaisky Court sentenced a 19-year-old man to two years of limited freedom (without a prison term) and fined him after he assaulted a man in a homophobic attack. The incident took place in Minsk in November 2015; the victim and Artem Shlyakhtenok had been talking online and agreed to meet. When they were leaving to get a taxi, Shlyakhtenok began punching the other man while shouting “occupy paedophilia” and filmed the assault with his phone. The attack lasted approximately ten minutes and the victim’s wallet was also stolen. Artem Shlyakhtenok was arrested shortly after the attack and was later charged with robbery and hooliganism under the Criminal Code. Hatred of a particular social group was also taken into account (alongside intoxication) as an aggravating circumstance in the attack – according to local media outlets, this was the first time a national court had taken homophobia into consideration.
- Article 130 of the Criminal Code was amended in April, criminalising incitement to hatred on the grounds of ‘social hatred’. This added to the existing grounds of racial, ethnic and religious hatred. It was unclear to LGBTI activists at the end of 2016 if this provision would be used to protect the rights of LGBTI people.
- A man charged with the murder of Mikhail Pischevsky was sentenced to three years imprisonment on 28 July. In a decision handed down by Minsk Central District Court, Dmitry Lukashevich received the prison sentence and was also ordered to pay damages to the victim’s family. Mikhail Pischevsky, who was openly gay, died in October 2015 after a violent assault in 2014. Lukashevich had already served 11 months in prison and had been released under an amnesty before the prosecutor’s office ordered a retrial. The original trial had not considered a bias motive; the second trial focused on Lukashevich’s motivation.

Equality and non-discrimination
- The UN Committee on the Elimination of Discrimination against Women published its concluding recommendations for Belarus on 18 November. Among the Committee’s specific concerns was the situation for LBT women, including “…significant societal discrimination, stigmatization and violence, including by the police…”. The recently approved law that introduced amendments to protect children from harmful information was also a cause for concern for the Committee (see Freedom of expression); it noted this could potentially be used to discriminate against LBT women.

Freedom of assembly
- The second DOTYK festival took place in February. LGBTI activists ran a queer film festival with screenings and discussions featuring contributors from across Europe. It took place at the same time as lawmakers discussed freedom of expression laws (see Freedom of expression) but the festival was a success and went ahead without any problems.
- Activists held two small protests in Minsk to mark IDAHOT in May, one at the US Embassy and one near a metro station where they handed out information leaflets. The events passed off peacefully and no activists were detained by police.
Freedom of association
- The Identity and Law initiative group, set up to protect LGBT rights, attempted to officially register on five occasions between August and September. The justice department in Minsk refused all applications, citing as reasons “contradictions to moral and the public interest” and “no indication of a specific field of activity”.

Freedom of expression
- The draft law which proposes banning the sharing of information with children seen as contrary to the traditional family was being prepared for its second reading at the start of the year. LGBTI activists were told on 19 January that the Bill on Amendments and Additions to Certain Laws of the Republic of Belarus (to protect children from information harmful to their health and development) did not “…contain provisions for administrative or criminal liability based on sexual orientation and/or gender identity”. The bill’s language did prohibit information that could “discredit” marriage and the family. It passed second reading stage on 4 April, followed by the upper parliamentary chamber vote on 21 April. On 3 May, the text was approved by the Constitutional Court. The bill was signed into law on 17 May and the act is due to come into effect on 1 July 2017.

Legal gender recognition
- A group of trans people, supported by the ‘Identity and Law’ initiative group contacted the Ministry of Internal Affairs in May. They called on the ministry to protect the privacy of trans people by amending databases to prevent disclosure of transitioning. Officials did agree to make changes to the passport database system but this had not taken place by the end of 2016.

Participation in public, cultural and political life
- ‘Queer History of Belarus of the second half of the twentieth century: an attempt to approach’, a book by Uladzimir Valodzin was released in Minsk in July. This was the first piece of research to document the country’s LGBT history from the medieval period to the present day.
Belgium

Work to close a persisting legislative gap continued at federal level during 2016. The relative lack of progressive laws around legal gender recognition stands in stark contrast to Belgium’s existing family and anti-discrimination provisions, for example. Discussions, initiated in 2015, produced a proposal to remove sterilisation and medicalisation from the legal gender recognition procedure. The draft bill did not resolve all the concerns of trans activists and work will continue into 2017. Another issue that will hopefully be resolved in 2017 is the blood donation restriction; the deferral period preferred by the health ministry had not been introduced at the end of the year. Projects were put in place to develop tools to assist those working with older LGBTI people and with young kindergarten children. The LGBTI community, and their allies, mourned the loss and also celebrated the life of well-known activist Deborah Lambillotte, who died in July.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

1. Giving LGBTI people protection under the constitution, by expressly referring to sexual orientation, gender identity and sex characteristics.

2. Introducing hate crime laws and policies that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.

3. Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as GID/medical diagnosis, sterilisation or surgical/medical intervention).
**Asylum**

- The district mayor of Antwerp Paul Cordy (N-VA) told media in December that he was aware of applications for marriages between women and men he referred to as “sham gays”. Cordy stated that the city has refused approximately 15 applications in six months; cases in which a man who was granted asylum for being gay tried to marry a woman (often from the same country of origin). LGBTI NGOs based in Antwerp warned that the individual situations were complex and cautioned against making the assumption that these refugees had lied in their application for asylum.

**Bias-motivated violence**

- Belgium deposited the documents necessary to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) on 14 March.
- In July, Brussels Criminal Court sentenced two men to 14 years in prison and another man to a 15 year jail term for the murder of Alain Fleurus in the city in July 2015. The court found that their violent attack on Fleurus had a homophobic motive. The three men had originally met Alain Fleurus through a music channel chat page; they were found guilty of robbery and deliberate assault, motivated by the sexual orientation of victim.

**Diversity**

- LGBT NGO Kliq was mandated by the Flemish government to develop an information package for residential care staff. The project aims to ensure that care centres are sensitive to the needs of older LGBTI people, marking the first time the Flemish government has invested in the issue. A conference on the topic is planned for January 2017.

**Education**

- In June, it was announced that new tools for kindergarten teachers had been developed for use in the forthcoming school term. The tools included a series of books developed in cooperation with a well-known writer of stories for toddlers. Kathleen Amant’s stories featuring Lou, a little girl with two fathers, were introduced in the province of Flemish Brabant.

**Equality and non-discrimination**

- On 1 February, the Institute for the Equality of Women and Men launched an anti-discrimination campaign, which aimed to raise awareness of homophobia and transphobia among young people. The campaign was a joint venture with several partner groups and other equality bodies, including the Inter-Federal Centre for Equal Opportunities, the Wallonia-Brussels Federation, the French community’s Delegate-General for Children’s Rights, and Francophones Bruxelles.
- The federal Minister of Social Affairs and Health, Maggie de Block (Open Vld, VLD; centre-right) attended a roundtable on 27 May, after which she announced that the health ministry favoured ending the total blanket ban on blood donations from men who have sex with men. De Block said that she would consult with the blood transfusion services and on 8 November, a policy note was published that recommended replacing the ban with a 12 month abstinence period. This 12 month period will apply to blood and blood component donations. LGBTI NGOs, including Arc-en-ciel Wallonie, expressed dissatisfaction at the period of abstinence, arguing that risk behaviour should be the criteria assessed. The legislation to bring this change into effect had not been introduced by the end of 2016.
- A Brussels first instance court ruled that insurers cannot discriminate against trans people in a decision issued on 27 October. The case had been initiated by Miss X, a trans woman who had tried to take out hospitalisation insurance through her employer in 2013. The policy proposed by the insurance company excluded any claims related to “gender dysphoria”. The court stated that such a provision was discriminatory against trans people.
- A final report under the UN’s Universal Periodic Review process was adopted for Belgium in 2016 (see United Nations).

**Foreign policy**

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Belgium, together with 30
other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

**Freedom of assembly**
- The tolerance march in memory of Ihsane Jarfi (which was hosted in Brussels in 2015) was held in Ghent for the first time on 20 May. Jarfi was killed in a homophobic attack in the Tinlot region close to Liège in 2012; the remembrance event was organised by Fondation Ihsane Jarfi (an anti-homophobia initiative established by his father).

**Human rights defenders**
- Flemish NGO De Maakbare Mens awarded their biennial prize to Petra de Sutter for her work as a professor and her campaigning work for laws on assisted reproduction and to protect trans people from discrimination.
- LGBTI activist Deborah Lambillotte died on 28 July. Deborah had contributed to the growth of the LGBTI movement in Ghent, Belgium and across Europe. She was a former executive director of LGBT NGO Casa Rosa, board member of çavaria and a co-chair of ILGA-Europe.

**Legal gender recognition**
- State Secretary for Equal Opportunities Elke Sleurs (New Flemish Alliance, N-VA; centre-right) and Minister of Justice Koen Geens (Christian Democratic and Flemish Party, CD&V; centre-right) continued work on a law to reform the legal gender recognition process. LGBTI NGOs met with both ministries throughout the year and a draft law was submitted to the Council of Minister on 9 December. The draft proposed removing sterilisation and medicalisation requirements, as well as introducing name change possibilities for children aged 12 and older. Concerns remained over several provisions, including the fact that applicants would still have to obtain a certificate from a trans organisation that proves that they have been fully informed of the legal consequences, a three month period during which the public prosecutor could advise against the gender recognition, and the process would only be available to people over 16 who get a psychiatric certificate. The law was still in development at the end of 2016.

**Public opinion**
- Market research company iVox published the results of a poll in May (carried out for Unia, the Inter-federal Centre for Equal Opportunities) which showed that 63% of those surveyed thought that a same-sex couple being affectionate in public is quite normal. 60% of women surveyed said that they could not be friends with someone who is homophobic, and four out of 10 respondents said they do not feel 100% heterosexual.
- In November, the annual SCV survey (that gathers the attitudes of the Flemish population in Flanders and the Brussels region) was released. The survey (which was conducted in 2015) included questions on perceptions of trans people for the first time. The responses varied quite widely; one in 10 people would end a friendship if their friend began to transition, 60% said it was important to know if someone was a man or a woman when first meeting them, and 49% disagreed with the statement that there is something wrong with people who feel gender neutral.
2016 in Bosnia and Herzegovina was marked by the passage of new legislation and policy; some of which was inclusive, while some was surprisingly lacking in LGBTI-specific references. On a positive note, the anti-discrimination action plan published in April was the first national level policy of its kind to explicitly name LGBT people. The language in the existing federal anti-discrimination law was clarified, and sex characteristics were also added to the list of protected grounds in all spheres of life. However, the ongoing daily difficulties faced by intersex people were emphasised when NGO research revealed a lack of procedures or a common response in medical institutions when dealing with intersex children. Another group within the wider LGBTI community that continue to encounter barriers are LGBTI asylum seekers, who still have no legal protection in Bosnia and Herzegovina. That is despite the fact that an asylum law was passed in 2016, designed to synchronize with EU standards. LGBTI advocates and allies had put forward amendments but these were not taken into account. A senior political figure spoke out in support of LGBTI people, a first that was welcomed by activists, and a practice that was encouraged by the Ombudsman in a special human rights report.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.
- Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as GID/medical diagnosis, or surgical/medical intervention).
- Introducing laws designed to tackle hate speech that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
Access to goods and services

- LGBTI NGO Sarajevo Open Centre (SOC) hired a company in January to distribute leaflets for the upcoming Merlinka Queer Film Festival. SOC had worked with the company on a previous campaign and the new job was accepted. When the promotional material was in the company’s possession, the manager contacted SOC to say they had reviewed the leaflets and that the company would not distribute such materials. The leaflets were returned and SOC filed a discrimination case, supported by NGO Vasa Prava. The first hearing is due to take place in April 2017.

Asylum

- The final version of the new Law on Asylum of BiH was adopted by the Parliamentary Assembly and subsequently published in the Official Gazette on 19 February. LGBTI NGOs and several parliamentarians had proposed amendments that would have included protections for LGBTI people, but the final text does not explicitly mention sexual orientation and gender identity as grounds for asylum.

Bias-motivated speech

- The current president of the Student Parliament of the University of Sarajevo, Haris Zahiragić, made anti-LGBTI remarks in March. Zahiragić claimed to have conducted research that found that “homosexuality is a systematic and contagious disease” and also stated that LGBTI people should be separated from the rest of society. He made these comments on social media and via traditional media outlets. NGO SOC reported the remarks to the Assembly of the Student Parliament of the University in Sarajevo, to the Ethics Committee, the Senate, and the Rector of the University, asking that the comments be denounced and that a new student president be appointed. The incident was also reported to the Agency for Gender Equality in BiH and the Institution of the Ombudsman for Human Rights. There was no response from any of the institutions before the end of 2016.
- After the adoption of the amendments to the Anti-Discrimination Law (See Equality and non-discrimination), MP Mario Karamatić (Croatian Peasant Party, HSS; centre-right) commented that the law is giving “more rights to the LGBTI persons than to the normal people in Bosnia and Herzegovina”. He made these comments under parliamentary immunity so faced no sanctions.

Bias-motivated violence

- A group of people attacked the LGBTI-friendly club Art Cinema Kriterion in Sarajevo on 4 March. The group entered the club, shouted homophobic insults and physically assaulted one of the staff. Kriterion has regularly hosted the LGBTI Merlinka festival and was the site of a similar attack during the festival in 2014. The attackers were apprehended by police but released as they were all minors. The Minister of Justice of the Sarajevo Canton, Mario Nenadic (Union for a Better Future; centre-right) condemned the attack. LGBTI NGO Sarajevo Open Centre noted that this was the first time that a senior political figure from a relevant ministry had expressed public support for LGBTI people. Investigation in this case was still ongoing.

“Violent behaviour caused by xenophobia or homophobia cannot be considered [only as] violence ... in these cases, we should use a more serious qualification to describe these acts.”

Minister of Justice, Sarajevo Canton, Mario Nenadic, speaking after the attack on Art Cinema Kriterion, March 2016

- The Federation of Bosnia and Herzegovina (BiH) amended its Criminal Code to include a regulation on hate crime. Gender, sexual orientation and gender identity were included among the amendments protected grounds. It was adopted in April and published in the Official Gazette on 15 June. The Federation of BiH joined its fellow administrative units (Republika Srpska and Brčko District) in regulating hate crime, ensuring hate crime legislation in all three units across the country.

Bodily integrity

- During 2016, NGO SOC requested information from 27 different relevant medical institutions in BiH on the
procedures and rules in place regarding the treatment of intersex children and individuals. Seven institutions responded; four of which confirmed that children classified as intersex were born in their institution in the past 10 years. There appeared to be a lack of explicit procedures regarding the treatment of intersex children in the seven respondent institutions; all confirmed the children would be sent to larger medical centres for further advice.

Data collection
- The Institution of the Ombudsperson for Human Rights of BiH presented its Special Report on the status of the fundamental rights of LGBT people in December. The report assessed the current situation faced by LGBT people in the country and made several recommendations as to how this could be improved, including requiring public office holders to be more vocal in their support of LGBT people. The Ombudsperson also recommended that political parties include anti-discrimination protections, adequate healthcare for trans people, legal recognition for same-sex couples and ensuring freedom of assembly for LGBTI people in their political programmes.

Employment
- The Labour Law of the Federation of BiH, adopted in April, explicitly prohibits discrimination on the ground of sexual orientation in the field of employment. The Labour Law of Republika Srpska was adopted in January but does not specifically mention sexual orientation or gender identity, while the Brčko District’s Labour Law already mentioned sexual orientation as a ground of discrimination. Gender identity is not referred to as a specific ground in any labour law. Protection from discrimination on this ground remains guaranteed solely by the 2009 Anti-Discrimination Law.

Enlargement
- Bosnia and Herzegovina has been a potential candidate to join the European Union since 2003. Bosnia and Herzegovina submitted its formal application request to join the European Union on 15 February.
- The European Parliament evaluated the situation for LGBTI people in April and recommended that gender identity and sexual orientation be more clearly translated and accurately defined in the national anti-discrimination law, and that a country-wide anti-discrimination strategy be introduced.
- In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission observed that progress on human rights and minority protection had been made, with reference to the amendments made to anti-discrimination laws (see Equality and non-discrimination). However, the “continuous discrimination” faced by same-sex couples and the marginalisation of trans people were highlighted as areas of concern. The Commission also noted that an attack on LGBTI people had taken place in Sarajevo in March (see Bias-motivated violence).

Equality and non-discrimination
- The government of the Federation of BiH passed an operational action plan on 4 March, which included several provisions aimed at protecting the rights of LGBT people. (Republika Srpska’s 2016 action plan had already been adopted in December 2015.) Both of these one-year-long operation plans feed into the Gender Action Plan of Bosnia and Herzegovina 2013-2017. The measures included by these plans were mostly implemented in cooperation with NGO SOC.
- At the level of Bosnia and Herzegovina, the Anti-Discrimination Action Plan came into effect on 26 April, after being adopted by the Council of Ministers. This plan is the first national level public policy to contain references to LGBT people. Six measures (out of a total of 32 included in the plan) refer specifically to the needs of LGBT people; including changes to health protection laws to provide access to gender assignment procedures, and training for law enforcement officials and civil servants. At the end of the year, LGBTI NGOs reported that these measures had not been implemented within the envisioned period.
On 15 July, the House of the Peoples confirmed amendments to the federal Law on the Prohibition of Discrimination. Sexual orientation and gender identity were more accurately defined in local languages by the new amendments. In addition, sex characteristics was also explicitly added to the list of protected grounds. As a result, intersex people are protected by law from discrimination in all spheres of life.

**Freedom of assembly**

In November, NGO SOC submitted an appeal to the Constitutional Court of BiH arguing that Bosnia and Herzegovina has failed to protect the freedom of assembly of LGBTI persons, citing the failure to protect the 2014 Merlinka Festival or sanction the perpetrators who attacked the festival. (Similar appeals were submitted after the 2008 attack on the Sarajevo Queer Festival; in that case that Constitutional Court ruled in 2014 that the Sarajevo Canton and the Federation of BiH government failed to protect the participants.) There is yet to be a Pride event organised in Bosnia & Herzegovina largely because members of LGBTI community are afraid of coming out for fear of stigmatisation, discrimination and violence. However, there were public events and peaceful protests organised to mark IDAHOT on 17 May and National Coming Out Day on 25 October.

**Police and law enforcement**

During 2016, Sarajevo Open Centre has conducted a ‘train the trainer’ programme on hate crime for police officers in nine of the Cantons in the Federation of BiH. This means that police officers will be able to train their peers in their respective cantons on proper investigation of bias-motivated crimes throughout 2017 and beyond. These sessions were conducted in cooperation with the Croatian Police Academy and the Organization for Security and Cooperation in Europe OSCE mission to BiH.
During 2016, a series of important conversations were initiated in Bulgaria. These discussions did not lead to concrete policy changes during the year, but their subjects were of great relevance to LGBTI people. The Ministry of Justice working group on changes to the penal code included the voices of LGBTI NGOs. Its recommendation to include anti-LGBT bias as aggravating circumstances in criminal cases was particularly welcome when you consider the absence of any protection for LGBTI people against hate crime or hate speech on the Bulgarian statute books. A similar lack of protection for intersex people against human rights violations is also an issue; one of the most invasive of these is so-called ‘normalising’ surgery. The impact of these procedures and the need to stop the practice was discussed by intersex activists and medical students, with plans made for further interaction. The impact of the 2016 discussions between LGBTI activists and the authorities remains to be seen, as the work of the justice working group was put on hold until after elections, planned for 2017. The largest ever Sofia Pride is another milestone that activists hope can be replicated in the coming year.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).

- Introducing hate crime laws and policies that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
Asylum
- LGBTI NGOs Bilitis Resource Centre and Deystvie LGBT Association assisted a gay man from Iran with an asylum application during 2016. His request for international protection based on sexual orientation was lodged with the National Agency on Refugees in July and he received a positive decision on his application in October.

Bodily integrity
- Intersex activists contacted Sofia’s Medical Academy to initiate conversations with the genetics department on the need to stop so-called ‘normalisation’ surgery on intersex children. This was followed by a discussion between intersex activists and medical students and the planned dissemination of resources for the parents of intersex children (produced by OII Europe) with the Academy’s help.

Equality and non-discrimination
- During a Radio Focus interview to mark International Women’s Day on 8 March, Ombudsman Maya Manolova stated that Bulgaria should move to sign the Istanbul Convention. On 21 April, Minister for Justice Ekaterina Zaharieva (Reformist Bloc; centre-right) signed the CoE’s Convention on preventing and combating violence against women and domestic violence.
- Following the government’s signature of the Istanbul Convention, LGBTI NGOs Bilitis and Deystvie LGBT Youth Association, together with a lawyer from the Bulgarian Helsinki Committee, took part in a cross-sector working group on harmonisation of the country’s penal code. The group was formed by the Ministry of Justice and delivered a series of recommendations on the inclusion of homophobia, biphobia and transphobia as aggravating circumstances in different types of crimes. In November, Prime Minister Boyko Borisov (GERB, ‘Citizens for European Development of Bulgaria’; centre-right) resigned and the work of the working group ceased with the end of the government’s term. Elections are expected to take place in spring 2017.

Family
- A lesbian couple requested a birth certificate from the Municipality of Pazardzhik for their child, who was born in Denmark. The municipality refused and the couple (one partner is Bulgarian and the other is Danish) appealed. The Administrative Court ruled to allow the certificate to be issued. Subsequently, the municipality appealed to the Supreme Administrative Court, which is due to hear the case in 2018. In the meantime, the child will be treated as a ‘visitor’ and not a local citizen, limiting the services and support the mothers can access.

Freedom of assembly
- Sofia Pride attracted over 2000 participants to the city for the Pride march on 18 June. This was the largest attendance since the event was established in 2008. 17 ambassadors signed a statement of support in advance of the march; several MEPs, members of Sofia City Council and the DEOS and Zelenite (The Greens) political parties also pledged their support. Sofia Pride organisers received reports of incidents during and after the Pride march where participants were threatened by right-wing protestors. Witnesses described very little intervention by police, who were nearby at the time of the incidents, to protect Pride participants.

Legal gender recognition
- A trans man, who had applied to court to amend their civil status, commenced proceedings at the European Court of Human Rights. The applicant had undergone surgical treatment and subsequently applied to correct the civil registry. This request was refused by Stara Zagora District Court in 2015. On 26 February, the Regional Court of Stara Zagora upheld this decision and an application was made to the Strasbourg Court in July.
- In 2016, three trans people were granted legal gender recognition by the courts without having to undergo sterilisation.

Participation in public, cultural and political life
- ‘Pride’, a play featuring events from the first Sofia Pride in 2008, was created and staged in Sofia by Verbatim Theatre at the Red House Center for Culture and Debate. The play was the first of its kind, giving visibility to LGBTI issues through theatre; it was first staged in May and June.
Reduced support for LGBTI NGOs and independent media voices was a cause of concern for activists in Croatia. Government funding for the 2017 Zagreb Pride was cut, the first time this has happened. Community media outlets, including LGBTI websites, also lost institutional support. LGBTI activists continued to provide support throughout 2016, including legal guidance for people who had been subjected to violence because of their sexual orientation or gender identity, as well as training for lawyers, victim support staff and the judiciary. Discrimination faced by LGBTI people was raised by NGOs in a letter to the Prime Minister in January; although political progress was slow during the rest of the year, due to the fact that a number of LGBTI-supportive politicians were not returned following the elections. Once again, activists highlighted the inadequacies of the legal gender recognition process. The bodies responsible for its implementation seemed to be ignoring prescribed timelines, leaving trans people in limbo as they wait for a response. In spite of the existence of well-developed equality and hate crime/speech legislation, public attitudes to same-sex couples do not seem to have evolved in a similar manner. With a majority of those surveyed saying that same-sex couples shouldn’t demonstrate affection in public, it poses a question over whether enough leadership is being shown by government to embed the laws in practice.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Actively implementing existing equality action plans, and amending the action plan to explicitly include all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

- Replacing the existing legal framework for legal gender recognition with new legislation that ensures the process is based on self-determination, and is free from abusive requirements (such as GID/medical diagnosis, or surgical/medical intervention).

- Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.
Bias-motivated speech

- NGO Lesbian Group Kontra wrote an open letter to then Prime Minister Tihomir Orešković (independent) to alert his office to the situation for gay and lesbian people in Croatia under his government. The letter cited daily experiences of discrimination and hate crime, as well as attacks on civil society groups. Attention was drawn to a recent statement made by the vice-president of the Parliamentary Committee for Family, Youth and Sport, who referred to civil society groups working with minorities as ‘sick’. The letter was released on 30 January and published in the widely-read Večernji list and Jutarnji list newspapers and by several online news portals. (See also Freedom of association.)

Bias-motivated violence

- During 2016, NGO Zagreb Pride provided legal support in 25 cases of violence motivated by the victim’s sexual orientation or gender identity. Five of these received a final judgment by the end of the year.
- On 4 June, during Pride Week, two people attempted set fire to the Zagreb Pride flag on display in Ban Jelačić Square, the city’s main square. Two rainbow flags were also stolen from Trg Kralja Tomislava Square. The incidents were reported by mainstream and independent media outlets and NGO Zagreb Pride filed criminal charges, but the offenders were not found.

Education

- Thousands of people gathered in Ban Jelačić Square on 1 June in support of reforming the school curriculum. Attempts to update the curriculum had been initiated in 2015 by the former centre-left government; however sexual orientation and gender identity were not substantively mentioned. Protestors feared that the entire process would be halted under the government elected in January and joined the event on 1 June, organised by the ‘Croatia can do better’ coalition of NGOs and trade unions. It was one of the largest protests in recent years; no advances had been made on the proposed curricular reform before the vote of no confidence in the government in June.

Family

- On 23 February, the European Court of Human Rights held that there had been a violation of the European Convention on Human Rights in the case of Pajić v Croatia. It was the first ruling by the Court on family reunification of same-sex couples. Ms Pajić, a national of Bosnia&Herzegovina, had applied for a Croatian residence permit in 2011. Her attempts to be reunited with her Croatian partner were initially refused by the local police department and subsequent appeals to the interior ministry, Zagreb Administrative Court and the Constitutional Court were all unsuccessful. The unanimous ECtHR Chamber judgment found that the domestic Aliens Act excluded all same-sex couples from the possibility of obtaining family reunification. The Croatian authorities had not justified this exclusion or provided any convincing reason why same-sex couples were treated differently to different-sex couples. As a result, the ECtHR found that Croatia had violated Article 14 (non-discrimination) in conjunction with Article 8 (private and family life). The Court also reiterated the point that a cohabiting same-sex couple in a stable partnership falls within the notion of ‘family life’.

Freedom of assembly

- ‘Pride for all of us’, a video produced by NGO Zagreb Pride, was shared on social media to mark Coming Out Day on 11 October. It also had five public screenings in different towns. This was the first video made by Zagreb Pride and the first lengthy documentary to focus on the history of the Pride March in Zagreb.
- On 23 December, NGO Zagreb Pride announced that Ministry of Culture was not going to provide financial support for the capital’s Pride March in 2017. Traditionally, the ministry’s funding makes up approximately one third of the event’s budget; the reminder was supplied by individual donations and the City of Zagreb. This was the first time that Zagreb Pride’s request for funds had been turned down. The NGO stated that none of the LGBTI programmes who had applied received funding and released a statement saying that this “…reveals the attempt by the (former)
culture minister to remove us, LGBTIQ persons, from public life and make us invisible...”.

Freedom of association
- The open letter published by NGO Lesbian Group Kontra in January also highlighted the decision by newly appointed culture minister Zlatko Hasanbegović (Croatian Democratic Union, HDZ; conservative) to cut NGO funding, including one (unnamed) queer organisation.

Freedom of expression
- In February, the right-wing coalition government (formed in mid-January) cut institutional support for non-profit community media, including LGBTI and feminist online media sources, such as Crol.hr, Voxfeminæ and Libela. The outlets are still operational but their work was greatly affected. The government also proposed cuts and restructuring institutional support for civil society, including for organisations that offer social services, and those working in the field of art and culture. By 26 May, it was reported that over 435 NGO representatives had appealed to the government, asking for their lottery funding to be reinstated.

Legal gender recognition
- 22 people had their gender legally recognised by the National Health Council in 2016. There were 10 applications still pending at the end of the year, some of whom had been waiting over six months for a response, according to NGO Zagreb Pride.

Police and law enforcement
- NGO Zagreb Pride conducted trainings on a range of issues, including LGBTIQ terminology, human rights, hate crime and support for victims. 142 police officers, 29 state attorneys, criminal and magistrate judges, and 15 victim/witness support staff were trained throughout the year.

Public opinion
- NGO Zagreb Pride commissioned an Ipsos public opinion survey about Zagreb Pride as an event and LGBTIQ persons generally. 969 people were interviewed between 1 – 20 March. 43.8% of those surveyed said they do not support Zagreb Pride at all. 30.7% completely agreed with the statement “LGBTIQ persons should not be allowed to appear in public because they have a bad influence on young people”; 20.8% mostly agreed. The survey results also showed that 51% did not approve of same-sex partnerships and 69% thought that same-sex couples should not publicly display affection.

Sexual and reproductive rights
- On 21 May, a ‘Walk for Life’ march took place in Zagreb city centre. The pro-life event’s stated aim was to highlight the “dignity and value of every human life from conception to natural death”. Pro-choice counter-protestors also gathered in the capital at the same time to advocate for reproductive rights. One of the groups to take part in the ‘Walk for Life’ was ‘In the Name of the Family’, the same organisation that initiated the 2013 referendum to restrict the constitutional definition of marriage as a union between a man and a woman. In late 2015, the Constitutional Court had announced they would review the existing law on medical measures, which legislates for abortions up to the 10th week of pregnancy.
The high-profile legal developments in late 2015 – on civil unions and criminalisation of hate speech – continued to feature in discussions during the year. The first civil unions on the island were registered; eight same-sex couples opted to do so within the first four months of the year. This development was praised by ECRI in their monitoring report, as was the 2015 introduction of criminal penalties for homophobic and transphobic rhetoric. However, another of ECRI comments echoed the concerns of LGBTI activists, as it recommended that these standards are further built upon. At the moment, the LGBTI-bias penalties are not aligned with the penalties for racially motivated hate speech, and there were calls for this to be harmonised. Another area prioritised in political discussions was the continuing lack of legal gender recognition – a fact further emphasised by an examination of the country’s Rainbow Europe section on gender recognition and bodily integrity. The Ombudsperson of the Republic of Cyprus and the Ombudsperson in the northern part of the island not under the effective control of the government initiated key conversations, on the rights of intersex people and on the situation faced by LGBTI people on IDAHOT. Activists in northern Cyprus worked on visibility initiatives during 2016, with billboard campaigns, speeches from prominent figures, and the flying of rainbow flags all contributing to increased prominence for LGBTI issues. All these areas also formed part of the first cross-party, public discussion by political figures on LGBTI issues – which took place at ILGA-Europe’s Annual Conference in Nicosia in October.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).
- Actively implementing existing legislation to ensure that people are protected against hate speech on the grounds of sexual orientation and gender identity, and extend the law to cover sex characteristics.

**Northern Cyprus***

- Amending the criminal code to ensure that people are protected against hate crime/speech on the grounds of SOGISC (sexual orientation, gender identity, sex characteristics).
- Amending labour law to expressly protect LGBTI people against discrimination on the grounds of SOGISC (sexual orientation, gender identity, sex characteristics) in employment.

*(Areas not under the effective control of the Republic of Cyprus)*
Asylum

- According to the Ombudsperson’s Office – National Antidiscrimination Body, in 2016 the Republic of Cyprus granted asylum to an intersex person for the first time. The person was allowed to have access to hormone therapy.

Bias-motivated speech

- During a live TV programme on 31 October, Archbishop Chrysostomos announced that the Orthodox Church of Cyprus intended to create schools to offer what he referred to as ‘exemplary education’. The archbishop stated that these schools would teach that homosexuality was an ‘unnatural choice’. LGBTI NGO Accept-LGBT Cyprus called on the Attorney General’s office to initiate an inquiry, but no action was taken. The Ombudsperson issued a public statement on the matter (in her capacity as the anti-discrimination body), noting that the archbishop’s comments “…fall outside the protective scope of freedom of expression and should be investigated, both because of the content itself, but also because of their potential impact”. NGO Accept-LGBT Cyprus reported the case to the Cyprus Radio Television Authority, who then opened a formal examination of the complaint.

Bias-motivated violence

- A young man was violently assaulted by six people in Nicosia on 6 February. NGO Accept-LGBT Cyprus called the attack a ‘gross homophobic incident’; the man required hospitalisation. The incident was reported to the police, but the authorities subsequently informed the anti-discrimination bodies that the crime was “unsolvable”. According to Accept-LGBT Cyprus, the perpetrators had been identified but not arrested.

Bodily integrity

- On 5 September, the Parliamentary Committee on Human Rights met to discuss a report on the rights of intersex people issued by the Ombudsperson Eliza Savvidou. The Committee discussed the need to address the current invisibility of intersex people, human rights violations, options for better treatment practices, and providing the parents of intersex children with accurate information.

- Ombudsperson Eliza Savvidou discussed the situation of intersex people in Cyprus at a meeting with LGBT NGO Accept-LGBT Cyprus, the Ministry of Health, the Ministry of Interior, the Cyprus Bioethics Committee, and the Cyprus Medical Association representatives on 3 October. Before the meeting, the Ombudsperson had called for more public dialogue and awareness on the needs of intersex people. She had commented on medical interventions on intersex children, saying they “…constitute a practice that is largely uncharted, characterised by ignorance and prejudice, and which is not compatible with fundamental human rights such as the right to self-determination and physical integrity.” A follow-up meeting was proposed but had not taken place by the end of the year.

Equality and non-discrimination

- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Cyprus on 7 June. Recent developments, such as the Civil Union Act and the criminalisation of incitement to hatred or violence on the basis of sexual orientation or gender identity, were praised. ECRI also noted that proposals to amend media laws to better respect LGBT people had also been put forward by the Cyprus Radio Television Authority but had not been adopted before the monitoring report was published. ECRI listed several recommendations relevant to LGBT equality, including a call to increase the Criminal Code’s penalty for homophobic and transphobic hate speech to align it with existing penalties for racist hate speech. The report also recommended increasing human rights training for police officers, greater research on LGBT people’s experience of discrimination, including gender identity as a prohibited discrimination ground in equal treatment legislation, and allowing for change of gender markers in documents without the need for surgery.
The leaders from three political parties – the governing Democratic Rally (DISY; centre-right), largest opposition party Progressive Party of Working People (AKEL; left-wing) and the centrist Democratic Party (DIKO; centre) – discussed equality for LGBTI people in Cyprus and future political priorities during the 20th ILGA-Europe Annual Conference in October. This was the first time that representatives of the main political parties had jointly discussed LGBTI issues in public.

Addressing homophobic and transphobic hate crime was listed in November as one of the priorities that Cyprus would pursue during its time as chair of the Committee of Ministers of the Council of Europe, running until May 2017.

Family

Following the passage of the Civil Union Act in late 2015, the first civil union between two men was registered at a ceremony in Nicosia on 11 February. Eight of the sixteen couples to enter civil unions between December 2015 and April 2016 were same-sex couples. This figure was announced in April to coincide with a workshop on social protection of LGBTI people, organised by the Interior Ministry and the Office of the Commissioner for Administration and Human Rights - Ombudsperson. The first civil union between two women was registered on 12 May.

Freedom of assembly

The Aglandjia municipality in Nicosia flew a rainbow flag during IDAHOT on 17 May, coinciding with the first day of the Cyprus Pride Festival. It was the first local government authority, in the areas under the effective control of the government of the Republic of Cyprus, to display a rainbow flag (see also northern Cyprus).

The Foreign Ministry of Cyprus issued a directive to the embassies of Cyprus abroad to attend Prides when requested by the local activists. The Ministry was also represented in Cyprus Pride for the first time, at the level of Head of Department responsible for Human Rights.

Freedom of association

The local Limassol branch of NGO Accept-LGBT Cyprus was inaugurated on 20 March. This is the first time that the second largest city in Cyprus has its own dedicated LGBTI group.

Human rights defenders

NGO Accept-LGBT Cyprus’ parents group made its first public appearance on 16 February. The parents of LGBTI people took part in a live TV show, and had the chance to answer viewers’ questions directly. The parents group held its first public event on 22 March (entitled “My Child is Gay”) and later repeated this in Limassol in May during the Cyprus Pride Festival.

Legal gender recognition

A peer-to-peer exchange session on legal gender recognition was held in Nicosia on 19 October. The event was organised by the Council of Europe and the Cyprus Ombudsperson, in partnership with NGOs Accept-LGBT Cyprus, ILGA-Europe and TGEU. It focused on enhancing the capacity of the Cypriot authorities to implement Council of Europe standards regarding the legal gender recognition of trans people, opening up the discussion with a number of Cypriot stakeholders.

The first discussion on legal gender recognition at the Parliamentary Committee for Human Rights took place on 15 November. Several stakeholders were involved, including the Ministry of Interior, the Ministry of Health, the Ombudsperson and NGO Accept-LGBT Cyprus. Head of the committee, Stella Kyriakides (DYSI, centre-right) referred to the need for self-determination, without the need for any medical or psychiatric evaluation. The Committee promised follow up on this issue early in 2017 with a discussion in the Parliament.

Northern Cyprus

Equality and non-discrimination

To mark the second anniversary of the decriminalisation of homosexuality, rainbow flags were flown across the northern part of the island in January. NGO Queer Cyprus Association had initiated the initiative,
supported by Gender Equality Platform. NGOs, individuals and over 40 institutions displayed rainbow flags including two municipalities, trade unions, and political parties (one of them being a member of the part of a coalition government). The Nicosia Turkish Municipality was the first local authority to fly a rainbow flag.

**Freedom of assembly**

- The northern Cypriot ombudsperson Emine Dizdarlı drew attention to the importance of combatting discrimination, violence and hate speech against LGBTI people, in a speech to mark IDAHOT. She also said that she hoped the IDAHOT march on 17 May would be a step towards achieving that aim.

**Freedom of expression**

- LGBTI NGO Queer Cyprus Association launched an awareness-raising campaign in northern Cyprus in November. The billboard campaign was part of a larger two-year project, supported by Cyprus Community Media Centre, entitled ‘Unspoken: Creating Dialogue on LGBTI Rights in the Turkish Cypriot Community’. Posters in Dikmen and Mağusa were defaced within 48 hours of being unveiled. In the town of İskele, the billboards were removed by the city council without any explanation for their removal. The acts were condemned by various NGOs, political parties, as well as by individuals via social media.
Proposals to fill several of the outstanding legislative gaps in family law and hate crime were put forward in 2016, although they were still pending at the end of the year. One topic not currently provided for by law is access to second-parent adoption procedures for same-sex couples. A bill on the topic continued to make its way through the legislative process, provoking some politicians to make derogatory statements about same-sex couples. The Constitutional Court did rule that same-sex couples who have entered a registered partnership cannot be barred from adopting individually. Also, the justice ministry initiated a proposal to add sexual orientation and gender identity to the bias-motivation grounds in the Penal Code. LGBTI activists reported that nationalistic, populist sentiment crept into some political rhetoric in the Czech Republic, notably in the run-up to elections. Encouragingly, recent opinion polls suggest that the general public still feel supportive towards LGBTI equality – with a majority in favour of equal marriage, and strong majorities expressing support for civil unions and the prospect of same-sex couples adopting.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Ensuring marriage equality for all.
- Drafting and adopting legislation to allow same-sex couples to have access to second parent adoption.
**Bias-motivated speech**
- During July’s parliamentary debate on the proposed second-parent adoption law (see Family), MP Pavlina Nytrova (Czech Social Democratic Party, CSSD; centre-left) commented that if the bill was introduced “homosexuals will try to have sex with children”. On Twitter, Minister of Labour and Social Affairs Michaela Marksova disassociated the Social Democrats from her party colleague’s comments, saying Nytrova should move to another political group. The CSSD leader and prime minister, Bohuslav Sobotka, distanced himself from Nytrova’s statements but did not call on her to leave the party.

**Bias-motivated violence**
- In April, the Ministry of Justice put forward a proposal for a bill to amend the Penal Code by adding explicit references to sexual orientation and gender identity to the grounds for bias-motivated violence. This proposal had not been approved by the government by the end of the year.

**Equality and non-discrimination**
- Following the regional and Senate elections in October, MP Jan Chvojka (CSSD) became Minister for Human Rights. When he was appointed, Mr Chvojka stated that he intended to have a different approach than his predecessor, saying that he will focus on human rights that the majority of the population can profit from, as human rights are not just for minorities but for everyone. Since Mr Chvojka took office, the Ministry of Human Rights have not made any steps to actively protect the rights of LGBT people.

**Family**
- On 28 June, the Constitutional Court ruled that the legal provision barring same-sex couples from adopting after they entered into a registered partnership was unconstitutional. The Court abolished section 13(2) of the Registered Partnership Act which stated that people in a same-sex registered partnership could not adopt as individuals, even those this was a possibility if they were single. Registered partners still cannot jointly adopt a child.

- A bill, originally submitted to parliament in September 2013 by a group of MPs, allowing same-sex couples to access second-parent adoption was included on the House of Representatives’ agenda in July. The debate session ended without a first round vote, as the House adjourned for summer recess. While the 2013 initiative was still ongoing, another second parent adoption bill was prepared by the Ministry of Human Rights and the Ministry of Justice. This second bill was approved by the government in October by 12 votes to two. The bill was submitted to the parliament but it had not been included in the legislative agenda for debate by the end of the year.

- During 2016, the Supreme Administrative Court dismissed a petition from a same-sex couple, asking for the second father of a child to be recognised as a parent. The gay couple at the centre of the case (one of whom is a Czech citizen) had adopted a child in the USA, and the Czech father’s parentage had previously been recognised by the Czech courts. The case was submitted to the Constitutional Court and was still pending at the end of 2016.

**Foreign policy**
- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, the Czech Republic, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

**Freedom of assembly**
- In August, Prague’s Pride March attracted over 40,000 participants according to police estimates, a record number in the festival’s six-year history.

**Health**
- In late January, Prague’s Public Health Authority announced it was going to initiate criminal investigations against 30 gay men. These men were living with HIV and had been diagnosed with a sexually transmitted infection (STI) in the past 12 months. NGOs believed that the police
were beginning an investigation to see if the men had violated provisions Sections 152 and 153 of the Criminal Code (used to prosecute the “spread of infectious diseases”). European NGO networks sent an open letter to the Public Health Authority on 14 February, stating that their behaviour was intimidating and that evidence-based practice in HIV prevention, testing and care needed to be used instead.

**Public opinion**

Between 3 – 20 June, the Centre for Public Opinion Research carried out a series of interviews with 1005 members of the public on their attitudes towards gay men and lesbian women. The results were published on 25 July and 48% of those surveyed stated that coming out would cause problems for someone in their local town/village; 43% disagreed. 37% of respondents said they had friends who identified as gay or lesbian, 9% said they didn’t know if they had. 74% agreed with same-sex civil partnership and 51% thought that same-sex couples should be allowed to marry. When asked about adoption, 62% said that same-sex couples should have access to adoption.
Denmark’s decision to depathologise trans identities attracted widespread attention in 2016. Although the changes did not take effect immediately, the decision to move on the issue (ahead of the WHO’s finalisation of the next edition of its classification system) was extensively praised. The parliament vote in favour of depathologisation was the first time that all parties had given their full cross-party support to an LGBTI issue. NGOs also continued to support trans people who encountered other examples of discrimination, by questioning the relevant government ministries when trans students were refused reissued documents following their legal gender recognition. Marriage equality and joint adoption were extended to couples in Greenland, and equal marriage legislation reached the final procedural stages before coming into effect in the Faroe Islands. The annual intergovernmental Forum to mark 17 May was held in Copenhagen, under the theme ‘Building Bridges and Alliances’. The Forum was opened by Crown Princess Mary who urged attendees to stay united in the fight against discrimination.

For more information on developments in 2016, visit [www.rainbow-europe.org](http://www.rainbow-europe.org) where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Transforming the healthcare model for trans people by the Danish health authorities.
- Updating the existing legal framework for legal gender recognition, to ensure that people under the age of 18 can access the process.
- Recognising more forms of rainbow families, in particular families with more parents and more kinds of parenting roles (such as legal parents with parental rights and social parents who are recognised as part of the family).
Education
- During the year, NGO LGBT Denmark was contacted by several trans students who had their request for reissued documents (after their legal change of gender) refused by their educational institutions. The NGO complained to the Minister of Children, Education and Gender Equality as well as Minister of Higher Education and Science. In October, the Minister of Education Ellen Norby (Venstre – The Liberal Party of Denmark, V) wrote to LGBT Denmark to say that both ministries would require institutions to issue new documents, and that they would address administrative policies in this area.

Equality and non-discrimination
- Following a government reshuffle in November, the so-called Lars Løkke Rasmussen III cabinet published its programme for government. Entitled ‘For a freer, richer and more secure Denmark’, the plan contains a section on LGBT protection within the equality chapter.
- On 18 August, a number of political parties (Dansk Folkeparti (DF), Socialdemokraterne (S) and Alternativet) stated they would be in favour of a proposal from the Radikale Party to remove the ban on blood donations from men who have had sex with men (MSM). The statement was made during Pride week but no vote or amendment was put forward before the end of the year.
- The 4th annual European IDAHO Forum, an intergovernmental conference to mark International Day against Homophobia, Transphobia and Biphobia, was held in Copenhagen on 10 May. Ministers from 11 different countries signed a Declaration of Intent that promised to build on previous declarations at the earlier Fora. The LGBTI community held a side-conference that ran alongside the intergovernmental event. That statement issued after the ‘Still Much to be Done’ conference included a call to governments to fund regional LGBTI initiatives.
- A final report under the UN’s Universal Periodic Review process was adopted for Denmark in 2016 (see United Nations).

Family
- On 1 April, changes to the Marriage Act came into effect in Greenland, meaning that same-sex couples can get married. The amendments had been due to come into force in 2015 but were delayed by Danish parliamentary elections (both parliaments had to ratify the law). As a consequence, same-sex couples in Greenland could also access joint adoption from 1 July.
- The Faroe Islands continued to make progress on an equal marriage bill throughout the year. In March, the bill was sent back to the Health and Social Committee for further discussion. It successfully passed the second and third reading stages on 27 and 29 April respectively. These amendments did not automatically come into force; another amendment had to be enforced first. Discussions ensued between the Danish and Faroese governments over which government held the competence to execute the required amendment. Both governments determined it was within the Faroese capacity, but the changes had not been made before the end of 2016.

Health
- As of 1 January, a health service was established to provide hormone blockers to pause puberty for children from the age of 12. Previously there was no such service for trans children; the service is available following cooperation between clinics in some public hospitals. The service is based on a model from the Netherlands. At the end of the year, some LGBTI NGOs expressed concerns that the capacity of the clinics was not high enough to meet demand.
- The parliamentary health committee issued a statement in favour of a government resolution to depathologise trans identities on 1 June. All parties in the parliament supported the statement in favour of depathologisation; this was the first time that full cross-party support had been given to an LGBTI issue. During the hearing process, the government stated that the changes would come into effect no later than 1 January 2017, as they were waiting to see what the World Health Organisation’s working group meeting would yield. In October, when the WHO did not propose a
change to its diagnostic system, the Danish government proceeded with its own plans. The government stated it would declassify trans identities, moving their reference to a section of their national medical guidelines that do not deal with mental illness or sexuality. Denmark will be the first country in the world to declassify trans identities in this way. This change in codes will come into effect on 1 January 2017 (but will not change access to treatment; an assessment will still be required to avail of treatment through the health system).

**Legal gender recognition**

- Amnesty International Denmark’s report ‘Sick System’ assessed the current legal gender recognition procedure, following up on analysis carried out in 2014. Following consultation with a wide range of trans and LGBT organisations, the report highlighted the ongoing difficulties that trans people still have when accessing health services. The report was published in March, as part of a campaign expressing severe criticism of Sexologisk Klinik, the clinic in charge of assessments.

- NGO LGBT Denmark also issued a report in October, identifying the changes needed (and the authorities with competencies to do so) in order to ensure proper access to health services for trans people. This was the first time that such an analysis was carried out and revealed a very complicated mix of soft regulations and hard laws.

**Sexual and reproductive rights**

- Following a question from the European Commission in 2015, the government started working on the Bill amending the Medicines Act and the Danish Tissue Act. The bill is described as an amendment to “enhance patient safety by ensuring good traceability”. Consultation on the proposed amendment took place during the second half of 2016. NGO LGBT Denmark have argued that the bill will prohibit sales from Danish sperm banks to individuals. This will remove access to controlled sperm for single women and lesbian couples in many countries in Europe and ultimately create additional risks.
The issue of registered partnerships had been a recurring theme over the past few years in Estonia – and 2016 was no different. Couples held ceremonies and began to register their unions, despite the fact that the implementing legislation still had not been fully agreed and passed by the end of the year. This raised concerns at the Interior Ministry over how the unions were to be noted in the national registry. Opposition to the very notion of registered partnerships also surfaced. Some political parties pursued unsuccessful motions to repeal the legislation entirely, claiming that the law had ‘split’ Estonian society. It is unclear whether repeal attempts and the language used by political opponents was a factor in the increased public opposition to registered partnership since 2015, as recorded by one opinion poll. Another area of family recognition that received attention in 2016 was the issue of residence permits for same-sex partners of Estonian residents. A draft law was being developed by the Constitutional Committee but in the absence of immediate legal change, a couple forced apart due to a lack of residence permit began strategic litigation. In the first case of its kind, a court also ruled that both partners in a cohabiting same-sex couple (with two children) could adopt their partner’s biological child.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Adopting legal measures to allow same-sex couples to legally cohabit.
- Including express mentions of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in laws designed to tackle hate speech.
- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).
Employment
- An additional ten organisations joined the Estonia Diversity Chapter in 2016, bringing the overall number of companies in the workplace anti-discrimination initiative to 70.

Equality and non-discrimination
- A final report under the UN’s Universal Periodic Review process was adopted for Estonia in 2016 (see United Nations).

Family
- The opposition Centre Party (K; centrist) continued to seek support in January for its motion to repeal the 2014 Registered Partnership Act, officially submitted in November 2015 by 12 opposition MPs. Estonian Pro Patria and Res Publica Union party (IRL; centre-right) indicated they would also support the repeal bill. On 9 February, the parliament’s legal affairs committee voted to reject the opposition’s repeal motion by five votes to four. The motion proceeded to first reading stage in the Riigikogu on 16 February. Prior to the vote, MP Jaanus Karilaid (Centre) said that the Registered Partnership Act had split society too much and needed to be repealed; however, MPs voted to drop the repeal proposal. EKRE announced they intended to put forward another repeal motion.
- Also in January, the Estonian Pro Patria and Res Publica Union party (IRL; centre-right) stated they planned to propose a constitutional amendment to define marriage as a union only between men and women. Constitutional amendments require the backing of 21 MPs before they can be discussed; the IRL party took no further action before the end of 2016.
- The Registered Partnership Act 2014 formally entered into force on 1 January. Supporting legislation, to ensure full implementation of the law, was still being discussed in 2016. Despite the absence of this implementing legislation, same-sex couples can still enter registered partnerships, conducted by notaries, which are legally binding. By May, NGO Estonian LGBT Association estimated that approximately 10 second-parent adoption decisions had been handed down by the courts. The Estonian Chamber of Notaries confirmed that 43 couples registered civil partnerships in 2016 but were unable to say how many were registered by same-sex couples. On 26 January, the second reading was due to take place, but members of the legal affairs committee could not secure agreement on how to proceed and negotiations remained on hold. In November, the Interior Ministry expressed concern that, without the implementation acts, registered partnerships or court decisions on second-parent adoption based on these partnerships could not be recorded in the national population register. The final vote had not taken place by the end of 2016.
- In a decision handed down on 29 March, a court in Harju County held that both partners in a registered partnership (with two children) could adopt their partner’s biological child. Under the Family Act, if a child has only one legal parent, then second-parent adoption is an option for married couples; this was extended to registered same-sex couples under the Registered Partnership Act. In this particular case, both partners were each the biological mother of one child following sperm donation. This was the first case of its kind in Estonia.
- On 5 April, parliament voted in favour of a proposal to allow the same-sex partners of Estonian residents in registered partnerships to apply for residence permits. Under the Aliens Act, the spouse of a person resident in Estonia can apply for permits – but only if they are married. Chancellor of Justice Ülle Madise highlighted the exclusion of same-sex registered civil partners and put forward a proposal to amend the Aliens Act. 42 MPs supported the idea, 19 opposed and 3 abstained. The Constitutional Committee began to formulate a draft law; this work had not been concluded by the end of 2016.
- In November, the Estonian Human Rights Centre announced it was supporting strategic litigation to reunite a lesbian couple who cannot live together in Estonia due to the treatment of same-sex couples under the Alien’s Act (see above). The partner of an Estonian national, who is a US citizen, returned to the United States in October as the authorities would not issue her a residence permit. The couple were married in the US in October 2015; their court proceedings were ongoing at the end of 2016.
Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Estonia, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Public opinion

- Market research company Turu-Uuringute AS conducted a survey on the level of opposition to various legal protections for same-sex couples. The survey was commissioned by the University of Tartu's Institute for the Study of Societal Issues and the results were published in February. 60% of those questioned were opposed to registered partnerships for same-sex couples, rising from 54% since polls in November 2015. 77% opposed adoption by same-sex couples. When respondents were asked whether they would have a problem with certain groups as neighbours, 39% said they would not like to live alongside homosexual people (84% would have a problem with neighbours who were addicted to drugs).
In advance of the introduction of equal marriage, there were a series of public deliberations on the issue. There was disagreement between the church hierarchy and individual pastors over whether to officiate for same-sex couples. While politicians discussed a citizens’ initiative asking for the law to be abolished, the final annexes were ultimately approved in December. An amendment was also passed allowing for the conversion of existing civil partnerships into civil marriages in 2017 if same-sex couples opt for that. LGBTI NGOs also utilised the impending review before the UN Committee against Torture to draw attention to one of the less developed areas in Finnish law – protection for trans and intersex people. The fact that sterilisation remains a feature of the legal gender recognition system was highlighted. NGOs also demanded an end to surgeries carried out on intersex babies.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Allowing for automatic co-parent recognition, so that children born to couples (regardless of the partners’ sexual orientation and/or gender identity) do not face any barriers in order to be recognised legally from birth to their parents.

- Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as GID/medical diagnosis, or surgical/medical intervention).

- Adopting a comprehensive national action plan on LGBTI equality that expressly mentions all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
Asylum
- Together – a series of five support groups for LGBTI asylum seekers and refugees in Helsinki – continued to provide social support to recently arrived asylum seekers throughout 2016. The group was originally set up by NGO HeSeta (a local branch of the larger LGBTI NGO Seta) in 2015 and more activities planned for 2017.

Bias-motivated speech
- In February, the youth section of the Finns Party/True Finns (PS; nationalist) launched a social media campaign against what the party referred to as ‘gender neutrality’. The #tyttö_poika campaign stated that there are only two sexes and that gender quotas should be abolished. President of the Union of General Upper Secondary Schools Students, Elli Luukkainen, criticised the PS campaign, saying it was “likely to cause a lot of resentment”.

Bias-motivated violence
- National Police Commissioner Seppo Kolehmainen announced that the National Police Board intends to seek a court order against the Finnish branch of the Nordic Resistance Movement. The Commissioner stated this intention on 22 December, citing the neo Nazi group’s violent attacks against migrants, Pride events and minority groups. The police plan to ask the courts to shut down the Finnish Resistance Movement, under the Associations Act, early in 2017.

Bodily integrity
- In advance of Finland’s appearance before the UN Committee against Torture in November, LGBTI NGOs Seta and Trasek issued a joint demand that Finland end the practice of performing so-called ‘normalising’ surgeries on intersex children (see also Legal gender recognition).

Family
- On 12 May, a citizens’ initiative supporting a draft Maternity Act reached the required minimum limit of 50,000 signatures. The proposed law would allow for both parents in a female same-sex couple to obtain automatic legal parenthood when a child is born to the couple following infertility treatment. Currently, these couples need to undergo second-parent adoption; the law had not been passed by parliament by the end of the year.
- Same-sex couples who have previously entered registered partnerships will be able to convert those unions into marriages when equal marriage becomes an option in March 2017, under changes passed by parliament on 17 February. The legislation was approved by 106 MPs (42 voted to oppose the change). Registered partnerships will also cease to be an option for couples when marriage equality enters into force in 2017.
- Bishops from the Evangelical Lutheran Church announced that they will only officiate at marriage ceremonies between different-sex male/female couples. This statement was made a synod meeting on 31 August. In early September, Liinamaria Roos and Toni Fagerholm, two Helsinki-based Lutheran pastors, said they intended to ignore the synod and marry same-sex couples at their churches when marriage equality is introduced in 2017.
- A citizen’s initiative (signed by an estimated 100,000 people) that called for the repeal of the gender-neutral marriage legislation before it comes into effect was the subject of a parliamentary debate on 9 September. On 13 December, the final annexes to the equal marriage law (originally voted on in 2014 and signed by the president in 2015) were approved by parliament. The law will become effective from 1 March 2017.

Foreign policy
- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Finland, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Legal gender recognition
- The legal change introduced by parliament on 17 February in relation to marriage and registered partnerships (see Family) also means that trans people no longer have to be single in order to obtain legal gender
recognition. This change will be effective at the same time as marriage equality is in force in March 2017.

- In advance of Finland’s’ appearance before the UN Committee Against Torture in November, LGBTI NGOs Seta and Trasek launched a campaign calling on the government to implement a full reform of the legal gender recognition legislation. The NGOs called the current process (which includes sterilisation as a requirement) “cruel and inhuman”.

**Participation in public, cultural and political life**

- On 18 August, the Helsinki District Court overturned a request submitted by local police to close down alternative news website MV-Lehti. The website, set up in 2014, had been the subject of several criminal complaints for inflammatory language about minority groups, including refugees and LGBTI people. The court did not publish the arguments used to reach its decision.
One of the most high-profile equality advances in France in 2016 was the long-awaited adoption of a new legal gender recognition procedure. This was traditionally a weak area of France’s LGBTI equality law and policy. The gender recognition provisions included in the Law on Justice in the 21st century removed the previous sterilisation and medicalisation requirements. However, trans activists remained committed to a campaign for full self-determination, as the legal change fell short of this ultimate aim. France’s record in relation to the bodily integrity of intersex people, children in particular, was critiqued by a series of UN committees; and a 2015 judgment which had permitted an intersex person to record their gender as ‘neutral’ was overturned. Following announcements in 2015, a 12-month blood donation deferral period was introduced for men who have had sex with men. PrEP treatment was made available through the public health system and the first website with information on PrEP was launched by activists. One worrying trend that caused concern for activists and CoE monitoring bodies was anti-LGBTI hate speech, particularly online. The government moved to add combatting anti-LGBTI bias to the remit of the inter-ministerial anti-racism delegation. On a related note, the courts heard a series of cases involving LGBTI issues. An LGBTI activist was fined for referring to Manif pour Tous as ‘homophobes’ and, in one particularly surprising decision, the term ‘faggot’ was held by another court to not have been a homophobic insult.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- That the French authorities move to swiftly implement the changes to the legal gender recognition procedure that were passed in 2016, firmly embedding them in practice.

- Allowing for equal access to medically assisted insemination treatments for all individuals and all couples.

- Careful observation and protection of the right to freedom of assembly for public LGBTI events, and not to unreasonably restrict this right in the name of anti-terrorism or other security-related measures.
Bias-motivated speech

- An employment tribunal stated that referring to a gay hairdresser as a ‘dirty faggot’ was not a homophobic insult or evidence of bias on the part of the employer who dismissed him. In July 2015, the hairdresser was fired from his position. When he initiated an unfair dismissal claim, he referred to a text message, sent to him in error by his former manager, where she said “I am not going to keep [the hairdresser’s name]. I don’t have a good feeling about this guy. He’s a dirty faggot…they’re all up to no good”. In its ruling in March, the employment tribunal in Paris stated that the language was derogatory (awarding EUR 5,000 in damages) but that it was not homophobic or an aggravating factor in the hairdresser’s dismissal. The reasoning given was that the word could not be considered an insult in the field of hairdressing, as a lot of salons employ staff members who are gay. LGBT NGOs expressed shock – both at the tribunal’s ruling and the reasoning. Minister of Labour Myriam El Khomri (Socialist Party, PS) called the decision “outrageous” and the Defender of Rights announced that the former employee intended to initiate an appeal.

- At a meeting between LGBT NGOs and President Francois Hollande (see Equality and non-discrimination), it was also announced that the remit of the Interministerial Delegation for the Fight against Racism and Anti-Semitism (DILCRA) would be expanded to cover anti-LGBT hate speech and discrimination too.

- Five LGBT organisations – Acthe, In Trans, Trans 3.0, Prendre Corps, Inter-LGBT – complained to the Superior Audiovisual Council that transphobic and sexist language was used in TV programmes broadcast by Canal+ and C8 in September.

- The Court of Appeal in Paris upheld the conviction of Christine Boutin for comments she made during an interview with Charles magazine in 2015. The leader of the Christian Democratic Party (PCD; conservative) and former government minister had called homosexuality “an abomination” and was convicted of incitement to hatred by the 17th Criminal Chamber in December 2015. Boutin appealed but this was rejected by the Court of Appeal on 2 November, who upheld her EUR 5,000 fine and requirement to pay damages to several LGBT NGOs.

- On 2 November, the Court of Appeal in Paris ruled that an LGBTI activist must pay EUR 800 damages to Manif pour Tous after calling the group and its founder ‘homophobes’. The former president of ACT UP Paris Laure Pora had displayed posters of Manif pour Tous logos and images of its founder Ludivine La Rochère with the words ‘homophobe’ printed across them during a protest in 2013.

Bias-motivated violence

- A man was kidnapped on 4 January and violently assaulted at an apartment in Pointe-à-Pitre, Guadeloupe. The man managed to escape after five days. Prosecutors opened a criminal investigation into kidnapping and torture based on the sexual orientation of the victim. Five people were arrested, four of whom were later jailed. Minister for Overseas Territories George Pau-Langevin issued a statement condemning the act. NGO Total Respect (an anti-homophobia group working in overseas territories) also issued a press release, strongly criticising the low level of reaction from the public authorities.

- One of the changes introduced by the Law on Justice in the 21st century reforms (see Legal gender recognition) was an update of the anti-discrimination ground used to protect victims of transphobic crime. Previously, the Penal Code referred to ‘sexual identity’ but LGBTI activists criticised the unclear language. Following the passage of the Law on Justice in the 21st century, the ground was replaced by the term ‘gender identity’. The change came into effect on 20 November.

Bodily integrity

- During France’s appearance before the Committee on the Rights of the Child in January (see Equality and non-discrimination), one of the concerns raised by the Committee experts was unnecessary surgical interventions carried out on intersex children. In response, the French delegation said that the issue of intersex children had recently come to the government’s attention and that the government had “not completely explored
all avenues accessible to deal with all its aspects”. Similar concerns were also raised by the UN Committee against Torture when it reviewed France and published its concluding remarks on 13 May, and by the CEDAW Committee in July.

- On 22 March, the Orléans appeal court overturned the decision made by a lower Tours court in August 2015 to authorise an intersex person to register their gender as neutral on their birth certificate. The 2015 decision had then been appealed by the public prosecutor. The appeal court stated that issues around registration of gender were for the legislature, not the judiciary, to decide. Legal representatives for the person at the centre of the case indicated they intended to appeal to the Court of Cassation and the ECtHR, if necessary.

### Equality and non-discrimination

- In a letter dated 23 February, Minister for Social Affairs and Health Marisol Touraine (Socialist Party, PS; social-democratic) instructed special pension schemes to grant survivor’s pensions to surviving same-sex spouses in marriages contracted between May 2013 and December 2014. Couples usually have to be married for a year before survivor’s pensions are granted, which caused an issue for same-sex couples who married after the introduction of equal marriage but whose spouse died less than a year afterwards. In these cases, the minister asked pension schemes to take the earlier civil unions of these same-sex couples into account in their calculations.

- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on France on 1 March. ECRI expressed concern over the increase of online hate speech targeting LGBT people, combined with the high levels of under-reporting of anti-LGBT hate crime. The report encouraged schools to combat homophobic and transphobic stereotypes by revising curricula and teacher training programmes. ECRI believes that a partnership model should be set up between LGBT civil society groups and authorities dealing with hate crime, following established models that already exist for Jewish and Muslim community groups. The report’s recommendations include calls on France to collect data on LGBT people and their experience of discrimination; increase training for law enforcement officials; and launch an anti-hate speech information campaign.

- After the attack on the Pulse nightclub in Florida in June, President Francois Hollande announced a EUR 1.5 million financial support plan that would widen the mandate of the DILCRA inter-ministerial delegation. The government body would become DILCRAH and tackle anti-LGBT discrimination in addition to racism, anti-Semitism and xenophobia. This change came into effect in December, at the same time as the publication of a plan to counter anti-LGBT discrimination by the Secretary of State in charge of cities. The plan aims to target anti-LGBT incidents at local level.

- On 30 June, the organisers of Paris Pride, Inter-LGBT, and other major NGOS, LGBT Centre Paris-Ile-de-France and SOS Homophobie, met with President Francois Hollande. Among the topics discussed were the Law on Justice in the 21st century (see Legal gender recognition), and the integration of anti-homophobia efforts in the school curriculum.

- Following the health minister’s announcement in late 2015, the lifetime blood donation ban previously imposed on gay and bisexual men was officially reduced to a 12 month deferral period on 11 July.

### Family

- The conservative Manif pour Tous movement published a policy report on children and families in September, listing plans to enshrine marriage as a different-sex union only, to rethink sex education in schools and to denounce the European Convention on Human Rights among its 40 policy proposals.

### Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, France, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.
Freedom of assembly

- Paris Pride took place on 2 July with approximately 1000 police officers along the parade route. The Pride had been postponed and the route had also been shortened from 4.6km to 2km due to the authorities’ security restrictions (imposed following the shooting at the Pulse gay nightclub in Florida and the level of policing required at the UEFA Euro 2016 football tournament).
- After terrorist attacks in Nice on 14 July, Pride marches in Marseille and Montpellier were postponed due to security concerns. The organisers of the events expressed their intention to hold Pride marches later in 2016, but no rescheduled Prides had taken place by the end of the year.

Health

- During France’s appearance before the Committee on the Rights of the Child in January (see Equality and non-discrimination), Committee experts asked about the provision of mental health services aimed at preventing suicide, particularly for children belonging to “sexual minorities”. The government replied by stating that combatting all forms of discrimination in schools was one of the Ministry of Education’s key priorities, that annual tolerance campaigns took place in schools, and that teachers were trained on how to incorporate the Equality Plan into their teaching strategies.
- The first website dedicated to providing information on pre-exposure prophylaxis (PrEP) to the general public and health professionals was launched in March. The site – www.PrEP-info.fr - was set up by HIV/AIDS activists after the 2015 decision to make PrEP available through the French public health system from January.

Legal gender recognition

- During 2016, the Law on Justice in the 21st century (La loi de modernisation de la justice au XXIe siècle), which included provisions relating to legal gender recognition, made its way through the legislative process. On 19 May, the National Assembly approved a version of the law that included a requirement to produce medical evidence – a move that was criticised by trans NGOs. This law was discussed by the Commission Mixte Paritaire (a joint committee of National Assembly and Senate members) on 22 June. At this point, NGOs Amnesty International, TGEU and ILGA-Europe issued a joint statement, calling on the committee to remove proof of medical treatment. On 12 July, MPs in the National Assembly approved amendments that clarified the law’s text, referred to emancipated minors and included full demedicalisation. The Senate, during a session on 27 September, confirmed several changes to the text, including a return to a model of medicalisation. In the final stage of the legislative process, the law was assessed again by the National Assembly. During this time, national trans activists and NGOs cooperated with ILGA-Europe to produce campaign videos, featuring testimony from trans people living in France. The final debate and vote took place on 12 October and the legal gender recognition procedure was passed. References to sterilisation and medicalisation (reintroduced by the senate in September) were removed. Emancipated minors will also be able to access the updated procedure. The procedure is not open to all trans children and is not based on a self-determination model as trans people will still have to go to court to have their gender legally recognised.

“That is why we are calling to participate in the Existrans Walk… to show both our joy as a result of this progress but also that we remain mobilised, to ensure that all the fundamental rights of the trans people are finally respected.”

Trans NGO ACTHE press release after the new legal recognition procedure was passed, 14 October 2016
It was another frantically busy year for LGBTI organisations and activists in Georgia. NGOs continued to receive reports of discrimination, record cases and support victims throughout 2016. Many of these cases involved hate speech directed at LGBTI people, or bias-motivated violence – all occurring in spite of relatively recent anti-discrimination legislation. Surveys of public opinion also revealed distinctly negative feelings towards LGBTI people, re-emphasising the gap between laws on paper and the atmosphere in which people live. This persistence of hate crime and hate speech by public figures was criticised by ECRI’s monitoring report, and documented by several NGOs. Attacks on trans women made up a large percentage of the cases recorded. However, transphobia was rarely considered as a motivating factor by authorities, once again, despite the fact that such legislation exists. The Supreme Court increased the prison sentence for a man who murdered a trans woman in 2015 – in a very significant and importance case for the trans community. LGBTI activists experienced difficulties in holding public events. Even for significant annual moments (such as IDAHOT), activists had to organise activities in an informal, ad-hoc manner. At one point during the year, it seemed as if constitutional restrictions on marriage were possible, but a potential referendum on the issue was blocked by President Margvelashvili.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Introducing hate crime policies that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- Removing obstacles to the effective exercise of freedom of assembly.
- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).
**Access to goods and services**

- On 7 September, a trans woman ordered a taxi from the Maxim company. When the car arrived, the driver refused the job and began shouting homophobic and transphobic insults at the woman and her friends; some neighbours overheard but did not intervene. The incident was reported to the Public Defender’s Office and a decision was still pending at the end of 2016.

**Asylum**

- Feminist NGO Women’s Initiatives Supporting Group (WISG) assisted a trans woman, who arrived in Tbilisi from Azerbaijan in the summer, with her asylum application. She could not return to Baku because of death threats. By the end of the year, she had received a positive decision.

**Bias-motivated speech**

- Lawyers from NGO WISG reported threatening social media comments to the police and Public Defender’s Office on 23 May. Two days earlier, WISG saw a Facebook user asking where the “main office of LGBT people in Tbilisi” was, before other users commented saying “Let’s buy some brooms as presents” and “Oh, no let’s take oil instead of paint – teach them what are the purposes of the human body parts…”. The police decided there were no elements of crime involved and the investigation was stopped.

- Days before the parliamentary elections on 8 October, posters featuring a candidate in the Saburtalo district were shared on social media. Alexandre Bregadze’s (Georgian Idea; nationalist) poster featured messages including “No to same-sex marriage” and “Together for a traditional Georgia”. It also called marriage equality a “sin” and displayed a rainbow flag with a line drawn through it. On 4 October, NGO WISG complained to the Central Election Commission about the poster’s discriminatory content. The complaint was still pending at the end of 2016.

- TV station Imedi broadcast a report on the lives of trans people in Georgia on 23 October. The report was featured as part of popular programme *Imesid Dro* and included insensitive language, poorly researched information and close-up shots of the participant’s bodies, make-up and clothes. NGO WISG and the Human Rights Education and Monitoring Centre (EMC) complained, stating that the stereotypes promoted by the report violated ethics rules. The Georgian Charter of Journalistic Ethics had not responded to the joint complaint by the end of the year.

**Bias-motivated violence**

- Throughout 2016, NGO WISG documented over 30 alleged hate crimes and hate incidents. In 47% of these cases, the victims were trans women. For example, on 13 June, two trans women had petrol poured over them and believed the attacker intended to set them on fire; they escaped. A trans woman was attacked on 7 July by an unknown man in the Tbilisi Sea region. The victim called an ambulance and the police, and later identified her attacker on CCTV footage. Police searchers were unsuccessful and the case was ongoing at the end of the year. On 5 October, a trans women and her friends had stones thrown at them by five men in a car. On 27 November, five trans women had glass bottles and stones thrown at them by two unknown men in Tbilisi. A series of attacks on trans women listed by WISG were both ongoing at the end of the year and had not had a transphobic motive considered by the investigating authorities – this applied to attacks that occurred on 23 June, 25 November and 26 November. The victim of the 26 November incident said her attacker told her he would “do worse with you that I did yesterday with your friend”.

- On 23 April, a man was attacked at a Tbilisi bus stop by two unknown men. The victim believed the two men assumed he was gay and that was the reason for the attack. He called the police and the men were both arrested. Lawyers from NGO WISG were assisting in the case but the investigation was not considering a homophobic motive at the end of 2016.

- Two violent incidents were reported in Tbilisi around IDAHOT; both took place on 21 May. An LGBTI activist and their friends were threatened (verbally and with a gun), the man was fined GEL 100 (EUR 35) by Tbilisi City Court.
In the second incident, two young men were stabbed in the city's Avlabari district.
- A 32-year-old trans woman was beaten and stabbed in the neck in a violent attack that took place in Tbilisi's Ortachala region on 14 October. A suspect was arrested on 17 October and later confessed to the attack. The Public Defender issued a statement, calling on the Prosecutor’s Office to carry out a thorough investigation, focusing on the alleged hate motive. On 22 November, the victim Zizi Shekeladze died from her injuries. A court hearing was scheduled for 8 December and a motive of transphobic hate crime was not registered before the end of the year.
- On 31 December, the Supreme Court sentenced Levan Kochlashvili to ten years in prison for the murder of trans woman Sabi Beriani in 2015. The City Court and Appeals Court had previously handed down four-year prison terms but significantly the Supreme Court increased the sentence.

**Data collection**
- According to Public Defender’s Office figures obtained by NGO WISG in March, 35 people applied to the Ombudsman’s Office for assistance. The reported rights violations related to events related to sexual orientation or gender identity that occurred between 1 January 2015 and 15 March 2016. During the same period, one person complained to the Data Protection Inspector about violations based on LGBTI identity.
- ‘From Prejudice To Equality: Societal Attitudes, Knowledge and Information Regarding The LGBT Community and Their Rights’, a detailed social study compiled by NGO WISG, was published in June. The report detailed several key findings, including the fact that negative feelings towards LGBTI people are prominent in Georgia, biphobia is more common among survey respondents than homophobia as bisexuality is viewed as “unstable”, and the more rigid the respondent’s perception of gender roles, the more likely they were to also hold anti-LGBTI opinions.
- Also in June, NGO EMC published their report on the ‘Legal Situation of LGBTI Persons in Georgia’, which outlined recommendations targeted at the government, parliament, specific ministries and prosecutors designed to protect LGBTI people from discrimination.
- NGO Georgian Democracy Initiative (GDI) recommended prohibiting hate speech in the Ethics Charter of the Parliament of Georgia and introducing internal measures for political parties to deal with hate speech by their representatives in a report on hate speech by public authorities, published in April.
- The Media Development Foundation’s 2016 Hate Speech report, released in November, revealed that out of the 868 discriminatory comments recorded overall between 1 January and 15 October, 52% were homophobic (the highest share of the grounds measured). The report found the Democratic Movement – United Georgia and the People’s Assembly to be the most homophobic political parties, followed by the ruling Georgian Dream.

**Equality and non-discrimination**
- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Georgia on 1 March. ECRI noted that, even with the introduction of anti-discrimination legislation in recent years, hate speech and violence against minority groups is still ever present. LGBT people were directly mentioned by CoE Secretary General Thorbjorn Jagland at the report’s launch, saying that bias motives must be considered by law enforcement authorities from the beginning of investigations. Among the report’s priority recommendations was the establishment of a specialised police unit to respond to racist, homo/transphobic hate crimes.
- A final report under the UN’s Universal Periodic Review process was adopted for Georgia in 2016 (see United Nations).

**Family**
- Giorgi Tatishvili petitioned the Constitutional Court on 27 January, asking the court to legalise marriages between same-sex couples. Following his application, several LGBTI NGOs expressed concern in February that...
such a move could provoke a backlash against LGBTI people in the country, and that the petition was submitted without consultation with the local LGBTI community. The Patriarchy of the Orthodox Church announced that while they viewed his suggestion as “unacceptable”, they condemned any potential violence against Tatishvili.

- On 7 March, Prime Minister Giorgi Kvirikashvili (Georgian Dream-Democratic Georgia) announced that his coalition government would amend the constitution to restrict the definition of marriage. The coalition proposed substituting the existing gender neutral reference to “spouses” in Article 36 with “man and woman”. 80 MPs out of 150 backed the proposal and the draft bill was registered on 14 March. On 18 March, the assembly voted to establish a commission to organise public consultation on the bill. These public meetings took place throughout the country during March and April. On the day that the bill was due to be debated, there was no quorum in parliament.

- On March 28, in a separate process, the Central Electoral Commission registered an initiative from a group called ‘Are you in favour or against same-sex marriage to be allowed in Georgia?’. This group proposed a referendum, asking the question: “Do you agree to define civil marriage as a union between a man and a woman with the aim of creating a family?”. The initiative gathered the 200,000 public signatures as required by early August and the CEC granted its final approval. The referendum also required the approval of both the prime minister and the president. On 9 August, President Giorgi Margvelashvili blocked the referendum, saying that a definition of marriage already existed in civil law. Prime Minister Giorgi Kvirikashvili agreed to countersign the presidential refusal, but disagreed with the reasoning and said that a constitutional change would be considered by his party after October’s election.

- Pope Francis referred to ‘gender theory’ as a ‘great enemy’ of marriage in October when he was visiting Georgia. When questioned at the meeting, the pontiff said that “Today, there is a global war out to destroy marriage… not with weapons but with ideas … we have to defend ourselves from ideological colonisation.”

### Freedom of assembly
- A conference on LGBT issues due to be held on 22 February at Tbilisi State University was moved to an alternative location after protests were staged by groups opposing the so-called ‘promotion of LGBT identity’. The university issued a statement saying they could not guarantee the safety of participants following protests by the conservative Young National Alliance and the Eruvnulebi organisations; the conference went ahead at an alternative site, away from the university campus.

- On 17 May, LGBTI activists marked IDAHOT with smaller, spontaneous events. 10 LGBTI activists were detained in Tbilisi as they attempted to write ‘All Love is Equal’ on Georgian Patriarch buildings and paint rainbow colours on city streets. Family Day rallies, in support of ‘traditional family values’ were held by conservative Orthodox groups on the same day, blocking LGBTI groups from holding larger events in the main public squares. Another group of LGBTI activists held a satirical protest outside the Ministry of Internal Affairs

### Human rights defenders
- Two activists involved in LGBTI advocacy work were arrested by police officers in Tbilisi in separate incidents on 17 May. Both activists believed that their detentions were directly linked to IDAHOT and were intended to prevent them taking part in LGBTI events. The Administrative Court dropped both cases the following day due to insufficient evidence.

- An LGBTI activist who works for an LBT organisation received threatening messages from her brother during the summer. Her family members had been violent in the past and had they recently discovered photos of her activism work on social media. The activist approached NGO WISG and the police; the investigation was ongoing at the end of the year.

### Legal gender recognition
- In November, the Council of Europe, the Human Rights Secretariat of the Government of Georgia and Ministry of Justice organised peer exchange sessions on
legal gender recognition in cooperation with several national and European NGOs.

- During 2016, NGO WISG assisted two trans men in legal action against the Ministry of Justice. Both men submitted applications (in 2014 and 2015 respectively) asking that the ministry change existing practice and allow trans people to correct their gender marker in identity documents without having to undergo surgical procedures. The first instance courts and the appeal decisions were negative and both cases were submitted to the Supreme Court. One of the cases were rejected by the Supreme Court and at the end of the year, WISG was preparing an application to the European Court of Human Rights.

**Police and law enforcement**

- Figures from the justice ministry’s Department of State Representation to the International Courts showed that 42 representatives of the Prosecutor’s Office attended training sessions in 2016 on the standards of investigations into hate crimes. During the year, the COE Human Rights Education for Legal Professionals (HELP) platform provided a distance learning course on discrimination for 22 prosecutors and investigators. 62 trainees also completed a two-month-long training course on discrimination issues.

- Throughout 2016, NGO WISG received numerous requests for assistance from trans woman who were unlawfully detained by police. The NGO documented multiple cases of trans women who were arrested on hooliganism (or similar) charges after having initially made contact with the police themselves to report attacks or transphobic speech. Such cases are detailed in a WISG litigation report, ‘Unidentified Violence’, due for publication in early 2017.
Several developments within the area of asylum were reported during 2016. The first dedicated centres providing services for LGBTI asylum seekers were opened by NGOs, and multilingual resources for refugees were launched. A more negative development was the fact that regional NGOs operating in Berlin documented reports of violence against LGBTI asylum seekers. The federal interior ministry also reported an increased number of attacks motivated by the victim’s sexual orientation, when compared to 2015 figures. In spite of its record in other Rainbow Europe areas, there are still obvious gaps within the area of family law. Marriage equality was discussed in 2016, not as part of a parliamentary vote, but in public statements made outside legislative chambers. Justice minister Heiko Maas confirmed his support, but no concrete progress was recorded by the end of the year. In addition, European Commissioner Gunther Oettinger spoke of the ‘forced’ introduction of equal marriage, in what would become an infamous speech in Hamburg. Minister Maas also confirmed that a compensation scheme was planned for gay and bisexual men who had been historically convicted.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Ensuring marriage equality for all.
- Including express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in laws and policies designed to tackle hate crime.
- Introducing policies on asylum that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
Access to goods and services

- A regional court in Cologne fined a landlord who had refused to rent his accommodation to a same-sex couple. In a decision published in March, the court ruled that the landlord’s refusal to sign a contract with the two men, when he found out that they were in a registered life partnership, was discriminatory on the basis of sexual orientation under the Equal Treatment Act. The landlord was ordered to pay EUR 1,700 to the couple as compensation.

Asylum

- The first centres providing services specifically for LGBT refugees opened in February. On 1 February, the first dedicated facility in Germany opened in Nuremburg. The accommodation can house eight people and is managed by local NGO Fliederlich. Berlin’s first shelter for LGBT refugees opened on 23 February, in the capital’s Treptow-Köpenick area. The centre is run by local LGBT group Schwulenberatung Berlin and has space for 120 people.
- On 16 May, the regional LGBT NGO LSVD Berlin-Brandenburg noted that it received reports of more than 130 cases of violence against LGBT refugees in Berlin between May 2015 and May 2016.
- The federal NGO LSVD (together with major welfare and social justice organisations) published multilingual brochures for LGBTI refugees. The Queer Refugees website (www.queer-refugees.de/) was also set up during the year, containing useful information for LGBTI refugees in several languages.

Bias-motivated violence

- Two trans women were attacked in Dortmund on 10 January. Three young men approached the women near the city’s main train station and, after engaging them in conversation, began threatening and throwing stones at them. Police officers intervened, arresting the three attackers. One of those arrested was a 17-year-old boy, who was later released to his parents. One of the attackers was later charged with grievous bodily harm.
- In December, the Federal Ministry of Interior announced that 205 violent incidents based on sexual orientation had taken place between January and the end of September. This was a 15% increase on the ministry’s 2015 figures.

Bodily integrity

- The family ministry (BMFSFJ) published an issue paper on the situation currently faced by intersex and trans people to mark Intersex Awareness Day on 26 October. The paper described the work of the inter-departmental working group on intersex and trans issues (including on counselling structure and quality, and medical issues) spearheaded by the ministry and provided an evaluation of recommended law reforms.

Education

- On 15 November, the right-wing, populist party Alternative for Germany (AfD) presented a common position paper of all their regional parliamentary groups that targeted educational proposals in all regions of Germany (Bundesländer). The AfD paper rejected plans to integrate societal diversity, respect, promotion of acceptance and family diversity in school curricula.

Employment Equality and non-discrimination

- On 18 February, members of the Bundestag discussed a report from the house’s legal committee and called for a free vote on marriage for same-sex couples. The grand coalition partners – the Social Democratic Party (SPD) and the Christian Democratic Union (CDU/CSU) – stuck to the principle of coalition discipline throughout the rest of 2016. As a result, no vote took place on any legislative project that had not originally been included in the 2013 coalition agreement, including equal marriage.
- Following North Carolina’s introduction of legislation that removed anti-discrimination protections from LGBTI people, Deutsche Bank announced that it would not move ahead with job expansion plans in the state. The bank made the announcement on 12 April in reaction to the bill known as HB2, which also limits trans people to using bathroom facilities that correspond with their birth certificate, not their gender identity.
A legal study, conducted by the Federal Anti-Discrimination Office, concluded that the German government had an obligation to repeal the criminal records of men who were prosecuted because of their sexual orientation. The study, released in May, noted that approximately 50,000 gay men had been prosecuted after World War II. Convictions were based on paragraph 175 of the criminal code, dating from 1872. Homosexuality was later decriminalised (in 1968 in East Germany and one year later in West Germany) but the criminal records remained. In October, Minister of Justice and Consumer Protection Heiko Maas (Social Democratic Party, SPD) announced plans for a EUR 30million compensation scheme for individual and collective claims. Minister Maas circulated the draft law to his ministerial counterpart for collective agreement in December.

All 16 of the country’s health ministers voted in favour of changing the exclusionary categories regarding blood donation, specifically to remove the blanket ban on gay and bisexual men donating. The proposal was put forward at the 89th Conference of Health Ministers in June, and initiated by Saarland health minister Monika Bachmann (CDU). LGBTI NGOs called for a removal of the ban. The Federal Medical Association was considering the recommendation and their guidelines had not been changed at the end of 2016.

NGOs TransInterQueer e.V., Atme, LSVD and the Bundesvereinigung Trans* (as part of a national alliance of women’s organisations) took part in the shadow reporting process in preparation for Germany’s forthcoming appearance before the UN’s CEDAW Committee in February 2017. The NGOs’ main demands were reparations for sterilisations under previous legislation, anti-protection from violence and discrimination, depathologisation and better health care and law reform based on self-determination.

**Family**

On 9 April, the Synod of the Evangelical Church of Berlin-Brandenburg-Silesian-Upper-Lusatia (EKBO) decided to grant same-sex couples access to the same wedding ceremony as different-sex couples. As a result, Protestant churches in Berlin can hold ceremonies and enter the names of same-sex couples on the church register. Sven Kretschmer and Tim Kretschmer-Schmidt were the first couple to opt for a wedding and were married on 12 August.

On 26 October, while giving a speech in Hamburg, European Commissioner for Digital Economy and Society Günther Oettinger commented that “compulsory gay marriage” might be introduced in Germany. The same video also showed the Commissioner making derogatory comments about Chinese diplomats. On 3 November, Commissioner Oettinger apologised “for any remark that was not as respectful as it should have been.” (See also European Union.)

In an open letter, published to mark the Bundesstiftung Magnus Hirschfeld foundation’s fifth anniversary in October, justice minister Heiko Maas stated his support for marriage equality. He wrote that “In the future, it [the foundation] can continue to trust in my support, for example when it comes to supporting marriage for all”. Since 2013, Maas’ SPD party have been grand coalition partners with the Christian Democratic Union (CDU; centre-right) and the Christian Social Union (CSU; centre-right).

**Foreign policy**

On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Germany, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

**Health**

The German Medical Commission group that is charged with re-working the standard of care guidelines, to focus on trans-specific healthcare, met regularly throughout 2016. The group contains two trans members, nominated by NGO Bundesvereinigung Trans*. A draft of the new standards of care will be open for public consultation in 2017, with the final, fully revised standards of care expected to be finished by the end of the year.
The family ministry (BMFSFJ) organised an expert forum in November, involving health professionals, insurers and the trans community, to discuss the issues faced by trans people interacting with the public health insurance system.

**Legal gender recognition**

- The Federal Court of Justice rejected an individual’s request to be registered as ‘inter/diverse’, rather than male or female. The decision (handed down on 22 June and published on 4 August) stated that the 2013 introduction of an undefined gender marker for intersex babies did not create a “further sex”. The district court in Hanover and the Celle appellate court had previously rejected Vanja’s (the person involved in the court case) claim. NGO Dritte Option, who had assisted Vanja with their legal challenge, indicated they intended to appeal. On 2 September, Dritte Option submitted their complaint to the Federal Constitutional Court. Several other NGOs submitted statements in advance of the 22 January 2017 deadline.

**Participation in public, cultural and political life**

- Ben Melzer became the first trans model to feature on the cover of the German edition of fitness magazine ‘Men’s Health’ in April.

**Public opinion**

- An opinion poll carried out by YouGov showed that 61% of CDU voters surveyed were in favour of marriage equality (79% of SPD voters supported equal marriage, 68% of Catholic respondents also supported the proposal, which matched the average for all interviewees (68%).). 63% of those questioned said that same-sex couples could raise children just as well as different-sex couples. The YouGov survey was based on interviews with 1338 people interviewed between 22 and 26 January 2016.
- In April, the Federal Anti-Discrimination Office published a study which stated that discrimination based on sexual orientation and gender identity is an above average phenomenon. The Leipziger Mitte-Studie study, released in June, showed that 40% of those surveyed said that they found two men or two women kissing in a public place to be “disgusting”.
- On 18 October, Berlin-based research group Dalia published the results of their ‘Counting the LGBT population’ survey. The survey was conducted in August with 11,754 respondents across the EU. 7.4% of German people questioned identified as LGBT when asked directly, compared to a European average of 5.9%.
As the first civil unions were registered between same-sex couples, discussions on further legislative changes took place in Greece. New anti-discrimination provisions were introduced in labour law, adding to the body of equality law designed to protect people in the workplace. Sexual orientation, gender identity and gender expression are now included as protected grounds in a range of employment scenarios. One underdeveloped area of law on the Greek statute books relates to legal gender recognition and bodily integrity. The need to rectify this was clear. In response to this gap, a draft bill (based on the standard-setting Maltese law from 2015) was being composed by a parliamentary legal committee. The Greek secretary general for human rights also acknowledged the need for any new law to also include provisions relating to intersex people.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Drafting and adopting legislation that expressly protects against discrimination on all SOGISC grounds (sexual orientation, gender identity, sex characteristics) in education.

- Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).
Bias-motivated speech

- In June, before Thessaloniki’s Pride festival, Bishop Amvrosios of Kalavryta reacted to a Pride poster that featured a Crucifixion image, saying: “Unfortunately, shamelessness is today ‘in fashion’! In a few years, the way things are headed, normal, physiological people, will run and hide whereas the abnormal will double and control with their heinous pride.”

- During parliamentary discussions on 1 December on changes to anti-discrimination laws (see Equality and non-discrimination), Constantinos Katsikis MP (Independent Greeks, ANEL; conservative) asked whether gay people could babysit children or if trans people should be school teachers.

Bias-motivated violence

- LGBTQ NGO Colour Youth published figures from their Tell Us! Project on 11 January. The project records incidents of homophobic/transphobic violence and discrimination; between 1 April 2014 and 30 November 2015, they received 101 reports of violence against 140 people, 52 of which took place in a public place. 96 of the incidents were reported by the victims themselves; 10 individuals requested legal advice and filed a complaint.

- On 19 April, the Racist Violence Recording Network (RVRN) published its report for 2015. According to the report, the majority of the violent incidents recorded by RVRN were based on sexual orientation and gender identity (185 out of 273 recorded incidents).

- Two 17-year-old teenagers were verbally abused on a metro train in Athens on 22 October. A group of 30-40 people wearing emblems of the AEK Athens football team were reported to have entered the train carriage and started making derogatory comments. One of the group became more verbally abusive before physically attacking one of the 17-year-olds. According to LGBTI NGOs, the victims did not go to the police to report the attack as they had concerns about how the complaint would be dealt with.

Bodily integrity

- At an event to mark Trans Day of Remembrance on 26 November, the Greek Secretary General of Human Rights announced that the proposed new law on legal gender recognition (see Legal gender recognition) would follow the Maltese model. Speaking at the event, organised by NGO Greek Transgender Support Association, the secretary general said the law would include provisions relating to intersex people and that ‘normalising’ surgery would have to be approved by a committee before being carried out on intersex babies. The composition of the committee was not discussed.

Equality and non-discrimination

- In 2016, the Research Centre for Gender Equality (KETHI) announced the establishment of the “Prevention and Fight against sexism and discrimination on gender identity issues” project. The project’s first phase will train journalists on how to sensitively cover trans issues. KETHI is directly supervised by the Ministry of Interior. This is the first project run by a government body which focuses solely on LGBTI issues.

- On 2 December, a law extending anti-discrimination protections for LGBTI people was approved by parliament in roll call vote. 201 MPs supported the proposal, 21 opposed and a further five declined to express an opinion. The bill, submitted by the Ministry of Justice, replaced the existing labour law, dating from 2005, that protected employees against discrimination based on sexual orientation. The new law (4443/2016) protects against discrimination in the labour sector based on sexual orientation, gender identity and sex characteristics. The concept of discrimination by association was also added to the law, as well as the concept of discrimination based on inferred features. The law also clarifies that its provisions apply to a range of employment scenarios, including work, all types and levels of career guidance, apprenticeship, vocational training, advanced vocational training and retraining, and practical work experience. Violations of the law, which came into force on 9 December, can result in fines or prison terms.

- A final report under the UN’s Universal Periodic Review process was adopted for Greece in 2016 (see United Nations).
Family

- The first civil partnership agreement for a same-sex couple was signed by the Mayor of Athens Giorgos Kaminis on 25 January at a ceremony at the capital’s city hall.

“…Today is very important for civil rights in Greece and the country’s compliance to international reality.”
Mayor of Athens Giorgos Kaminis during first civil union signing ceremony, 25 January 2016

- Three senior religious leaders initiated an appeal in March against the recently introduced civil union legislation. The metropolitan bishops (Seraphim of Piraeus, Seraphim of Kythira and Ieremias of Gortynia) argued that extending civil partnerships to same-sex couples was unconstitutional. The appeal was lodged with the Council of State, the country’s highest administrative court.

- The 2015 civil union law stated that the full list of rights granted to couples who enter a civil union would be specified in a presidential decree within six months. Instead of a decree, the Ministry of Labour includes a reference to registered partners in Law 4387/2016 (this was passed in May to amend the social security system). The provision stated: “The couples that have signed a civil union (as described by Law 4356/2015) are equal to married couples with regards to any social security rights, benefit, obligation or restriction, in accordance with the provisions of this Act and the general legislation”.

- According to figures released by the Ministry of Interior in November, 216 same-sex couples had entered civil partnerships since the union’s introduction in late 2015.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Greece, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Freedom of assembly

- Members of the Orthodox Church in Thessaloniki held a prayer vigil on 23 June, the day before the Pride festival started. A church spokesman commented that the vigil was “…a clear response to an event and class of people whom we cannot accept, not because they are evil but because their actions go against the teachings of the Bible and New Testament.”

- The organisers of the second Crete Pride applied to use Rethymnon’s Public Garden during the event but their request was turned down by Rethymnon city council. It was reported that, during council meetings, several council members said that children must be ‘protected from the LGBTQ community’. The Crete Pride organising committee complained; the council subsequently changed their position and the Pride event took place on 9 July.

Legal gender recognition

- Greek officials visited Malta from 21 to 22 April as part of a study visit organised by the Council of Europe. The Greek authorities requested the visit in order to learn more about the implementation of the 2015 Maltese Gender Expression, Gender Identity and Sex Characteristics Law. The Greek government was drafting legal gender recognition legislation throughout the year; the committee responsible for drafting it also consulted with Marina Galanou, president of NGO GTSA, during the process as an independent expert. On 2 December, during a parliamentary debate, Minister for Justice Stavros Kontonis (Syriza) said that the legal committee had completed its work on the proposed gender recognition bill. The bill had not been opened for public consultation by the end of 2016.

- In June, the Civil Court set a new precedent when it ruled that a trans man did not have to undergo genital reconstruction surgery or sterilisation in order to change his name or gender markers on documents. Psychiatric evaluation, hormone therapy and top surgery were still required. In November, the District Court in Athens ruled that requiring trans people to undergo general medical interventions (such as hormone therapy) was unfair. Requests for name change and correcting assigned gender in the national registry have to go through a court process, and trans activists hoped that this will set a useful precedent.
The Hungarian authorities’ outspoken attitudes on the issue of asylum overlapped with the area of LGBTI equality several times in 2016. The European Court of Human Rights critiqued the two-month long detention of a gay man seeking asylum, criticising the fact that his vulnerability on the grounds of sexual orientation wasn’t taken into account. Also, LGBTI activists campaigned alongside their allies for a show of diversity and solidarity with asylum seekers in defiance of the attempted referendum against EU migrant quotas. In another attempt to show that the reality of life in Hungary may vary from the traditional picture painted by the government, same-sex couples were encouraged to get involved in a census initiative and register their relationships. The existing gaps in the area of legal gender recognition law were highlighted by the fundamental rights commissioner, who called on relevant ministries to legislate. In this context, it is noteworthy that the Equal Treatment Authority issued the first decision of its kind in favour of trans woman who had been rejected for a job, finding that she was discriminated against due to her gender identity. In another positive development for LGBTI activists, there were no reports of violence at Budapest Pride for the first time since 2007.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as GID/medical diagnosis or surgical/medical intervention).

- Explicitly including all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in an equality action plan, accompanied by specific measures of progress.

- Removing obstacles to the effective exercise of freedom of assembly, association and expression.
Asylum
- In February, Prime Minister Viktor Orban (Fidesz; right-wing) announced a referendum on migrant quotas would be held in October, asking if voters approved of the EU’s migrant resettlement plans. Before the vote took place, NGO Hungarian LGBT Alliance launched a social media campaign on 24 September, encouraging LGBTI people to cast invalid votes in the referendum to protest against intolerance directed towards particular social groups. Turnout for the 2 October referendum did not reach 50%, so the result was invalid.
- The European Court of Human Rights unanimously ruled that Hungary’s two-month-long detention of a gay Iranian man violated his rights under the European Convention. In the judgment handed down on 5 July, the Court held that the detention was arbitrary and unjustified, violating Article 5’s protection of liberty and security. The decision also emphasised the particular situation faced by LGBTI asylum seekers: “…asylum seekers who claim to be a part of a vulnerable group in the country which they had to leave, the authorities should exercise particular care in order to avoid situations which may reproduce the plight that forced these persons to flee in the first place.”

Bias-motivated speech
- On 5 February, a court decision (that had been handed down in November 2015) was communicated to the victims of an anti-LGBTI hate crime. A member of the right-wing Sixty-Four Counties Youth Movement was given a two-year suspended sentence for using threatening homophobic language towards participants at the 2012 Budapest Pride march. Another defendant was acquitted of the same offence.
- In June, politician Klára Ungár’s (Alliance of Free Democrats, SZDSZ; social-liberalism) successfully appealed against a 2015 Budapest court decision. The first instance court had originally said that she had defamed Máté Kocsis (Fidesz) by claiming in a Facebook comment that he was hiding his true sexual orientation. The judge had said that by implying that Kocsis was dishonest, it damaged his reputation. The court of appeal overturned this, stating that no harm had been proved by Kocsis, who had also not explained why being considered gay could be defamatory. Kocsis issued a statement afterwards, sharing a link to a news article that referred to homosexuality as being “sexually deviant”: “Anyone who does not understand why it is insulting for a father to be accused of homosexuality in public should read this article. Long live hetero pride!”.

Bias-motivated violence
- Two men who had spat at, kicked and shouted homophobic slurs at two gay Brazilian students in 2014 were found guilty of a hate crime. On 11 February, a court in Budapest gave one of the attackers a suspended 18-month prison sentence; the other was ordered to carry out 120 hours of community service. NGO Hatter represented the victims during the legal process. The decision was appealed but the second instance judgment had not been handed down by the end of 2016.
- On 30 August, Budapest Regional Court found 15 members of the right-wing ‘Arrows of the Hungarians’ organisation guilty of terrorism. The series of events were committed between 2007 and 2009, and included death threats and Molotov-cocktail attacks on two gay venues before Budapest Pride in 2008. This was the country’s first judgement to find an individual guilty of terrorism.
- Five members of the nationalist group New Hungarian Guard were found guilty of a homophobic/racist attack on Budapest Pride participants in a judgment passed down in November. In 2013, three Pride participants had been making their way home from the march when they were stopped by a group of 20-30 people and attacked. No individual was arrested at the time of the attack, even though police did arrive at the scene of the assault. Two men were sentenced to two- and three-year sentences, while the remaining three perpetrators had their sentences suspended.

Data collection
- A micro census took place in Hungary in October (an initiative undertaken in the years between a national census, where 10% of the population are asked about
their living conditions). The Hungarian LGBT Alliance launched a campaign, in cooperation with the Central Statistics Office, encouraging same-sex partners to declare their relationships as part of the micro census.

**Diversity**
- Budapest Pride carried out a project to address intersectionality in the LGBTQ community, focusing on Roma, poor and disabled LGBTQ people. It involved interviews, working with other NGOs focusing on these inequalities, and providing greater visibility to the issue of intersectionality with movie screenings and discussions. On 24 March, Budapest Pride organised a ‘wedding’ flashmob with a Roma same-sex couple in a busy public location, which drew significant media attention.

**Education**
- Budapest’s Metropolitan Court awarded HUF 350,000 (approx. EUR 1,100) in October to a mother whose child was refused a place by Kispesti Waldorf School in 2013. The child’s initial interview had gone well and, at the end of the conversation, the boy’s mother mentioned she was raising him together with her same-sex partner. The following day, the school emailed to say that the boy could not be admitted to the class “due to their family status”. The Equal Treatment Authority had ruled against the school in 2014, but the child’s mother had decided to pursue a court case against the school too.

**Employment**
- The Equal Treatment Authority found that a clothing shop had discriminated against a trans woman by refusing to consider her application for a vacancy that was advertised for women only. The shop was seeking a female shop assistant and laughed when the applicant (who had not yet applied for legal gender recognition) arrived for an interview. The woman received support from NGO Hatter and the Equal Treatment Authority found that by rejecting her job application, the shop had doubly discriminated – on the basis of gender identity, and also on the basis of sex. This was the first decision of its kind in Hungary.

**Equality and non-discrimination**
- In August, NGO Hatter published a report on workplace discrimination against LGBTQI people. The information was compiled between June 2015 and July 2016 as part of the ‘Stories behind the Data’ research project. 62% of those surveyed had heard offensive remarks or jokes about LGBTQI people at work. 29% of respondents had actually experienced harassment at work because they identify as LGBTQI. Trans respondents discussed the problem of under- or unemployment; 49% of trans people surveyed had been unemployed and seeking a job for more than three months during the last five years.

**Family**
- The Ministry of National Economy introduced a bill in parliament on 3 May. The budget omnibus bill also contained text changes that, although textually minimal, had the potential to limit the rights of same-sex civil partners. The bill was later altered and the problematic provisions relating to same-sex couples were dropped before it was finally adopted on 7 June.
- In September, the Commissioner for Fundamental Rights initiated an investigation into why the authorities in Pécs halted an adoption involving a lesbian couple. The
couple had met with and cared for the child on numerous occasions since being introduced in December 2015. The couple were then informed that the process must be halted and attempted to appeal the decision, later turning to the Commissioner for assistance. The Commissioner’s investigation will not only focus on the specific case, but aims to explore the difficulties faced by same-sex couples during adoption procedures in general.

**Freedom of assembly**
- For the first time since 2007, the Budapest Pride march took place with no reported threats or violence. It was also authorised to end at parliament square for the first time in the march’s 20-year history.

**Freedom of association**
- A community group in the city of Miskolc who had been working with the LGBT community there since 2013 applied to be registered as an NGO. The group wished to include the city’s name in their organisation’s title so had to apply for permission to use the name. The mayor subsequently refused to issue the relevant permit, without providing a reason. In December, the Equal Treatment Authority fined the Miskolc mayor HUF 500,000 (approx. EUR 1625) for the unprecedented denial of the name.

**Freedom of expression**
- The village of Ásotthalom introduced a ban on 23 November on so-called ‘propaganda’ featuring same-sex marriage or families not based on marriage between different-sex couples. On 11 December, LGBT groups organised a protest in the village to deliberately violate the ban. Subsequently, the Commissioner for Fundamental Rights petitioned the Constitutional Court, stating that the ban is discriminatory and infringes on freedom of expression. The county government office called on the Ásotthalom authorities to revoke the ban; if the village refused, the office stated its intention to challenge the decision at the Supreme Court.

**Health**
- On 20 December, the LGBTQ Section of the Hungarian Psychological Association published a translation of the American Psychological Association’s guidelines to working with clients who identify as LGBT or gender non-conforming.

**Legal gender recognition**
- In a report issued in September, the Commissioner for Fundamental Rights recommended that the Minister for Human Resources address existing regulatory problems with the legal gender recognition procedure, to introduce more transparent legislation, to allow trans people in higher education to change their names on certificates, and to separate the legal recognition process from access to trans-specific health care.

**Public opinion**
- The results of a detailed IPSOS survey across 23 countries were published by the University of California, Los Angeles’ (UCLA) Williams Institute in December. 28% of the approximately 500 people interviewed in Hungary as part of the study on attitudes towards trans people opposed allowing trans people to undergo surgery. 43% believed trans people should be able to use toilets that correspond with their true gender (a higher percentage than those surveyed who actively disagreed). 48% supported protecting trans people against discrimination.
- The results of a national opinion poll conducted by Budapest Pride and Integrity Lab were published in December. 36% expressed support for marriage equality and 46% supported extending adoption possibilities to same-sex couples; both figures are higher than results from previous polls. 60% of those surveyed said that LGB people should have the same rights as heterosexual people.
Several assumptions were challenged in 2016 in Iceland. Firstly, an elementary school in Reykjanesbær confronted the notion that all students have a binary gender identity by introducing more inclusive policies, including a more gender neutral approach to facilities and swimming attire. Given Iceland’s reputation for high levels of social acceptance of LGBTI people, it may come as a surprise to some that the country’s president had not taken part in the Reykjavik Pride march. President Guðni Jóhannesson changed that this year by joining the celebrations in the capital. An examination of Icelandic laws and policies also reveals a concerning lack of protections for LGBTI people in anti-discrimination legislation, gaps in hate crime legislation and no legislation or positive measures in the area of asylum. Current legislation still imposes a series of deterring conditions on trans people to access legal gender recognition, and there is no legislation to protect the bodily integrity of intersex people. The ombudsperson for children had previously expressed concerns about this issue, and in 2016, a University of Iceland symposium was organised to discuss the human rights violations faced by intersex people.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.

- Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as GID/medical diagnosis, or surgical/medical intervention).

- Ensuring legislative proposals on anti-discrimination within the area of employment include sex characteristics, so that the draft bill expressly mentions all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
Asylum
- LGBTQIAP NGO Samtökin 78 reported a dramatic increase in the numbers of LGBTQIAP asylum seekers requesting services from the organisation in 2016 (the NGO estimated that requests had risen by 350% since 2015). Samtökin 78 received multiple complaints from LGBTQIAP asylum seekers who stated that they do not feel safe in housing provided by the Directorate of Immigration. Attempts by Samtökin 78 to procure funding to provide additional services (such as counselling and translation) were not responded to by the authorities. Iceland accepted five LGBT quota refugees in 2015, but the situation for LGBTI asylum seekers did not improve in 2016. In a meeting with representatives of NGO Samtökin 78 in February, it became clear that the Directorate of Immigration were not following UNHCR guidelines (despite the fact the Directorate had previously stated in 2015 they were, following an official information request from Samtökin 78). No staff had received any training on LGBTI issues and, when pressed, they stated they were following UK guidelines. In October, it also was announced that a gay asylum seeker from Iran was to be deported back to Italy, despite having expired papers and the fact that the Italian government were not able to ensure that his papers would be renewed. Without any renewal of papers, this asylum seeker will be deported back to Iran where he faces a death sentence.

Bias-motivated speech
- In November, Reykjavik police issued official charges in eight cases of hate speech on the grounds of sexual orientation. The charges were based on information about ten such incidents presented to the authorities by LGBTIQAP NGO Samtökin 78 in April 2015. The remaining two cases were under the jurisdiction of a separate police force. Court proceedings were underway in the eight Reykjavik police cases by the end of the year.

Bodily integrity
- RIKK, the Institute for Gender, Equality, and Difference based at the University of Iceland sexology held a symposium on intersex issues. Held in November, the sessions included discussions on human rights violations, ethics and genital autonomy as a sexual right.

Education
- Akurskóli, an elementary school in Reykjanesbær, took steps to become more gender neutral in January. Gendered signs were taken down from bathrooms and stipulations for specific swim attire were removed (now both boys and girls can choose between swimming costumes or swimming trunks). The school’s principal Sigurbjörg Róbertsdóttir said that “…since there are currently children attending the school who are gender-fluid or trans, it’s not up to us, the school, to force them or anybody else into a pre-designed form.”
- In August, prior to the start of the upcoming semester, the University of Iceland changed its registration protocols. Now, trans students are able to change their names within the school. This will enable students who are transitioning but have not yet obtained their gender marker to use their name, not the given name as listed with Registers Iceland.
- LGBTIQAP NGO Samtökin 78 continued its cooperation with the municipality of Hafnarfjörður. During 2016, peer educators worked with many classes in the higher levels of elementary school. The NGO’s Education Officer also conducted extensive training for teachers and staff of most elementary schools within the municipality. Reykjavik City also has a service contract with Samtökin 78. Students in almost half of the city’s schools have received LGBTIQAP based peer education but Reykjavik City had not honoured their commitments for trainings for teachers and school staff by the end of 2016.

Participation in public, cultural and political life
- The National Olympic and Sports Association in Iceland (ISI) announced in May that queer education would form part of their coaches’ training programme. LGBTIQAP NGOs Samtökin 78 and Styrmir - The Queer Sporting Association developed the programme which focuses on LGBTIQAP needs in sport.
On 6 August, days after his inauguration, Guðni Th. Jóhannesson became the first Icelandic president to take part in Reykjavik Pride. An estimated 60,000 people attended the festival’s Pride Parade. The Pride organisers also had their own Parade float for the first time and they were joined by the Dagur B. Eggertsson, the city’s mayor, and several members of Reykjavik city council.

**Police and law enforcement**

Following demand from the public, a police focus group was set up to respond to questions around how the police interact with immigrant communities. NGO Samtökin 78 also received a specific request that two spaces in the group should feature voices of LGBTQIAP immigrants.
Following the global attention garnered in the wake of the high-profile marriage referendum and self-determination gender laws the previous year, many Irish developments in 2016 were driven by data. Many pieces of first-time research focusing on specific LGBTI perspectives were conducted, which will hopefully inform future legislative practice. This included the first reports on life for LGBTI prisoners in Ireland, the largest mental health study carried out to date, and the first trans mental health campaign. Particular forms of data were analysed for the first time too; such as first set of hate crime statistics since the police began recording transphobic motives in 2015. Hate crime and hate speech laws continue to be an area with almost non-existent protection for LGBTI people; no advances were reported here in 2016. Some elements of the Child and Family Relationships Act were given ministerial approval and a revision of the blood donation criteria was promised. In another first, Katherine Zappone became the country’s first openly lesbian cabinet minister.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Ensuring that existing legislation is commenced and enforced so that children born to couples (regardless of the partners’ sexual orientation and/or gender identity) are not facing any barriers in order to be recognised legally from birth to their parents (automatic co-parent recognition).

- Updating the existing legal framework for legal gender recognition, to ensure the process is free from age limits, and explicitly includes intersex and non-binary people.

- Adopting a comprehensive national action plan on LGBTI equality that expressly mentions all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
Bias-motivated speech

- In May, the Church of Ireland Archdiocese of Dublin withdrew an invitation they had extended to an Argentinian evangelical preacher, Ed Silvoso (who has expressed anti-LGBTI views and called equal marriage “blatant immorality”) had been due to speak at an event at a church in Wicklow but the invite was withdrawn.

Bias-motivated violence

- In September, a man who had been violently assaulted in Dublin’s Phoenix Park made a complaint about his subsequent treatment to the Garda Síochána’s Ombudsman Commission (GSOC). The victim was beaten with metal bars by a group of teenagers on 30 July; homophobic language was used during the attack. He later told journalists that police officers who came to speak to him in hospital asked if he was sure it was a hate crime and if he had done anything to “provoke” the attack.
- Hate crime figures from the Central Statistics Office, released to the Press Association in October, showed that 26 cases of crimes based on gender, transphobia or homophobia were recorded in the first six months of 2016, compared to 25 overall in 2015. These were the first statistics available since the Pulse recording system used by An Garda Síochána was expanded to include transphobic crimes in 2015.

Bodily integrity

- At the UN Committee on the Rights of the Child’s hearing on 14 January, government representatives were questioned on Ireland’s treatment of intersex children. Members of the Committee queried the lack of legislative or administrative measures to ensure the bodily integrity and self-determination for intersex people.

Data collection

- The LGBTIreland report, commissioned by NGOs GLEN and BeLonGTo, was published on 21 March. It was the largest study of the mental health of LGBTI people in Ireland carried out to date. According to LGBTIreland, a majority of LGBTI people over the age of 26 are doing well but this positive finding was not shared across all age groups. 56% of LGBTI people aged 14 - 18 who had taken part in the study had self-harmed, 70% had suicidal thoughts and 1 in 3 had attempted suicide. The study itself was conducted by researchers from Trinity College Dublin and funded by the National Office for Suicide Prevention.
- NGO BeLonGTo’s survey of 1300 young people showed that 53% of respondents know someone who came out since the referendum on marriage equality in May 2015. 39% of the respondents who identify as LGBT said that the Yes vote had given them the confidence to speak to others about their sexuality for the first time. The survey results were published in May, to coincide with the first anniversary of the referendum.
- A study by UNESCO on homophobia and transphobia in school was published at an intergovernmental event in Paris to mark IDAHOT in May. The study, which was the largest of its kind in Europe, revealed that 52% of young LGBTI people in Ireland experienced homophobic/transphobic name-calling while at school.
- The Rape Crisis Network Ireland published its first national report on LGB survivors of sexual violence on 11 July. The Finding a Safe Place report showed that LGB survivors reported higher levels of multiple incidents of sexual violation than heterosexual survivors (26% compared to 15%). LGB survivors were more likely to confide in partners or friends first, as opposed to heterosexual survivors who were more likely to tell family members. 47% of LGB survivors waited more than ten years to report incidents (21% of heterosexual survivors took the same length of time).
- According to ‘Swimming with Sharks’, a research paper from the University of Queensland in Australia on the psychological impact of the marriage equality referendum process, 80% of LGBTI people were upset by the anti-equality campaign materials produced by advocates for a ‘No’ vote.

Education

- On 28 January, the Being LGBT in School guidelines were launched by the Department of Education and Skills. The resource contained the first-ever guidance for post-primary schools on how they can support trans
students and a copy was sent to every second level school in the country.

- The LGBT Safe and Supportive Schools Toolkit was launched on 11 May following a partnership project between the Health Service Executive (HSE) and NGO BeLonGTo. The model was piloted in two Donegal schools and involved students, teachers, parents and local communities to ensure that schools are an inclusive environment for young LGBTI people.

- NGO BeLonGTo’s annual national anti-LGBT bullying campaign Stand Up! was launched by Minister for Education, Richard Burton (FG) and ran in schools throughout Ireland from 14-18 November. BeLonGTo provided training sessions in advance of the campaign for teachers and youth workers at several locations, both in Dublin and outside the capital.

**Employment**

- Ireland’s first trans leadership summit, run by NGO TENI and professional services company Accenture, took place on 19 and 20 November. Telling MY Story was developed in response to the barriers trans people can face when seeking employment and was designed to empower future trans leaders. 30 trans people took part in the first summit in Dublin.

- Accenture were also named the Best Place to Work for LGBT Equality 2016 by NGO GLEN in September.

**Equality and non-discrimination**

- A schoolteacher was awarded compensation by the Equality Tribunal in January, after the tribunal found that she had been discriminated against because her son was gay. Bernie Marron, a teacher at St. Paul’s primary school in Sligo, was discriminated against by association when the school’s principal had made derogatory remarks about her son’s sexual orientation and questioned what kind of mother would have a son “like that”. The tribunal found this undermined her dignity at work and awarded Bernie Marron EUR 3,000. It also ordered the school to invest in equality training for staff.

- ‘It’s Time to Hear Our Voices’, a report based in the first national forum on trans youth issues in 2015, was published on 1 April. It was launched by the Irish Trans Student Alliance and NGOs BeLonGTo and TENI to mark International Trans Day of Visibility.

- On 23 June, the Irish Blood Transfusion Service recommended adapting the criteria around blood donation by men who have had sex with men. Following an IBTS board meeting, the service recommended that the blanket exclusion be replaced by a 12 month deferral period. Minister for Health Simon Harris (Fine Gael, FG: centre-right) announced on 27 June that he accepted the IBTS recommendation and would implement the change to bring Ireland in line with a similar policy to be introduced in Northern Ireland in September. As a result of Minister Harris’ announcement, the legal team representing Tomas Heneghan (a law student who had initiated a legal challenge in 2015 against the permanent ban) said that he would drop his case against the state. The policy change had not been introduced before the end of 2016.

- Minister for Children and Youth Affairs, Katherine Zappone (independent) announced, during Pride week, that her department would develop the first national LGBTI Strategy for Young People. The strategy had not been finalised before the end of 2016.

- A private member’s bill was introduced in the Seanad (senate) on 6 December. The Convictions for Certain Sexual Offences (Apology and Exoneration) Bill aims to provide an apology and exoneration for people who were previously convicted of having consensual same-sex sexual acts. The bill had not progressed to second stage by the end of 2016.

- A final report under the UN’s Universal Periodic Review process was adopted for Ireland in 2016 (see United Nations).

**Family**

- Minister for Justice Frances Fitzgerald signed the order to commence several sections of the Child and Family Relationships Act 2015 on 18 January. The commencement order corresponded to the sections of the act relating to guardianship, custody, access and maintenance. The second and third parts of the law, covering donor-assisted reproduction, had not been commenced by the end of 2016.
According to figures released by NGO GLEN in a statement to mark the first anniversary of the marriage equality referendum, 412 same-sex couples were married since equal marriage was introduced in 2015.

The Presbyterian Church’s general assembly meeting in Belfast in June voted to introduce a declaration renouncing marriage equality in Presbyterian marriage ceremonies on the island of Ireland. The decision came into effect immediately and applies to ceremonies carried out in Northern Ireland as well, despite the fact that equal marriage was not possible there in 2016.

Health

‘KnowNow’, the first free rapid HIV testing service for men who have sex with men, was launched in March. The project was initiated by NGO GLEN, the Sexual Health Centre in Cork, and GOSHH (Gender Orientation, Sexual Health and HIV) based in Limerick. Tests are performed by volunteers in non-clinical settings in Dublin, Limerick and Cork cities. ‘KnowNow’ was undergoing a review at the end of the year; more information on the outcomes of the project are expected in early 2017.

The first national campaign focusing on the mental health of trans people was launched by NGO TENI and ran from 24 to 30 October. National Trans Mental Health Week featured online and physical activities to promote the mental health and wellbeing of the trans community in Ireland. As part of the campaign, TENI also published ‘Heads Up’, a mental health guide for trans people.

In December, the HSE announced that HPV vaccines would be offered to men who have sex with men from January 2017. Previously the vaccine, to protect against cervical cancer and genital warts, was only available to girls but gay and bisexual men remained vulnerable. The HSE also said it would make the vaccine available to people over the age of 26 who are living with HIV (previously only people living with HIV who were younger than 26 were vaccinated).

Human rights defenders

NGO TENI celebrated its tenth anniversary in November at a reception hosted by President Michael D. Higgins. At the event, the president discussed the situation for LGBTI people in Ireland, the 2015 Gender Recognition Act and paid tribute to the activists “…who campaigned for such life-changing legislation”.

Legal gender recognition

According to figures obtained from the Department of Social Protection, by 31 December, 198 gender recognition certificates had been granted since the Gender Recognition Act 2015 was commenced in September 2015.

Participation in public, cultural and political life

Former senator Dr Katherine Zappone was appointed Minister for Children in May following the 2016 general election in February. Zappone is the country’s first openly lesbian cabinet member.

Three openly LGBT senators (David Norris, Jerry Buttimer and Fintan Warfield) were elected to the Seanad (senate) in June, along with several active LGBTI equality advocates.

NGO TENI’s chief executive Broden Giambrone became the first ever trans person to act as grand marshall for the Limerick Pride parade in July.

Police and law enforcement

The Irish Penal Reform Trust (IPRT) launched ‘Out on the Inside’, a report on the experiences of LGBT people in prison, on 2 February. This was the first in-depth study of its kind in the country and was carried out by a research team from Queen’s University Belfast for the IPRT. The report described LGBTI prisoners and ex-prisoners as a “doubly marginalised” group, both within the prison system and the wider LGBT community when they leave prison.

The Irish Defence Forces announced its Defend with Pride initiative on 11 October. The network aims to make the forces a more inclusive workplace. Defend with Pride provides information and support to LGBT personnel and is coordinated as part of the Diversity Champions Programme run by NGO GLEN.
Sexual and reproductive rights

- On 1 February, then Health Minister Leo Varadkar (FG; became Minister for Social Protection following 2016 general election) announced his department’s intention to introduce legislation to allow access to IVF treatment through the public health system for the first time. The law had not been drafted before the end of the year.

Social security and social protection

- David Parris, a lecturer at Trinity College Dublin (TCD), lost a legal challenge against his employers in November. Mr Parris argued that his same-sex partner would not receive a survivor's pension under the college’s scheme and the Labour Court referred the question to Luxembourg. The Advocate General had recommended a finding of indirect discrimination in July, but the Court of Justice of the European Union ruled that he had not been discriminated against on the grounds of age and sexual orientation. The CJEU held that TCD’s scheme was worded neutrally and that the national rule did not constitute indirect discrimination on the grounds of sexual orientation.
An historic milestone was reached in Italy in 2016, as the parliament voted to support legal recognition for same-sex couples for the very first time. Civil unions, a long-promised form of legally protected partnership, were a reality by the end of the year. However, the process, content and aftermath of the law's passage were far from straightforward. Thousands of pro-equality advocates came onto the streets in advance of the first vote in the senate; many of whom were dismayed by the government’s decision to remove second parent adoption provisions from the bill to ensure its ultimate survival. Divisive, derogatory language about same-sex couples and their children, from parliamentarians who opposed the bill, became a distasteful hallmark of the legislative process. In a country where hate speech against LGBTI people is not legislated for, this was a particularly difficult time for rainbow families. A series of important adoption-related legal cases were decided by courts from Rome to Naples. Judges in Strasbourg also had an influence, as the European Court of Human Rights held that denying same-sex couples residence permits on ‘family grounds’ was discriminatory.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Ensuring marriage equality for all.
- Allowing for equal access to medically assisted insemination treatments for all individuals.
- Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.
Bias-motivated speech

Homophobic speech was present throughout the parliamentary discussions on the civil union legislation. Senator Roberto Formigoni tweeted on 6 February that “gay, lesbian, bi-transgender and queers” were in “severe hysterics” over the possible defeat of the bill. His language was criticised online as being vulgar; Formigoni later said his words had been distorted and that he was referring to specific individuals, not all LGBTI people. Opponents of the legislation attempted to tie the issue of surrogacy to the civil unions bill. During debates on 11 February, Forza Italia senator Maurizio Gasparri asked how one of the bill’s authors Sergio LoGiudice (Democratic Party, PD) “paid for a child” despite the fact that the bill did not mention surrogacy. Journalist Caterina Coppola called that attack one of the ‘darkest moments in Italian political history’. In August, founder of the Union of Islamic Communities and Organisations wrote a Facebook post, saying the introduction of civil unions meant that polygamy should also be legalised; Hamza Piccardo’s comments were criticised by politicians, including Debora Serracchiani, deputy head of the Democratic Party. In an interview with Radio Maria on 30 October, Catholic theologian Father Giovanni Cavalcoli commented that a series of earthquakes in Italy were “divine punishment” following the introduction of civil unions for same-sex couples (see Family). Archbishop Angelo Becciu said that Cavalcoli’s remarks were “offensive to believers and disgraceful for non-believers”.

On 4 May, the Italian National Olympic Committee unanimously voted to introduce an amendment to its statute, banning homophobia in sport. Article 2.4 was amended and now outlines CONI’s principles against discrimination as including the ground of sexual orientation.

Bias-motivated violence

ANDDOS, the national association against sexual orientation discrimination, issued a press statement on 18 May condemning the attack on the Anddos Gay Centre in Rome. The centre was attacked by a far-right Forza Nuova activist. ANDDOS national president Mario Marco Canale called the incident ‘cowardly’ and said that Italy was being “…faced with the consequences of the vile propaganda of hatred that has developed in recent months during the discussion of the Civil Unions” (see Family).

Transgender Europe’s (TGEU) Trans Murder Monitoring project, 5 trans people were killed in Italy in 2016: a 64 year-old trans person in Naples; a 41 year-old trans person in Naples; 45 year-old trans person in Florence; a 30 year-old trans person in Rome; and a 34 year-old trans person in Brescia. Four of the five reported victims identified as women.

Bodily integrity

In September, it was reported that a two-year-old intersex child had been operated on at the Paolo Giaccone Hospital in Palermo. At birth, the child was registered as female, but follow-up medical tests stated that the child’s chromosomal make-up was male. The family initiated the process to change the child’s sex in the municipal birth register.

The UN Committee on the Rights of Persons with Disabilities published its concluding observations on Italy on 5 October. Among its concerns was Italy’s treatment of intersex children, specifically irreversible surgery that was not consented too. The Committee recommended that no infant or child undergo such medical procedures, that Italy “guarantee bodily integrity, autonomy and self-determination to the children concerned, and provide families with intersex children with adequate counselling and support”.

Employment

The Tribunal of Rovereto ruled in June that a religious school cannot discriminate based on sexual orientation. The Daughters of the Sacred Heart Institute in Trento, a Catholic school, had refused to renew a teacher’s employment contract after she had refused to clarify ‘rumours’ about her sexual orientation. The tribunal heard that the school had subsequently alleged that the teacher was guilty of ‘improper conduct’. The school was ordered to pay the teacher EUR 25,000 in damages, and also to pay EUR 1500 each to the CGIL union and LGBTI NGO
Associazione Radicale Certi Diritti. It is a significant case, involving both individual discrimination and collective discrimination, as the tribunal stated it would have a negative impact on other teachers who were considering whether or not to work at the school.

**Equality and non-discrimination**

- In a papal document ‘Amoris Laetitia (Joy of Love)’ published in April, Pope Francis stated that “every person, regardless of sexual orientation, ought to be respected in his or her dignity and treated with consideration” and also that “There are absolutely no grounds for considering homosexual unions to be in any way similar or even remotely analogous to God’s plan for love and marriage”.
- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Italy on 7 June. ECRI welcomed the progress on the civil union bill for same-sex couples and looked forward to its finalisation. Among the report’s explicit interim follow-up recommendations was the introduction of measures in schools to promote tolerance and respect on the grounds of sexual orientation and gender identity. Other recommendations from ECRI included appointing an officer in each police district and in the public prosecutor’s office to act as a contact point on questions of homophobia and transphobia. The report also recommended that the remit of the National Office against Racial Discrimination (UNAR) be widened to include discrimination based on sexual orientation or gender identity.

**Family**

- In advance of parliamentary discussions on civil unions and second parent adoption, interior minister Angelino Alfano (New Centre-Right, NCD; Christian-democratic) stated that surrogate parents should be punished in a similar manner to sex offenders. On 6 January, Alfano said “We want ‘wombs for rent’ to become a universal crime, and that it is punished with prison. Just as happens for sexual crimes”. He also told Avvenire (a daily newspaper belonging to the Italian Episcopal Conference of Catholic bishops) that “If Italy has a law that allows second parent adoption for gay couples, the day after we will start a huge collection of signatures for a repeal referendum. And I will be first in line.” A group of MPs initiated a campaign to repeal the unions law on 12 May but it did not gather the required 500,000 signatures and the deadline expired before the end of 2016.
- Senate debates on the Civil Union and Cohabitation Bill began on 28 January. Marches and events in support of LGBTI equality had been organised in over 90 towns and cities the previous weekend, attracting thousands of supporters. Anti-equality protestors gathered in Rome on 30 January for ‘Family Day’; turnout was also in the thousands but much lower than the one million people predicted in advance by organisers. On 12 February, after the head of the Italian bishop’s conference had called for a secret Senate vote, Prime Minister Matteo Renzi (Democratic Party, PD; social democratic) said “Parliament decides whether or not to allow secret votes not the CEI (the bishops’ conference). What is there to fear from two people who love each other?”. On 16 February, the Five Star Movement (M5S; anti-establishment) withdrew their support for in the bill. The Democratic Party’s Senate caucus then removed the second parent adoption provisions of the bill on 23 February. The decision reflected internal division within the Democratic Party and the fact that coalition partners New Centre-Right had stated their overall support for the civil union bill was conditional on the withdrawal of second parent adoption. The Democratic Party also made the Senate vote on civil unions a confidence motion. On 25 February, the Senate voted in favour of the civil union and cohabitation bill. 173 senators voted in favour and 71 were against. This was the first time that Italian parliamentarians voted to support legal recognition of same-sex couples. Sections of the Democratic Party expressed disappointment with the removal of the adoption provisions; Senator Monica Cirinna (PD) stated that she would table a separate adoption bill. The civil union bill proceeded to the Chamber of Deputies, where it was approved by the justice committee on 4 May. The final vote took place on 11 May. The Chamber of Deputies approved the bill; 372 MPs voted in favour of the bill, 51 against, and 99
abstained. The civil union bill recognised same-sex couples in law for the first time, providing for equality in matters of tax, social security and inheritance. The implementation acts were published in the Official Journal on 23 July. On 24 July, Elena Vanni and Deborah Piccini became the first same-sex couple to enter a civil union.

- In February, the Court of Cassation refused to hear an adoption case involving a lesbian couple, as it stated that the lower Bologna court had mishandled the case. Both women are US citizens but one of the women also had Italian citizenship. The couple had sought to apply this Italian citizenship to all family members and adopt each other’s biological children but had been refused permission by the Bologna-based tribunal.
- The tribunal for minors in Rome recognised the adoption by a lesbian couple of each other’s biological daughters. In a decision released on 1 March, the tribunal’s ruling means that the children will not be legally recognised as sisters but they will share a double-barrelled surname. Both children will have one biological parent and one ‘social’ parent, both of whom have full parenting responsibilities and rights. The decision was based on the special cases adoption legislation.
- On 5 April, the Naples Court of Appeal ruled that two second-parent adoption orders (originally granted by the Court of Lille in France) should be recognised by the Italian civil registrars. The Naples court found in favour of a French-Italian same-sex couple and (for the first time in a civil status case involving a same-sex couple) ordered the local mayors who had refused to recognise the adoption orders to pay EUR 5,000 in legal costs.
- On 29 April, the juvenile court in Rome ruled that a lesbian couple could adopt each other’s children (all born following artificial insemination), a first decision of its kind from a first instance tribunal.
- The European Court of Human Rights released its judgment in Taddeucci and McCall v Italy on 30 June. The Court held that Italy’s refusal to grant Mr McCall a residence permit on family grounds, after his student visa expired, as the couple were not recognised as spouses under domestic law. The court held that this interpretation of who constitutes a family member was an insurmountable obstacle for same-sex partners who wanted to obtain permits, as they didn’t have any means of having their partnership legally recognised (prior to the civil union law).
- On 21 June, the country’s highest court upheld a 2015 decision (from Rome’s Court of Appeal) which allowed a woman to adopt her female partner’s daughter; a decision the court based on the best interests of the child. This was the first time that the Court of Cassation had issued a ruling on step-child adoption involving a same-sex couple.
- The Supreme Court (First Civil Division) upheld a 2014 decision by the Turin Court of Appeal that had instructed a civil registrar to recognise the Spanish birth certificate of a child with two mothers. The Italian co-mother had donated an egg to her Spanish partner, the child’s birth mother. Despite the civil registrar’s initial refusal and the appeal of the Turin court decision by the public prosecutor, on 30 September the Supreme Court held that there was no obstacle to the registration of such a birth certificate in Italy, recognising the computability of same-sex parenthood with public policy and also recognising rainbow families without adoption procedures.
- After the civil unions law was passed, Gay Centre Italy in Rome began compiling a list of cities and towns whose mayors were trying to limit the scope of the law and not fully apply it. On 7 December, the Regional Administrative Court of Padua granted interim relief against the conduct of former mayor Bitonci. The Municipality of Padova had limited the time and locations available for civil union ceremonies, restricting their options. The Court held that this was discriminatory intent.

**Freedom of assembly**

- The first-ever Pride March in the northern city of Varese took place on 18 June. The Pride’s organisers reported that local authorities, in particular the local
police, amended the route of the march several times. The National Police also changed the parade route, three days before the Pride was due to take place. This diversion took the march away from the city centre. Modifications were also made to the march so that it was going to conclude in a closed car park, instead of a public square (Piazza Monte Grappa). After a meeting with the commissioner, the organisers ensured the march ended in the public square as originally planned; however, the stage that speeches were being made from was turned to face away from the square, towards a quiet street instead. The Council of the Municipality of Varese decided unanimously not to sponsor the parade because the event “is divisive and not everyone agrees.”

**Freedom of expression**
- In March, the Italian Conference of Bishops’ Film Evaluation Commission banned the film ‘Weekend’ from being shown in cinemas owned by the Catholic Church. The two central characters are gay and the Commission stated the Andrew Haigh-directed film was “not advised, unusable and scabrous”, preventing it from being screened in over 1,100 cinemas. The film had previously been approved by the country’s official film board.

**Public opinion**
- Research institute Demos & Pi released survey results in February (shortly after the Senate’s vote on the civil unions bill; see Family) that showed a majority of those questioned supported recognition of same-sex couples. 69% supported civil unions and 54% were in favour of equal marriage. On the question of parenting, 37% of respondents approved of second parent adoption. The survey was carried out for the daily newspaper *La Repubblica*. 
The need to embed equality laws in the day-to-day routine of a country was raised in Kosovo in 2016. Awareness-raising and better implementation of existing anti-discrimination policies were cited as necessary aims by an advocacy and coordination group for LGBTI rights. The importance of follow-up, matching words with resources, and encouraging more commitment from local leaders was additionally outlined by the European Commission in their annual enlargement update. An NGO-led research project underlined the necessity of making sure that health and social care staff are aware of the responsibilities they have towards LGBTI people. This research also included a series of recommendations for addressing the minimal legal protection that trans people have in Kosovo. In the absence of well-developed hate speech or crime policies, NGOs continued to provide support to LGBTI victims of violence, who similarly fall outside of legislative safeguards.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Introducing hate crime laws that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- Introducing hate speech laws that explicitly include sexual orientation, gender identity and sex characteristics as protected grounds.
- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).
Asylum

- In 2016, four LGBTI people contacted NGO Center for Equality and Liberty (CEL) for information about applying for asylum.

Bias-motivated speech

- On 17 May, in response to IDAHOT events, Gezim Kelmendi MP (Fjala, conservative) said that promoting the rights of LGBTI people through public marches was unacceptable: “Our people don’t need this kind of parade [as] homosexuality is a disease that is scientifically proven... and a leading cause of the destruction of families and population decline”. LGBTI NGOs called on the Assembly of Kosovo to open a hate speech investigation, but this was not initiated.

Bias-motivated violence

- In May, a gay man reported to police that he had been raped at his place of work by a colleague. This was processed by the Basic Court’s serious crime department and the prosecutor indicted the suspect for rape under Article 230 of the Criminal Code. In September, the victim was referred to NGO CSGD for legal assistance and psychological support.
- Two gay men were attacked in Ferizaj city by two people on 12 June. One of the victims received injuries to his body and face that required medical attention. The two attackers were arrested and the case was reported to the police station in Ferizaj. NGO Centre for Social Group Development (CSGD) highlighted the incident in the media. In July, the Basic Prosecutor’s Office filed an indictment against the two attackers. The Ferizaj Basic Court found one of the accused men guilty of incitement to hatred and bodily injury in September; he was given a five month prison sentence. The court found the second defendant not guilty of incitement to hatred but also guilty of bodily injury; his four month sentenced was suspended for one year. The prosecutor and the accused both appealed the decision. The Court of Appeal is expected to hear the case in early 2017.
- On 2 July, a gay couple were attacked by their landlord after he discovered their sexual orientation. The couple reported being physically and verbally attacked, before being locked inside the house and then had to jump from a balcony to escape. They contacted the police but the attacker was not arrested. The incident was also reported to the Ombudsman. Also in July, assisted by NGO CSGD, the couple reported the incident to the police. The victims were subsequently informed that their case had been processed by the prosecutor’s office in Pristina; the couple had not received any more information at the end of 2016.
- In August, NGO CSGD received a report of a minor who was the victim of violence inflicted by family members who perceived him to be gay or trans. The case was reported to the police and subsequently referred to children’s rights organisation Terres des Hommes.

Data collection

- NGOs CSGD and CEL conducted research on trans people’s access to health care and social protection as part of the Equal Rights for All coalition. The results of the interviews and focus groups were published in November, along with a series of recommendations. These included a legislative review that would allow a change of gender marker on ID documents, the inclusion of trans people’s needs in the Ministry of Health’s strategy, and awareness-raising initiatives by civil society and public institutions (see also Health and Social security and social protection).

Enlargement

- Kosovo has been a potential candidate to join the European Union since 2008. In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission said that positive statements on protecting the rights of LGBTI people must be followed up by adequate resourcing. Support from political figures, and the President’s presence for the first time, at the latest IDAHOT march was noted, but the report stated that implementation of human rights laws requires more resources and political commitment at local level. The Commission encouraged the relevant authorities to effectively investigate hate
crime and speech incidents against LGBTI people and urged the advisory and coordinating group for the rights of LGBTI persons to work more proactively with other institutions.

Equality and non-discrimination
- In cooperation with several LGBTI NGOs, the Office of the Prime Minister organised a conference on the ‘rights of the LGBT community in Kosovo – progress and challenges’ to mark IDAHOT. The conference aimed to increase awareness of LGBT issues among institutional stakeholders and the general public. The event on 17 May featured remarks from the advisor of the Prime Minister Isa Mustafa (Democratic League of Kosovo, LDK; centre-right) and NGOs Center for Social Emancipation (QESh), Center for Equality and Liberty (CEL) and Center for Social Group Development (CSGD).
- The Advisory and Coordination Group for LGBTI rights in Kosovo (ACG) finalised its November 2016 – November 2018 National Action Plan. The main areas addressed in this plan include the improvement of the implementation of existing anti-discrimination policies (with a special focus on education and health), increasing citizens’ awareness of the rights of LGBTI people, and increasing ACG’s efficiency.

Freedom of assembly
- IDAHOT was celebrated in Pristina with an equality march in the city’s main square. The march was organised jointly by three LGBTI NGOs, CSGD, CEL and QESH, under the motto “Our love is constitutional”. It was attended by Kosovo’s President Hashim Thaci, former President Atifete Jahjaga, Vice President of the European Parliament Ulrike Lunacek, and representatives from government and civil society.

Health
- The Equal Rights for All research, published in November, revealed that health professionals have a good understanding of the terminology, treatment and issues related to trans people, but their outlook is not always inclusive. A number of professionals did not recognise that they have a role to play in supporting trans people. There was a limited number of health professionals who actually had direct experience of dealing with trans patients.

Participation in public, cultural and political life
- At the end of May, a trans man shared his personal story as part of a video documentary shown on well-known news portal gazetaexpress.com. This was the first time that a member of the trans community in Kosovo came out publicly.

Police and law enforcement
- On 13 December, a roundtable on the treatment of LGBTI cases by the judicial system was attended by representatives from the Ombudsperson Institution, the Office for Good Governance, police prosecutors and court officials. It was organised by NGO CSGD as part of Human Rights Week activities. One of the cases analysed was the attack on two gay men in the city of Ferizaj (see Bias-motivated violence). The roundtable concluded that the Basic Court failed to provide a good example of legal practice in cases where members of the LGBTI community are victims in a criminal prosecution.

Social security and social protection
- The Equal Rights for All research, published in November, concluded that not all social workers had a clear understanding of the underlying issues for trans people, but overall they appeared to be open minded and showed a conviction in providing services for all those who would be eligible. The report states that there are gaps to be filled which may improve the services that trans people receive.
The limited stock of LGBTI-inclusive laws and policies was not extended in any significant way in 2016. Equality, family and hate crime legislation still omit sexual orientation, gender identity and sex characteristics from most (if not all) of their provisions, although changes to asylum law that included references to LGBT asylum seekers were finalised. Queries around how the 2015 ‘moral upbringing’ amendments to the Education Law would be implemented in practice were answered with the publication of guidelines. Disagreement reigned around whether or not Latvia would sign up to the Istanbul Convention, as the justice minister and church officials opposed the move – motivated by the mention of sexual orientation and gender identity within a non-discrimination clause. The convention was finally signed in May. In addition, another question was raised by the Supreme Court; it ruled that even though Latvian law does not permit equal marriage, same-sex couples who want to register their marriage carried out elsewhere should at least have their applications considered.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Explicitly including all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in an equality action plan, accompanied by specific measures of progress.
- Adopting legal measures to recognise and protect same-sex couples, such as cohabitation legislation.
- Including express mentions of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in policies designed to tackle hate crime.
Access to goods and services
- LGBT NGO Mozaika submitted a complaint to the Ombudsman’s office in February over a promotion run by public transport company Rigas Mikraautobusu Satiksme (RMS). On Valentine’s Day, couples could pay for bus journeys by kissing, but the deal was only available to different-sex couples. An RMS spokesperson said that the initiative was “…only meant to support relationships established as traditional.” The Ombudsman found that the initiative violated the prohibition on discrimination on the grounds of sexual orientation. It recommended that RMS ensure that any future campaigns they run are done so on the basis of equal treatment.

Asylum
- In January, new asylum legislation was signed into law (after being adopted by parliament in December 2015). The new law includes sexual orientation and gender identity as qualification criteria.
- The Office of Citizenship and Migration Affairs received two applications for asylum on grounds of persecution because of the individual’s sexual orientation. In both cases, refugee status was granted during 2016.

Bias-motivated violence
- On 18 May, Latvia signed the Istanbul Convention. It was the final European Union member state to sign the Council of Europe’s convention on preventing violence against women. Various Christian church leaders, parents’ organisations such as Association ‘Family’, and justice minister Dzintars Rasnacs (National Alliance, NA; right-wing) had opposed signing up. Opposition centred around the non-discrimination clause contained in Article 4 of the convention, which refers to sexual orientation and gender identity as protected grounds. Rasnacs said that his critics had not “…taken into account the conservative stance of the greater part of society”. When the Convention was signed, a declaration was added to align the text with the Latvian Constitution.

Data collection
- In January, the Baltic Centre for Investigative Journalism (Re:Baltica) published a report entitled ‘The Rise of Latvia’s Moral Guardians’, outlining the development of several parents movement NGOs since 2013, set up to defend ‘traditional values’ against LGBTI ‘propaganda’.

Education
- The Cabinet of Minister approved guidelines on 15 July which detailed how the 2015 amendments to the Education Law can work in practice. The 2015 changes introduced a responsibility to ensure ‘moral upbringing’ for school children. The guidelines state that schools must foster a positive attitude among students in relation to several values – including family, marriage, culture and the Latvian nation. There was no reference to sexual orientation, gender identity or sex characteristics in the guidelines’ anti-discrimination clause. The guidelines prohibit sharing materials which feature “propaganda of degrading or immoral activities”. On 23 November, a so-called ‘loyalty’ clause was added to the guidelines, allowing schools to dismiss teachers who do not foster positive attitudes towards the listed values. Although some NGOs were consulted as part of this process, LGBTI NGO Mozaika was not among them; however, association “Family”, a vocal opponent to human rights of LGBTI people, was.
- Following a petition from parents, in September the director of the International School of Latvia instructed the organisers of a Gay-Straight Alliance that the initiative would have to stop its work. Before the end of 2016, the director of the school left their position, and the future of the Gay-Straight Alliance was unclear. (The alliance, run by students and supervised by teachers, had since changed its name to the ‘open minded group’).

Equality and non-discrimination
- Council of Europe Commissioner for Human Rights Nils Muižnieks visited Latvia in September and published the recommendations of his country visit on 13 December. The Commissioner urged Latvia’s authorities to introduce greater protection for women, children and LGBTI people. In particular, the Commissioner recommended the introduction of public policies to protect the human rights
of LGBTI people and to legislate for hate crime and hate speech motivated by anti-LGBTI bias.

- A final report under the UN’s Universal Periodic Review process was adopted for Latvia in 2016 (see United Nations).

**Family**

- A signature collection campaign in favour of introducing a cohabitation law for all couples, initiated in 2015, continued. 10,000 signatures are required to have a plenary debate in parliament on the issue, but this total had not been reached by the end of the year.

- On 27 May, the Supreme Court ruled that an application from a same-sex couple to register their marriage should be examined. This decision overturned the administrative court’s earlier ruling which refused to consider the application at all. The Supreme Court acknowledged that existing regulations mean that marriages between same-sex couples cannot currently be registered but that the application should be considered in the context of registering family relationships.

- During 2016, five same-sex couples were involved in litigation initiatives, in an attempt to register their marriages. After they were refused, the couples applied to the Administrative Court of First Instance. One of the applications was accepted and four were refused by the Court of First Instance. The negative decisions were appealed in the Supreme Court, which required the Court of First Instance to initiate and hear the cases. The hearings were due to take place in the autumn of 2016.

**Participation in public, cultural and political life**

'Somebody Out There’ (a short film on the LGBTQ* community in Latvia, produced for the Riga Summer School) received the Riga Summer School 2016 Audience Award.
There were very few developments related to sexual orientation, gender identity or sex characteristics recorded in 2016.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

In the absence of specific recommendations from country experts based in Liechtenstein, ILGA-Europe encourage national authorities to take proactive steps to engage with LGBTI activists to improve the legal and policy situation for LGBTI people in 2017.
Family

- In a New Year’s address in early January, Prince Hans-Adam II referred to adoption by same-sex couples. He stated that children are entitled to a “normal family” and that he would ignore European Court of Human Rights rulings in favour of LGBTI issues.

- On 29 September, an amendment to the 2010 partnership law was passed by the Landtag. Under the change approved by parliament, same-sex couples will be able to take a common surname, in a similar way to married different-sex couples. The change will come into force on 1 January 2017.
In 2016, the Lithuanian authorities failed to grasp several opportunities to increase protection for LGBTI people. The Labour Code was updated in September, yet gender identity was not included in the list of grounds covered by the new act. This decision appeared to completely ignore continuous recommendations to protect trans people from discrimination – made both by NGOs and by the Council of Europe. 2016 was yet another year that has elapsed without any proactive government moves to implement the true spirit of the \( L v \) Lithuania decision concerning legal gender recognition handed down by the European Court of Human Rights almost one decade ago. A controversial proposal to limit the constitutional definition of family life lingered in parliament. Towards the close of the year, an NGO complaint over the influence a so-called ‘anti-propaganda’ law has on freedom of expression was dismissed by the European Commission. Some MEPs labelled the Commission’s decision as “shockingly passive”. On a more upbeat note, LGBTI activists and allies celebrated the success of Baltic Pride 2016 - the largest public LGBTI event in the country.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).

- Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.

- Protecting and promoting freedom of expression for LGBTI people by repealing Article 4.2.16 of the “Law on the Protection of Minors against the Detriment Effect of Public Information”.
Bias-motivated speech

- In February, the Supreme Court of Lithuania heard the case of a Catholic priest who faced charges of homophobic hate speech, after commenting online that “… the ones with the ripped assholes should be smacked”. The priest made the comments underneath an article about a protest by LGBT activists against legislation introduced in Russia in 2013; he argued that his remarks referred to Russian lawmakers and were not directed at anyone of a particular sexual orientation. LGBTI* NGO LGL had subsequently submitted a complaint to the public prosecutor. In March, the Supreme Court acquitted the priest, stating that the gravity of the comment in question did not merit a criminal sanction.

- Agnė Širinskienė MP (The Lithuanian Peasant and Greens Union, LVZS) gave an interview to LRT TV on 27 November. Speaking to the Teisė Žinoti debate programme via telephone, the new chairwoman of the parliamentary health affairs committee said that homosexuality was not a state of being but instead a “decision to perform homosexual acts”. She also listed homosexual relations alongside smoking and drug abuse during a discussion on lifestyle choices that can be detrimental to one’s health.

Bias-motivated violence

- Speaking at a ceremony on 13 June to remember the victims of the homophobic attack on the Pulse gay nightclub in Orlando, Vilnius Mayor Remigijus Šimašius said that hate crimes are unacceptable: “In this case for us, for Lithuanians and citizens of Vilnius, it is especially important to understand that this attack was aimed at the LGBTI community. There are LGBTI persons in every society including ours, and our message is very clear: if you see your traditional values as… killing those who have a different lifestyle, then that is not acceptable.”

Equality and non-discrimination

- Before undergoing a review as part of the UN’s UPR mechanism (in November), LGBTI* NGO LGL organised a meeting on 14 September to discuss how more international awareness could be raised on the human rights situation for LGBTI people. The discussion was hosted by the Embassy of Ireland and (in addition to the hosts) attracted diplomatic representation from Finland, Norway, Canada, US, the Netherlands, United Kingdom, Germany, Italy, Latvia and Austria.

- In early October, during UPR Advocacy Week in Geneva, LGL also met with 25 governments, urging them to raise LGBTI-specific recommendations during Lithuania’s UPR hearing. During the UPR hearing itself, Lithuania received 22 LGBTI-specific recommendations. For the first time in the country’s history, the Lithuanian government explicitly discussed LGBTI issues at UN level.

- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Lithuania on 7 June. It praised additional training for law enforcement officials and judges on anti-LGBTI crimes that had taken place since the last reporting cycle. The report also noted that LGBT people still face discrimination, social intolerance and are the victims of homophobic and transphobic attacks. ECRI stated that the government should comply with the ECtHR case of L v Lithuania and regulate legal gender recognition procedures “without further delay”. It recommended that gender identity be added to the Law on Equal Treatment as a protected ground. ECRI also recommended that hate speech be tackled more effectively by giving the Inspector of Journalist Ethics more power and prevent the use of ‘public morals’ as a justification for anti-LGBT incitement to hatred. It also stated that same-sex couples should have a means of having their partnership recognised, and that the Law on Protection of Minors should be amended to avoid a lack of awareness-raising on LGBT issues.

Employment

- A new Labour Code was adopted on 14 September. Despite advocacy efforts and recommendations from LGBTI* NGO LGL, gender identity was not included as a prohibited discriminatory ground, meaning such discrimination technically cannot be punished under Lithuanian law. The revised Labour Code was due to come into effect on 1 January 2017 but was delayed for six months by the newly elected government in November.
Family

- In January, in the first decision of its kind, the Migration Department refused to issue a residence permit to the same-sex spouse of a Lithuanian man. The couple were married in Denmark but the partner from Belarus was denied a permit (based on family reunification) as their marriage is not recognised in Lithuania. The Migration Department had reached its decision following advice from the Interior Ministry. In December, the Supreme Administrative Court of Lithuania referred the case to the Constitutional Court.

- A 2013 proposal to amend the constitutional definition of ‘family life’ continued through the parliamentary legislative process in 2016. The proposed constitutional change to Article 38 would restrict ‘family life’ to refer exclusively to marriage between one man and one woman. As well as excluding same-sex couples from this constitutional protection, this definition could also remove unmarried different-sex couples and single parents from the constitutional definition of families. On 28 June, the amendment was approved by 74 MPs and proceeded to the final vote stage. In order for the constitution to be amended, the Parliament would have to approve the measure twice, with a majority in favour (at least 94 MPs out of 141) on both separate occasions. If the amendment does not receive 94 supportive votes in the first hearing, then it will not proceed to a second vote. The Social Democrats (LSDP; centre-left) and the Liberal Movement (LRLS; centre-right) encouraged their MPs to vote against the amendment. The Article 38 amendment was also listed in the autumn legislative agenda, published on 14 September. Following the general election in October, a coalition was formed between the Lithuanian Peasant and Greens Union (LVZS) and the Social Democrats. LVZS (the largest party with 57 seats) confirmed they would proceed with the constitutional amendment. In response, LGBTI* NGO LGL launched the ‘All Families Are Equally Important #LAISVA_LT’ social media campaign to oppose the initiative.

- On 11 August, the government submitted a legislative amendment to the Civil Code (by the justice ministry) that would introduce a civil partnership option for different-sex couples. Same-sex couples were not included in the proposed changes. However, parliament rejected the legislative motion in October.

- The Parliament’s autumn legislative agenda, published on 14 September, also included an initiative to amend the Law on the Fundamentals of Protection of the Rights of the Child to prevent same-sex couples from adopting (this was originally put forward in September 2015). Another proposed legal change would insert references to “complementarity of a man and a woman is a foundation of a family as primary and fundamental community and environment which is the most suitable for bringing up, development and education of a child”.

- A proposed Family Support Law, designed to define the legal concept of family, was approved by government on 5 October, although several recommendations were proposed. The draft law’s preamble defined family as one based only on marriage between a man and a woman. A recommendation from the Ministry of Social Security to amend the discriminatory preamble was also approved during the 5 October session. The law had not been finalised by the end of 2016.

Freedom of assembly

- The Baltic Pride 2016 March for Equality took place on 18 June. The event was publicly endorsed by the Ministry of Foreign Affairs and was attended by more than 3000 participants; making it the country’s most attended public

“I support [same-sex] partnerships. I think that the time has come and I hope that the newly-elected Parliament or our coalition will bring this question to the Parliament and we will finally solve it.”
Gabrielius Landsbergs, chair of the Homeland Union, 6 September 2016
LGBTI event. Despite his support for Baltic Pride, Vilnius Mayor Šimašius did not participate in the March for Equality.

**Freedom of expression**
- On 5 December, the European Commission rejected a complaint by LGBTI* NGO LGL, alleging that Law on Protection of Minors disproportionately interferes with the principle of non-discrimination within the Audiovisual Media Service Directive. The Commission has claimed that the “anti-gay propaganda” legislation does not contradict the body of laws and responsibilities for member states, known as the EU *acquis*, because the limitations to the public information on LGBT issues had not crossed national borders.

**Legal gender recognition**
- In December, two trans men submitted a legal complaint, stating that the lack of gender reassignment procedures violates their constitutional right to privacy. Both applicants requested the national courts to sanction legal gender recognition without the mandatory medical gender reassignment treatment, because it remains unavailable in Lithuania. The case will be considered in 2017.

**Police and law enforcement**
- From September to November, LGBTI* NGO LGL, in cooperation with local experts, held a series of training sessions for students at the Lithuanian Police School and law enforcement officials. This was the first time that training for law enforcement officials that specifically focused on victimisation of LGBTI* people had been organised.
An update to existing anti-discrimination law was finalised in late May, although its protection may not be as widespread as LGBTI advocates would have hoped. An amendment was added to the anti-discrimination law’s list of protected characteristics, so ‘sex change’ is now considered to be included within the gender ground. This will protect some trans people, but not all. Gender identity or expression and sex characteristics remain outside the reach of the anti-discrimination law’s protection. A legislative proposal to simplify the civil status procedure for trans people was put forward, one that would remove the need for surgery and hormone treatment. However, change for trans people as a result of this initiative is unlikely according to LGBTI activists, as the bill was not put forward by the government. The health ministry did confirm that change to the blood donation criteria is being considered. On a positive note, a Russian LGBTI activist who had applied for asylum in 2015 finally received an affirmative decision.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Explicitly including SOGISC (sexual orientation, gender identity, sex characteristics) in an equality action plan, accompanied by specific measures of progress.

- Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.

- Introducing policies on asylum that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
**Asylum**
- LGBTI activist Irina Fedotova, who had applied for political asylum in 2015 after leaving Moscow, was granted refugee status in October.

**Equality and non-discrimination**
- Health minister Lydia Mutsch (Luxembourg Socialist Workers’ Party, LSAP; centre-left) replied to a parliamentary question on blood donation in February. They stated that the government was considering replacing the complete donation ban for men who have had sex with men with a 12 month deferral period. The donation criteria had not been altered by the end of 2016.
- The 2006 anti-discrimination law was amended in May, following a 2015 proposal from Minister for Labour, Nicolas Schmit (LSAP). Discrimination against people on the ground of ‘sex change’ is considered discrimination based on the ground of gender. The amendment was confirmed in a Council of State vote on 30 May. The law was published on 3 June and came into force three days later.

**Legal gender recognition**
- A bill aiming to simplify the civil status procedure was filed by two Christian Social People’s Party MPs (CSV; centre-right) in February. The proposal included ending the requirement for hormonal or surgical treatment. A medical consultation would be required but no physical examination would be carried out. Civil status could then be changed by written request. The proposal was not a government initiative (or project de loi) so there is no obligation to schedule a vote on the plan. There were no further developments related to this proposal in 2016.
Several political figures demonstrated support for LGBTI people and their fundamental rights during 2016. The real challenge is ensuring that these commitments end up having a tangible, positive effect in the lives of LGBTI people. The European Commission’s delegation joined with their UN counterparts to celebrate IDAHOT with LGBTI NGOs in Skopje. According to LGBTI activists, this helped to reinforce the EU’s commitment to human rights in accession countries, especially when faced with populist rhetoric. Political support at national level though was less immediately apparent. There was limited mention of LGBTI issues in political parties’ manifestos in the run-up to the December elections. A number of bias-motivated speech incidents were also recorded by NGOs in advance of polling day, and LGBTI people still do not have any legal recourse against hate speech or crime. Domestic political parties with a left-leaning ideology did appear more supportive, during their contributions at the country’s first national conference on LGBTI issues. The national equality strategy mentions LGBTI people for the first time. Despite the fact that legal gender recognition procedures are still absent in Macedonian law, the trans movement was encouraged by a court decision stating that the Ministry of Justice and the registry of births must allow a trans woman to change her gender marker.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Drafting and adopting legislation that specifically protects employees from discrimination on the basis of sexual orientation, gender identity and/or sex characteristics.

- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).

- Introducing hate speech laws and policies that explicitly include sexual orientation, gender identity and sex characteristics as protected grounds.
Asylum

- Several LGBTI NGOs, including Subversive Front, the LGBTI Support Centre in Skopje and the Coalition ‘Sexual and Health Rights of Marginalised Communities’, signed an open letter in March from civil society groups in the Western Balkans and Turkey to the Macedonian authorities. The group asked that the fence erected along the FYR Macedonia/Greek border be removed. The letter raised a number of concerns, including that “…the border fence almost completely blocks certain vulnerable categories, often overlooked in the refugee crisis, from seeking refuge, for example, unaccompanied minors or the LGBT community…”

- LGBTI NGO Subversive Front was approached with requests for support, counselling and legal assistance in asylum law in the cases of three LGBTI people throughout the year. Two had not commenced the asylum process by the end of 2016, the third person had their request rejected by the Swedish Migration Agency for the third time on 2 December.

Bias-motivated speech

- In March, the Agency on Audio and Audio-visual Media Services found examples of discrimination and hate speech based on sexual orientation in five episodes of the ‘Milenko Nedelkovski Show’. The programmes were broadcast on national TV station Kanal 5 in late January and early February. The Agency stated that these statements violated the Law on Audio and Audio-visual Media Services and the Law on Prevention and Protection against Discrimination. In a letter dated 17 October, the Commission for Protection against Discrimination found no discrimination based on sexual orientation in this case, defending its opinion that “discrimination in the sphere of public information and media affects only the media as legal entities, and not the media workers working on private projects in them”.

- On 1 July, the Commission for Protection against Discrimination found that a schoolbook, that was the subject of a complaint (from LGBTI NGO Subversive Front, Women’s Alliance and the Macedonian Young Lawyers Association) was not discriminatory. The textbook was compulsory reading at the State University of Ss. Cyril and Methodius’ Institute of Psychology. It depicted homosexuality as a danger, stated that gay people need psychological help, and that support for homosexuality leads to approval of incest, bestiality and paedophilia.

- During the ‘Vote for Equality’ campaign, 31 cases of hate speech based on sexual orientation and gender identity were documented by LGBTI NGO Subversive Front. The campaign was conducted in advance of the parliamentary elections on 11 December. Comments were left on the Subversive Front Facebook page that called for LGBTI people to be murdered, targeted by the so-called Islamic State/ISIS or exterminated from society. The 31 cases were reported to the police unit dealing with violent crime.

- Former MP and current member of right wing political party TMORO – VEP Strasho Angelovski made homophobic remarks on his Facebook page during the ‘Vote for Equality’ campaign in December. He stated that his party would seek to restore ‘traditional’ family values as part of a right-wing coalition. He said they aimed to promote marriage solely as a union between a man and a woman, and that homosexuality would be repathologised and treated via the state’s health service.

- The Commissioner for Protection from Discrimination found that a news article by a language professor published in an Albanian news portal was discriminatory. The article had pathologised LGBTI people, incited hatred against them, and had been the subject of a complaint from NGOs LGBT United Tetovo, the Helsinki Committee and the LGBTI Support Centre. On 4 December, the author of the article issued a public apology to the complainants.

Data collection

- On 28 April, LGBTI NGO Subversive Front published the results of the first survey carried out in FYR Macedonia on the effect of homophobia on young people’s mental health. The survey was carried out with a sample of people aged 18-30 in Skopje and found that young LGBTI people are more exposed to depression, experience higher levels of social anxiety and conceal more personal information than their straight-identified peers. The report concluded with a series of recommendations,
including increased social cohesion, identifying LGBTIQ-friendly mental health professionals, the introduction of legal protections such as anti-discrimination and hate crime laws, and education campaigns for teachers and the general public.

- LGBTI NGO Subversive Front sent questionnaires to 31 political parties in advance of the 11 December elections. The NGO also analysed the political manifestos of the parties and found that five parties mentioned the issues and needs of LGBTI people (all from the opposition bloc and left-oriented – social-democrats, liberal-democrats, liberals, leftist, and greens). One party – the Liberal Party – responded positively to the question whether there is an openly LGBTI candidate in their elections list.

**Enlargement**

- FYR Macedonia formally applied to join the EU in 2004. In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission observed that where laws exist to protect human rights domestically, these are sometimes overlooked or incorrectly applied. LGBTI people were listed as one of the most vulnerable and marginalised groups in society, and the Commission noted that considerable efforts are required to combat this intolerance. The report also highlighted the situation of trans people, who have no access to proper gender reassignment treatment in the country. Cooperation between police and LGBTI groups in particular municipalities was mentioned as a positive example of good practice, and the report noted that diversity training for public sector staff is important.

- During his visit to Skopje on 25 November, Special Rapporteur of the European Parliament for Macedonia Ivo Vajgl MEP held a meeting with LGBTI NGO Subversive Front and two representatives from the Liberal Democratic Party.

**Equality and non-discrimination**

- The UN and EC delegations to Skopje, in partnership with the LGBTI NGO Subversive Front, organised the first ever joint observation of International Day Against Homophobia, Biphobia and Transphobia on 17 May. LGBT activists noted that the event lacked a visible presence from government representatives. On the same day, LGBT United Tetovo organised a peaceful march in Tetovo, where representatives from other LGBTI NGOs and foreign embassies and missions also participated.

- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on FYR Macedonia on 7 June. Among the report’s explicit interim follow-up recommendations was an independent study, carried out by national authorities in conjunction with LGBT NGOs, to assess discrimination against LGBT people. The intention would be that this data would feed into an action plan to combat anti-LGBT discrimination. ECRI recommended that sexual orientation and gender identity be added to the country’s Criminal Code as an aggravating circumstance. The report recommended that both sexual orientation and gender identity also be added as protected grounds to the Law on Prevention and Protection against Discrimination. It also listed a wide range of measures designed to combat the growing problem of anti-LGBT hate speech and recommended training for law enforcement offices and members of the judiciary.

- In May, the Ministry of Labour and Social Policy adopted the National Equality and Non-discrimination Strategy 2016-2020. For the first time the strategy includes LGBTI people, and the protection against discrimination based on sexual orientation and gender identity to a much greater extent.

- In June, the Ministry of Labour and Social Policy, in consultation with relevant NGOs, began to work on amendments to the existing anti-discrimination law. Among the proposed changes would be the addition of references to sexual orientation, gender identity and sex characteristics as protected grounds. The ruling coalition did not express explicit public support for these specific amendments. The amendments to the anti-discrimination law were being prepared for public consultation at the end of 2016.

- In December, the Ombudsman signed a memorandum of cooperation with NGO LGBT United, the
Helsinki Committee for Human Rights and the Coalition “Sexual and Health Rights of Marginalised Communities” on strengthening the capacity of the Ombudsman’s office to further safeguard the human rights of LGBTI people.

**Human rights defenders**
- To mark IDAHOT on 17 May, LGBTI NGO Subversive Front (in cooperation with the US-based Gay and Lesbian Victory Institute) presented its first Ally of the Year award to the journalist and TV personality Ognen Janeski, for his continuous efforts to campaign for the rights of LGBTI people.

**Legal gender recognition**
- During 2016, three trans-identifying people requested the services of free legal aid and counselling from LGBTI NGO Subversive Front.
- On 19 September, the Administrative Court ruled in favour of a trans woman who had been refused a legal change of gender by the state authority in charge of the registry of births, meaning that the Ministry of Justice and the registry of births must adopt a decision permitting the trans woman to change her gender marker and unique ID number. At the time of writing, the woman had not been able to legally change her gender due to a lack of a response from the Ministry of Justice.

**Participation in public, cultural and political life**
- NGO LGBT United Tetovo launched an awareness-raising campaign in July among LGBTI voters in western regions of the country. The “We Vote Too” campaign targeted LGBTI people voting in the cities of Gostivar and Tetovo, reminding people about the power of their vote. The campaign was mainly centred around Albanian political parties.
- The ‘Strengthening the political dialogue on LGBTI’ conference was organised on 5 December by LGBTI NGO Subversive Front. It was the first conference where the status and the rights of all communities under the umbrella term LGBTI were discussed. High-level representatives from six political parties (five left-aligned, one centrist party; part of the right-wing-centrist coalition) discussed the inclusion of LGBTI issues in their political agendas. Subversive Front presented the findings of its ‘Vote for Equality’ campaign, and discussed proposed amendments to the Anti-Discrimination Act and possible changes to the Criminal Code. Damjan Manchevski, vice-president of the largest opposition party (Social Democratic Union of Macedonia, SDSM) said during his speech that SDSM will prioritise providing full protection for people with different sexual orientation, establishing a completely new system that will eliminate all forms of discrimination. A representative from the Ombudsman’s office expressed concern that the reporting of individual cases of LGBTI rights violations is low and called for increased cooperation with NGOs.
Malta continued to legislate for greater equality in 2016, adding to existing standards and also establishing new anti-discrimination measures. The first adoption was finalised following the introduction of joint adoption for same-sex couples in 2014. The age at which individuals can independently opt for legal gender recognition under the 2015 legislation was reduced from 18 to 16-years of age. Following additional amendments to the 2015 Gender Identity, Gender Expression and Sex Characteristics Act, trans prisoners will now be able to be housed according to their lived gender. Trans identities are also no longer classified as a mental illness or disorder. A policy on trans, intersex and gender variant inmates was also launched in the summer. One of the remaining legal gaps in terms of family is the lack of equal marriage for same-sex couples, a change that the prime minister pledged support for during the year, and was backed by public opinion polls. But the most high-profile change in 2016 was the fact that Malta became the first country in Europe to outlaw so-called ‘conversion therapy’, introducing fines and prison sentences for those who offer these harmful practices.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Finalising and adopting legislation that expressly protects against discrimination on the grounds of SOGISC (sexual orientation, gender identity, sex characteristics) when accessing goods and services.
- Ensuring marriage equality for all.
- Introducing and implementing laws and policies on asylum that guarantees effective protection on all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
Age of consent

- The Domestic Violence and Gender Based Violence Bill reached the first reading stage in November. One of its provisions includes lowering the age of consent to 16 years of age, following a proposal put forward in October by an inter-ministerial committee.

Bias-motivated speech

- A trans activist was the target of transphobic social media posts in October. The online comments appeared after the trans activist joined a counter-protest against a gathering arranged by the ‘Maltese Patriots’ group, who opposed the establishment of mosques in several Maltese towns. Minister for Education Evarist Bartolo (Labour Party; PL) later commented on Facebook that “…these attacks are absolutely unacceptable”.

Bodily integrity

- The Intersex Treatment Protocol review board was appointed and held its first meetings in 2016. The working group is chaired by chief paediatric endocrinologist Dr John Torpiano.

Education

- LGBTI MGRM and the aditus Foundation, together with the civil liberties and education ministries, conducted a review of the Trans, Gender Variant and Intersex Students policy. The report was presented at a seminar held at the end of February.

Equality and non-discrimination

- On 12 December, the draft Equality Bill and the draft Human Rights & Equality Commission Bill were presented to parliament. Under the proposed legislation, an independent equality commission (based on the Paris Principles) will be set up and the head of the body will be elected by parliament. The proposed Equality Bill suggests widening the definition of discrimination and also introducing the concept of intersectionality, allowing individuals to take a discrimination case when they are treated unfairly on the basis of two or more combined identities. If the Equality Bill is passed, church-run schools will no longer be able to exclude non-Catholics from teaching posts, in an example cited by the civil liberties ministry. The laws were still pending at the end of 2016.

Family

- At an event marking International Women’s Day in March, Prime Minister Joseph Muscat (PL) confirmed his support for marriage equality, saying that he was in favour and that “…the country is ready for a debate about it.”
- On 12 July, the Family Court approved the first adoption by a same-sex couple since the introduction of joint adoption under the 2014 Civil Unions Act.

Foreign policy

- The priorities for the 2017 Maltese presidency of the Council of the EU were outlined at the Employment and Social Affairs Council on 9 December, and included a commitment to focusing on LGBTIQ issues (through a High Level Ministerial Conference and other planned initiatives, including around IDAHOT in Brussels in 2017).

Freedom from torture, cruel, inhuman or degrading treatment

- After a period of public consultation ended on 15 January, the Affirmation of Sexual Orientation, Gender Identity and Gender Expression Bill was tabled for its first reading in parliament in February. It proposed criminalising so-called ‘conversion therapy’ or treatments that attempt to change a person’s sexual orientation, gender identity and/or gender expression. On 24 February, the opposition Nationalist Party (PN) announced they would vote in favour of the bill. It passed the second reading stage on 18 October and was approved by parliament in a final vote on 5 December. The Act criminalises unlawful conversion practices, with the fine and potential prison sentence increasing if the practice was carried out on a vulnerable person under the age of 16. The law also confirms that no sexual orientation, gender identity or expression constitutes an illness or disease of any kind. Malta is the first country in Europe to outlaw conversion practices.
- A position paper from the Catholic Church, published on 20 February, stated that if the proposed bill to outlaw
conversion therapy was passed, it would “…affirm the superior legal status of homosexuals over heterosexuals”. It put forward the opinion that the bill was discriminatory as it “…will be a crime to assist a person with homosexual orientation to become heterosexual, but perfectly legitimate to assist a heterosexual to become homosexual”. This paper attracted public criticism from politicians including Civil Liberties Minister Helena Dalli (PL). On 22 February, Archbishop of Malta Charles Scicluna stated that conversion therapy did not respect human dignity.

**Human rights defenders**
- Civil liberties minister Helena Dalli was presented with a Hero of the Year award at the European Diversity Awards in London. The award recognised her work for the LGBTIQ community, following a nomination by NGO TGEU.

**Legal gender recognition**
- The Gender Identity, Gender Expression, and Sex Characteristics (GIGESC) Act and other laws (Amendment) Bill proposed amending the 2015 GIGESC Act to allow non-Maltese detainees to have their gender identity recognised in detention facilities. This law allows prisoners to be housed in facilities that correspond with their true gender; the act was passed in a final parliamentary vote on 5 December.
- The provisions of the Act amending the Gender Identity, Gender Expression and Sex Characteristics Act also prohibited the pathologisation of any form of sexual orientation, gender identity and gender expression and reduced the age a person must be to independently request a change of gender on official documents from 18 to 16 years of age.

**Police and law enforcement**
- Seven trans prisoners sued the Minister for Home Affairs Carmelo Abela (PL) and the director of prisons in July. The prisoners, all trans women, sought damages as they were being held in the male section of the prison due to the marker on their identity cards. In August, at the launch of a new prison policy (see below), Minister Abela confirmed the prisoners who had access to legal gender recognition procedures had since been moved to the female section of the prison.
- A trans, gender variant and intersex inmates policy was launched for prisoners on 18 August by the Minister for Home Affairs Carmelo Abela (PL) and the Minister for Civil Liberties Helena Dalli (PL). The policy aims to ensure that all inmates are treated fairly, for example by housing prisoners according to their lived gender, use of preferred pronouns by staff, ensuring searches are carried out in accordance with the prisoner’s gender and providing information and training for staff and inmates.
- The Maltese government requested that the TAHCLE (Training Against Hate Crimes for Law Enforcement) programme be implemented in the country. The ODIHR department responsible for implementing the capacity building programme carried out a preparatory visit in December.

**Public opinion**
- The results of an opinion poll carried out by iSurvey for the *Malta Independent* were published by the newspaper in April. When asked if they were in favour of equal marriage, 61% of the 600 respondents said yes. 25% of those surveyed said they opposed marriage equality, 10% said they had no opinion, while just under 4% opted for ‘don’t know’ as an option.
Derogatory public statements and violence were directed towards LGBTI people throughout 2016. As was the case in previous years, LGBTI people still have no explicit legal protection against these types of bias-motivated incidents. An amendment to include sexual orientation, gender identity and expression in the criminal code was proposed by the government, but was not in effect by the end of the year. In the legal vacuum that exists, NGOs continued to document the prevalence of hate speech and discriminatory events. One of the most out-spoken critics of LGBTI equality, politician Igor Dodon started the year by criticising Pride marches and ended 2016 by being elected the country's president. In an interesting parallel, a LGBTI activist was almost elected ‘alternative president’ in a popular vote among TV viewers. LGBTI public events were disrupted by protestors and threats; disturbances which could increase if proposed amendments to children's rights laws are passed. The measures, posing as ‘child protection’ changes, are thinly veiled attempts to limit LGBTI people’s rights to expression and assembly.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Éurope recommend:

- Explicitly including SOGISC (sexual orientation, gender identity sex characteristics) in an equality action plan, accompanied by specific measures of progress.
- Adopting hate crime laws that explicitly cover all bias-motivated crimes based on all SOGISC (sexual orientation, gender identity and sex characteristics) grounds.
- That public authorities take proactive and visible steps to protect the right of LGBTI people and their allies to freely assemble.
Bias-motivated speech

- LGBT NGO GENDERDOC-M was awarded damages after a court ruled that a video created by the Party of Socialists in advance of last year’s elections was homophobic. In June 2015, the Party of Socialists of the Republic of Moldova (PRSM; pro-Russian) produced an election video that featured clips of GENDERDOC-M activists, along with the words “the destruction of traditional values and Christian morality”. On 16 February, a court in Chisinau fined the party LEU13,000 (approx. 2900). This decision was appealed by PRSM and the Chisinau Court of Appeal found in favour of the political party, overturning the original decision. GENDERDOC-M subsequently issued their own appeal, which was ultimately rejected by the Supreme Court on 23 November. At the end of 2016, the NGO was planning to take this case to the European Court of Human Rights.

- The head of the Moldovan Orthodox Church, Metropolitan Vladimir, made discriminatory statements during a speech on 27 April. While speaking at a parliamentary session, the Bishop of Chișinău and All Moldova said that equality legislation was protecting the rights of sexual minorities and leading to the destabilisation of society. He said that only a small percentage of people in the country were supportive of these minorities; a number of MPs applauded the statements. On 28 April, a wide range of NGOs issued a joint statement, condemning the Metropolitan’s remarks and warning of the dangers that hate speech poses.

- During Pride season, Igor Dodon (PRSM) published a statement on his website entitled “No to NATO parades and gay marriage in Moldova!”. The statement, shared on 19 May, talked about “shameless” and “aggressive” “gay propaganda” and said that his party would not tolerate the country being turned into a place for sexual and anti-Christian experiments, following ideas imposed by the West.

- Throughout the presidential election campaign, which ran from September-November, Igor Dodon (PRSM) made a number of statements targeting LGBTI people, including comments in televised debates. He said that he intended to repeal the Equality Act and introduce “anti-propaganda” legislation. Fellow presidential candidate Maia Sandu (Action and Solidarity Party, PSA) was scrutinised by the media for her perceived sexual orientation and the fact that LGBTI activists had supported her candidacy. Igor Dodon was elected as President of Moldova on 13 November and inaugurated on 23 December.

Bias-motivated violence

- During an OSCE-organised roundtable, participants welcomed the work being done by the Ministry of Justice working group on drafting amendments to existing hate crime legislation. The roundtable took place on 13 September and included 27 representatives of government, civil society groups and international organisations.

- Following a proposal by the Ministry of Justice, the government tabled a draft law in May on introducing amendments to the Criminal Code and Code of Administrative Offences to the Parliament. The draft law, backed by OSCE/ODIHR, aims to provide a definition of bias-motivated crimes that is inclusive of sexual orientation, gender identity and gender expression. The bill was being examined by parliamentary committees at the end of the year.

- In 2016, NGO GENDERDOC-M documented seven cases of homophobia-motivated crimes and 12 violent incidents based on sexual orientation and gender identity. (GENDERDOC annually monitors bias-motivated violence based on sexual orientation, gender identity and gender expression in Moldova, including Transnistrian territory.)

Equality and non-discrimination

- On 22 May, the same day as the Pride solidarity march, Chairman of the Constitutional Court, Alexandru Tanase spoke out publicly in support of LGBTI people. In a Facebook comment on his personal page, Tanase criticised homophobic comments that appeared on social media, said he would remove people from his networks who expressed such opinions, and shared the equality provisions from Article 16(2) of the Constitution.

- In November, Moldova underwent the second cycle of the Universal Periodic Review at the UN Human Rights
Council. The delegation received 14 questions and recommendations concerning LGBTI rights. One recommendation from Uruguay called on the Moldovan authorities to duly investigate crimes of hate and discrimination, including acts committed against the LGBTI community.

- As part of its annual discrimination monitoring, NGO GENDERDOC-M recorded 28 cases of discrimination and incitement to discrimination based on sexual orientation, gender identity and gender expression. The NGO carries out regular equality monitoring in the areas of employment, education, access to goods and services, and housing.

Freedom of assembly

- ‘No Fear’ – the solidarity march organised as part of Moldova’s Pride Festival – took place on 22 May. An estimated 300 people took part in the march, protected by approximately 1000 police officers. The solidarity march was met by aggressive counter-demonstrators (from the Moldovan chapter of the Russian Orthodox Church, right-wing activists and PRSM supporters) who managed to block the street. During the march two people, who were later identified and fined by the police, threw eggs at participants from the top floor of an office building.

Freedom of expression

- In April, seven PRSM MPs registered a draft law on amending and completing the Code of Administrative Offences and the Law on the Rights of a Child with articles prohibiting so-called ‘propaganda of homosexual relations among minors’. The ‘anti-gay propaganda’ bill seeks to add a new Article 881 to the administrative offences code, to introduce fines for any individual who distributes “propaganda of homosexual relations among minors” (The proposed Article 881 states: “Propaganda of homosexual relations among minors with means of assemblies, mass media, Internet, booklets, brochures, images, audio-video spots, films and/or audio-video recordings, via audio recordings, amplifiers or other means of sound amplification is sanctioned with a fine from 200 to 300 conventional units (EUR 181- 272) applied to individuals, [and] a fine from 300 to 500 conventional units (EUR 272-454) applied to legal entities”. Also, the bill aims to amend Article 21 of the Law on the Rights of a Child titled “Protection of family by the state” by inserting the following text: “The state ensures protection of a child from the propaganda of homosexuality for any purpose and under any form”. If adopted, this law may be arbitrarily applied against anybody (including mass media and LGBTI NGOs) who distribute information about gender identity and gender expression. The draft law was approved by the following Parliamentary Committees between May and July: Committee on Agriculture and Food Industry; Committee on Foreign Affairs and European Integration; Committee on Human Rights and Interethnic Relations. There were no further debates in parliament before the end of 2016.

- An LGBT photo exhibition in Tiraspol (capital of the unrecognised Transnistria) was canceled after the photographer was threatened by the Transnistrian State Security Committee. On 30 October, three days before the scheduled opening of the ‘No Silence’ exhibition, a social media post on the exhibition attracted over 300 comments (some calling for the exhibition to be set on fire, to lynch the organisers and “exterminate gays”). The following day, the photographer Carolina Dutka was called to meet with a staffer from the Transnistrian State Security Committee, who told her there was no problems with social homophobia, that her exhibition was destabilising. When she refused to cancel or sign a state secrets document, the staffer said that her security might be disrupted and made comments about her family members. The ‘No Silence’ exhibition was cancelled.

Human rights defenders

- In February, Artiom Zavadovschi, an LGBT activist from NGO GENDERDOC-M, received threats of physical violence from an unknown person from the Gagauzian autonomous region of Moldova via social media. In December, Zavadovschi was searched and interrogated at the Transnistrian border (in Moldova) while travelling from Kiev to Chişinău by bus when customs officers found leaflets about GENDERDOC-M’s work in his backpack.
Legal gender recognition

- One trans person who went to court in February to have their gender legally recognised was successful in their application, following support from NGO GENDERDOC-M’s free legal aid service.

Participation in public, cultural and political life

- From September to November, a TV programme on one of the country’s most viewed channels simulated alternative presidential elections. The show invited 14 participants from various backgrounds (including activism and entertainment) to compete to become an ‘alternative president’ of Moldova. The selection process was based on tele-voting. Angela Frolov, an out lesbian and LGBT activist with GENDERDOC-M, was a runner up to the eventual winner of the show.

Police and law enforcement

- In June, a GENDERDOC-M representative went to the Chişinău Central Police Department to file a complaint against the incidents that took place during the Pride Solidarity March held in May (see Freedom of assembly). During discussion about the intentional blockage of the march route by counter-demonstrators, the police officer said that some citizens may not agree with the Pride March, justifying counter-demonstrators’ actions.
- A lesbian woman was verbally and physically attacked in October by her mother and her sister, because of her sexual orientation. When the victim and her partner reported the incident, the police registered the complaint against her (as an instigator, not a victim). The victim’s mother had already submitted a complaint, stating that her daughter had in fact assaulted her. The police also contacted the Child Protection Service about the victim’s child, disclosing the victim’s sexual orientation, and saying that the victim was mentally unstable.
There were very few developments related to sexual orientation, gender identity or sex characteristics recorded in 2016. A report from ECRI highlighted the lack of legal protection for LGBTI people in Monaco, encouraged the authorities to establish equality measures, and recommended legislating to protect LGBTI people from discrimination.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

In the absence of specific recommendations from country experts based in Monaco, ILGA-Europe encourage national authorities to take proactive steps to engage with LGBTI activists to improve the legal and policy situation for LGBTI people in 2017.
Equality and non-discrimination

As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Monaco on 1 March. ECRI noted that training to combat hate speech took place, aimed at schools, law enforcement authorities and the judiciary. It also referred to the draft cohabitation bill (see Family). ECRI’s report went on to note that Monaco’s laws do not expressly prohibit direct and indirect discrimination, that it was hard to assess the situation for LGBT people accurately as detailed studies or information were lacking, and that LGBT people “…do not enjoy a specific legal status in civil and administrative law”. The report recommended, among other suggestions, that figures on homophobic and transphobic hate crime be published, that additional legislative measures be introduced to protect LGBT people and that an equal treatment programme for LGBT people be established.

Family

Jean Louis Grinda (Union Monegasque, UM; centre-right), rapporteur of the parliament’s women and family rights committee, finalised his report on gender-neutral cohabitation bill on 7 September. The bill was unanimously approved by the National Council on 27 October. Prince Albert II’s government had not considered the bill by the end of 2016.
2016 was another busy year for LGBTI NGOs and activists in Montenegro, faced with a mix of successes and ongoing challenges. Activists continued to provide expertise and training, including the first-ever workshop on LGBTI equality for pre-school staff. In an encouraging move, a new network for LBTQ women was set up. It was NGO persistence that kept the legal challenges against the triple ban imposed on 2015 Niksic LGBTI marches alive in 2016. A complaint lodged by LGBTI activists also resulted in the first positive case taken against the Serbian Orthodox Church for hate speech directed at LGBTI people. While Montenegro continued to attempt to be a regional leader in terms of the promotion of the rights of LGBTI people, the work of activists did not proceed completely unhindered. NGO offices, activists themselves and their allies were the victims of attacks during the year, as public opinion continues to lag behind legislative developments. The practically non-existent legal protection for rainbow families, trans or intersex people was addressed during 2016. Even where laws and policies do exist, the actual implementation can leave a lot to be desired, according to an annual summary from the European Commission.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Explicitly including SOGISC (sexual orientation, gender identity, sex characteristics) in an equality action plan, accompanied by specific measures of progress.
- Including express mentions of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in policies designed to tackle hate speech.
- Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.
Bias-motivated speech

- A priest of the Serbian Orthodox Church in Montenegro was ordered by the Ombudsman to publicly apologise for repeated hate speech against the LGBTI community. On 13 May, the Montenegrin Ombudsman set a 15-day deadline for the apology for comments made by Jovan Plamenac during Orthodox New Year celebrations. LGBTIQ NGO Queer Montenegro had submitted the complaint which led to the first-ever positively resolved proceedings against the Serbian Orthodox Church in Montenegro in relation to violations of the rights of LGBTI people. Plamenac’s subsequent open letter criticised the case against him, referring to the complaint as a ‘coup’ by NGOs and the media.

Bias-motivated violence

- In January, activist Stevan Milivojevic was attacked (verbally and physically) by two unknown men near Podgorica’s train station. Milivojevic reported the incident to police immediately; it was his belief that he was targeted because of his human rights advocacy work and his sexual orientation (see also Human rights defenders). A formal investigation followed but no arrests were carried out as police could not identify the perpetrators. The case was unsolved at the end of 2016.
- A group of young people threw stones at the SOGI – Social and Community Centre in Podgorica in June. The NGO said that it would not seek to press charges (as the preparators were minors) and told the police it would have a conversation with the children and their parents on diversity and social acceptance of LGBTI people.
- An LGBTI ally was physically assaulted and his family members were threatened by three men. On 24 September, the victim was kicked in the ribs and suffered severe head injuries due to his perceived sexual orientation. The perpetrators also threatened the safety of his sisters if the authorities were involved. The incident was reported to the police and LGBTI NGOs called on the police and courts to take action against hate-motivated incidents.

Education

- The first-ever workshop dedicated to the human rights of LGBTI people at a pre-school in the country took place in June. NGOs LGBT Forum Progress and the SOGI – Social and Community Centre ran the interactive training workshop for 102 teachers and staff from 12 units of the ‘Djina Vrbica’ public pre-school.
- NGO LGBT Forum Progress and the University of Montenegro’s Student Parliament reached an agreement on a plan of joint activities following a meeting on 28 November. Both groups discussed the LGBTI-phobia that exists within the education system and the need for LGBTIQ students to feel secure at the university. Plans for cooperation in 2017 included the organisation of the first anti-discrimination panel discussions at the Faculty of Philosophy in Niksic (organised by the Student Council of the Faculty of Philosophy and NGO LGBT Forum Progress). It is anticipated that this would be followed by public events at the University of Montenegro.

Enlargement

- Montenegro formally applied to join the European Union in 2008 and negotiations have been ongoing since 2012. In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission was concerned that the implementation of existing overall human rights legislation remained “weak”. The report did state that authorities displayed an “overall openness” to promoting LGBTI people’s rights, but that Ministry of Human Rights and Minorities staff did not have enough staff and that existing action plans were not accompanied by a budget allocation. The Commission also called for improvements in access to healthcare for LGBTI people.

Equality and non-discrimination

- In February, the government announced the Council for Protection against Discrimination was being abolished. Vice-President Dusko Markovic stated that if the Council continued, it would create an overlap of work as a legal framework had already been established and much of the
Council’s jurisdiction had been moved to the Council for the Rule of Law.

**Family**
- NGOs Juventas and Queer Montenegro composed draft registered partnership legislation, which was publicly presented at the end of 2016. The subsequent parliamentary procedure, as well as associated advocacy and campaign efforts, will begin in 2017.

**Foreign policy**
- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Montenegro, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people. Montenegro also joined the Global Equality Fund in July.

**Freedom of assembly**
- Following the triple ban imposed on the 2015 Pride Walks planned in Niksic, NGOs Hiperion and LGBT Forum Progress initiated a case against the Ministry of the Interior in October 2015. The first hearing in the case took place before the Administrative Court in May and a decision was expected to be made publicly available within one month. The Administrative Court upheld the police decision to ban the March, as did the Supreme Court in a decision issued in September. On 30 November, NGO Human Rights Action submitted a complaint to the Constitutional Court (on behalf of NGOs Hiperion and LGBT Forum Progress), arguing that the Supreme Court’s verdict violated the right to freedom of assembly and anti-discrimination principles. The case was ongoing at the end of the year.
- On 17 December, the Montenegro Pride Rally took place in Podgorica for the fourth year. An estimated 230 people participated in the Pride Walk. Minister of Culture Janko Ljumovic (Democratic Party of Socialists, DPS; social-democratic) and Minister for Human and Minority Rights Mehmet Zenka (Democratic Union of the Albanians, DUA) attended the Walk; Minister Zenka also gave a speech to participants. The event passed off peacefully and organisers reported an increased police presence compared to previous years.

**Freedom of association**
- KvierA – a new activist group of LBTQ women – was formed in August. The independent activist group aims to improve the position of women in society, with particular emphasis on LBT women. The group had 120 members by the end of 2016.

**Human rights defenders**
Stevan Milivojevic stepped down from his role as executive director of NGO LGBT Forum Progress and completely withdrew from all activism during 2016, due to personal reasons. Milivojevic was one of the few publicly out gay men in the country.

**Participation in public, cultural and political life**
- In June, the SOGI – Social and Community Centre in Podgorica closed its doors. Organisers initially planned the closure to be temporary but due to the expiration of funding, the LGBTI space had not reopened by the end of 2016.

**Public opinion**
- The results of ‘Perceptions of the LGBT community’, a study conducted by LGBT NGO Juventas, were published in December. The survey questioned 816 adults in September and was implemented with the support of LGBTIQ NGO Queer Montenegro and the Institute for Legal Studies. Three-quarters of those surveyed said that LGBT people should not have the right to marry and should not be able to adopt. 60% believed that LGBT rights are respected in Montenegro and 13% showed partial or full support for Pride events in the country. A majority of those surveyed believed that Pride events were organised in order to ‘provoke’ the majority of the population.
2016 proved to be a year full of potential for LGBTI NGOs in the Netherlands. Several of their long-standing recommendations appeared on the political agenda, although not all of them were ready to be implemented by the end of the year. Some of these suggestions focused on closing existing legislative gaps, other proposals focused on ways to build on the equality foundations already laid by existing laws and policies. Following NGO advocacy work on the issue and a committee report, the government stated that it was considering advancing protections for rainbow families who are seeking to raise children with more than two parents. Having long advocated for the explicit protection of trans and intersex people in equality legislation, LGBTI activists were encouraged by a government pledge and a possible draft law. This had not been voted on in December, but would be a step towards closing a significant gap in Dutch equality law. Thousands of students took part in a very visible anti-discrimination initiative in schools all over the country. As was the case in many of their European neighbours, the Dutch authorities and civil society continued to receive requests for information and resources to support LGBTI asylum seekers. In an important symbolic visit to mark the NGO’s anniversary, King Willem-Alexander met with COC Netherlands and representatives of the LGBTI community.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Giving LGBTI people protection under the constitution, by expressly referring to sexual orientation, gender identity and sex characteristics.
- Extending anti-discrimination protections in employment law beyond the current legislative base, to include gender identity and sex characteristics.
- Introducing hate crime laws that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
Asylum

Minister for Education Jet Bussemaker (Labour Party, PvdA) announced in January that an LGBTI awareness-raising initiative would be launched in asylum centres. This led to more prominent information on non-discrimination of LGBTI people in asylum centres. Private funders set up a temporary safe house for LGBTI asylum seekers in Rotterdam in February. LGBTI NGO COC Netherlands and its local chapters also run a ‘buddy’ project for LGBTI asylum seekers.

NGOs continued to receive reports of bullying and violence against LGBTI asylum seekers in asylum centres and temporary shelters during the year. Following suggestions from LGBTI NGO COC Netherlands, parliament adopted a resolution in March which demanded separate, safe housing for LGBTI asylum seekers in urgent situations. By the end of 2016, several asylum centres had (temporary) facilities for LGBTI people, usually consisting of a separate wing or a group of safe rooms. The resolution also called for a structure in asylum centres, where asylum seekers could file confidential complaints about discrimination. This structure was established in August.

Bias-motivated speech

On 1 February, a former Amsterdam politician was convicted of inciting discrimination against gay people for comments he made in 2010. During a televised political debate, Delano Felter, then leader of the Republican Modern Party (RmP), referred to homosexuality as a ‘sexual deviation’ and said that “…the gay profile is simply too dominant. I think that there are too many gays in the government.” NGO COC issued a complaint and the first instance court ruling found his comments were not threatening. This was overturned by the Supreme Court in 2014, and sent back to a lower court for re-examination. Felter was fined EUR 1000 for his comments.

In December, the parliament debated a draft law put forward by Joram van Klaveren, former member of the far-right Freedom Party (PVV). The bill proposed repealing Penal Code articles 137 (c), (d) and (e). These are the main non-discrimination articles, prohibiting inciting hate, hate speech, discrimination and group insult. The draft law attracted much criticism from NGOs, including COC Netherlands. A vote had not taken place by the end of the year.

Bias-motivated violence

Several violent incidents involving LGBTI people were reported by the media in 2016. In April, two lesbian women were severely beaten in the city of Groningen, while walking home hand in hand after a night out. The assailants shouted discriminatory words at the women before attacking them; one of the victims was hospitalised. In October, a gay couple was attacked on a ferry in Amsterdam. The assailants used discriminatory language during the attack and the couple were left with severe injuries. LGBTI NGO COC Netherlands called on the government and parliament to draft an action plan against discriminatory violence.

Education

LGBTI youth organisations Expreszo and COC Youth Council issued a report in June, documenting approximately 200 complaints from students about poor or non-existent education on sexual diversity at their schools. (Every primary and high school in the Netherlands is obliged by law to offer education about LGBTI issues since 2012). The Inspection for Education (a government institution) issued a report on the same subject in September. It concluded that although many schools do provide some education on LGBTI issues, the quality of the lessons is often poor. In response, LGBTI NGO COC Netherlands made a proposal to the government, stating that skills to promote acceptance of LGBTI people at schools should become an obligatory part of the curriculum of trainee teachers.

In December, an estimated half a million students at 900 Dutch high schools took part in Purple Friday, an initiative of COC’s Gender and Sexuality Alliance (GSA) Network to promote non-discrimination on the grounds of sexual orientation, gender identity and sex characteristics in schools. An estimated 450 high schools participated in International Day of Silence, an initiative against bullying by COC’s GSA-Network.
Equality and non-discrimination
- In a referendum that took place in April, a majority voted against the EU Association Treaty with Ukraine. In advance of the vote, Ukrainian and Dutch LGBTI NGOs had campaigned together, stating that the Association Treaty is good for the human rights of LGBTI people in Ukraine. The vote was non-binding and it was not clear how the government planned to follow up on the vote by the end of 2016.
- The minister of the Interior Ronald Plasterk (Labour Party, PvdA) sent a policy document to parliament in June, stating that that the government is in favour of including non-discrimination of trans people in the Equal Treatment Act. In August, three Dutch MP’s (from the Democrats 66, PvdA and GroenLinks/Green Left) presented a draft law to explicitly protect trans and intersex people against discrimination in the Equal Treatment Act. The law had not been voted on by the end of 2016.
- LGBTI NGO COC Nederland celebrated its 70th anniversary, an occasion marked by a visit from King Willem-Alexander on 22 November. The king met with representatives of the LGBTI community, COC staff and volunteers, as well as with representatives of COC’s 20 regional associations; the first time the NGO had been visited by a head of state.

Freedom of assembly
- The European Commission participated in the Canal Pride parade during EuroPride 2016 in Amsterdam, a festival that attracted an estimated 560,000 attendees. Using banners along the route of the Parade, combined with media work, NGO COC Netherlands campaigned for the EU to do more to tackle infringements of the human rights of LGBTI people in EU countries.

Health
- A proposal from the D66 and GroenLinks/Green Left parties to introduce and reimburse HIV prevention method Pre-exposure Prophylaxis (PrEP) for key populations was rejected in a parliamentary vote. Sexual health NGOs such as the Aids Fund, together with LGBTI NGO COC Netherlands, had encouraged parliament to legislate. Healthcare minister Edith Schippers (VVD, right-wing liberal) asked the Dutch Health Council (Gezondheidsraad) for advice on the matter, but the advice (and therefore the introduction of PrEP) is not expected before 2018.
- New regulations for the reimbursement of breast construction surgery, introduced in 2016 by healthcare minister Edith Schippers, did not include trans and intersex persons, who still have to pay for breast construction themselves. The minister announced she will look into this matter and is expected to inform parliament before the summer of 2017.
- In 2016, the Radboud hospital in Nijmegen became the first Dutch hospital to receive a Roze Loper (Pink Key). About 100 homes for the elderly in the Netherlands (and Germany) already have the Roze Loper, a symbol for LGBTI-friendly healthcare services.

Family
- NGO’s Meer dan Gewenst and COC Netherlands presented the Minister of Justice with a petition containing approximately 5000 signatures in September, demanding legislation for rainbow families who are raising children with more than two parents. The Government Committee on the Reassessment of Parenthood presented a report on co-parenting and surrogacy on 7 December. The ‘Child and Parents in the 21st Century’ document recommended that children born in the Netherlands would be able to have three or four parents recognised from birth (multi-parentage). It also recommended investing more than two people with parental authority (multi-parenting) and regulating for surrogacy. In a letter to parliament, accompanying the report, the Dutch government responded positively to many of the proposals made by the Committee, including multi-parentage and multi-parenting.

Legal gender recognition
- In December, Minister of Justice Ard Van der Steur (VVD) together with Minister of Education Jet Bussemaker (PvdA) sent a policy letter to parliament, announcing a package of measures limiting sex registration. For example, the sex of a person will no longer be marked on Dutch public transport cards and voting cards.
Building on the work of an expert group and consultations carried out in 2015, Norway updated its legal gender recognition framework. The law, passed in June, was based on the principle of self-determination, without the need for sterilisation or medical diagnosis. Norway is the fourth country in Europe to opt for a self-determination model, a promising indication that an increasing number of European governments recognise the bodily autonomy of trans people. The government’s LGBTI action plan’s new reference to sex characteristics was another hopeful development (although some NGOs were disappointed at the lack of specific actions set out in the actual action plan). The words of King Harald, speaking about the value of diversity and how LGBTI people are part of the fabric of Norwegian life, were a welcome gift in a year where populist statements had a tendency to grab headlines across Europe.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.

- Including express mentions of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in laws designed to tackle hate crime.

- Updating the existing legal framework for legal gender recognition, to ensure the process is not limited to a binary understanding of gender (eg: allowing for recognition beyond strictly male/female gender identities).
Asylum
- LGBTI NGO FRI (The Norwegian Organisation for Sexual and Gender Diversity) expressed concern, during meetings with politicians in 2016, over the treatment of LGBTI asylum seekers. Specifically, the NGO highlighted the fact that there are no regulations or policies to make conditions at reception centres safer for LGBTI asylum seekers. The NGO also queried why there is no automatic right for LGBTI asylum seekers to have their case tried in person before the immigration appeals board.

Bias-motivated speech
- A neo-Nazi group (which has branches in other Nordic countries as well) regularly spoke out against LGBTI equality during 2016. The group used social media, websites, posters and leaflets (distributed in towns and cities throughout Norway) to target what they referred to as the ‘gay lobby’. The group also announced their intention to demonstrate at Pride parades in Norway in 2017.

Bias-motivated violence
- Two young people were the victims of an unprovoked attack on 20 March in Oslo city centre. On 9 December, three men were convicted of assault. The Oslo District Court found that the violent crime was motivated by the victims’ sexual orientation. Each of the three attackers was sentenced to 120 days imprisonment.

Diversity
- In a speech at the Palace Park on 1 September, King Harald spoke about diversity in Norway, saying “…Norwegians are single, divorced, families with children, and old married couples. Norwegians are girls who love girls, boys who love boys, and girls and boys who love each other. Norwegians believe in God, Allah, the Universe and nothing… In other words: Norway is you. Norway is us.”

Equality and non-discrimination
- An LGBTI action plan was published by the government on 21 June, covering sexual orientation, gender identity and (in a new addition) sex characteristics. The plan lists aims in 40 different areas of life, including hate crime/speech, young people and LGBTI people in vulnerable groups, such as refugees. Some LGBTI activists were disappointed that the plan was not more goal-orientated, and pointed out that it did not commit the authorities to take specific actions.

Family
- The Lutheran Church of Norway voted in favour of carrying out marriage ceremonies between same-sex couples. In a vote on 11 April, 88 delegates out of 115 at the Church’s annual conference approved the proposal. Same-sex couples are now entitled to be married in their local church; church officials have a right to refuse to officiate.
- Later in April, the Norwegian Catholic Church announced it was asking for Vatican permission to stop conducting civil weddings. Oslo bishop Bernt Eidsvig said that “…it’s clear we must distinguish our own Church marriages from others”. Eidsvig also commented on the Lutheran Church vote: “My own reaction is one of sorrow and disappointment, and we can’t foresee the longer-term consequences for inter-church contacts here”.

Foreign policy
- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Norway, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Legal gender recognition
- In January, the Ministry of Health was continuing work on a draft law on legal gender recognition, following consultation in 2015. The draft law was published by the health ministry on 18 March and proposed a legal gender recognition procedure based on self-determination. On 17 June, the parliament voted in favour of the bill by 79 votes to 13. No sterilisation, diagnosis or medical treatments are required, and the procedure is open to all over 16 years of age. Children aged 6 to 16 can have their gender legally recognised with the permission of one or both parents. The law entered into force on 1 July 2016. Norway is the fourth European country to introduce self-determination measures for legal gender recognition.
Civil society experienced a turbulent year in Poland, with a foreboding sense that the work of LGBTI NGOs was being pressurised from all sides. The attacks were both literal and indirect. Offices where LGBTI activists worked were targeted, on more than one occasion. The mandate of the independent official whose very job it is to defend human rights in the country was publicly questioned; the Ombudsman was still in office at the end of the year. Another possibility mooted by the ruling Law and Justice Party was a withdrawal from the Istanbul Convention, calling into question how seriously they prioritise dealing with gender-based violence. Whether or not LGBTI activists (and their fellow civil society partners) will be able to publicly demonstrate in the future was also unclear following the passage of a public assembly law that prioritises rallies of ‘national importance’. (This law was being assessed by the Constitutional Court at time of writing.) Questions were also raised over the future of NGO funding, as news of the prime minister’s proposal to create a centre to oversee civil society development emerged at the end of the year. Another frustration associated with this pressure on fundamental rights is that dealing with all these additional challenges stretches the resources of LGBTI NGOs, limiting the time they can spend on targeted advocacy. In spite of this atmosphere, LGBTI activists persisted – in particular strengthening links between the LGBTI and religious communities, providing support during court proceedings, and developing inclusive resources for schools.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.
- Introducing hate crime laws that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
Access to goods and services

- LGBT Business Forum initiated legal proceedings against a Lodz printing company who refused to carry out their request, saying that “…we do not contribute to the promotion of LGBT movement in our work”. Following the LGBT organisation’s complaint, in February the Ombudsman recommended an investigation and police subsequently filed a motion to fine the company on 16 May. On 21 June, the Lodz-Widzew District Court fined the printers PLN 200 (EUR 45). The printers filed an appeal on 29 June and new court proceedings were required. Minister of Justice Zbigniew Ziobro (Solidarity Poland. SP; right-wing) issued a statement through the ministry’s website on 26 July, saying that the court’s decision to fine the printers was unfair. A prosecutor was appointed to the case by Minister Ziobro and the first hearing was held in December. The case had not concluded by the end of 2016 and a second hearing was due to be held on 17 January 2017.

Bias-motivated speech

- At a press conference on 15 July, one day after the terrorist attacks in Nice, interior minister Mariusz Blaszczak (Law and Justice, PiS; right-wing) commented that this incident had happened because the European Union had failed to react adequately to the November 2015 attacks in Paris. He cited political correctness, multiculturalism and solidarity marches featuring flowers and rainbow colours. This reference was criticised by LGBT NGO Lambda Warszawa.

Bias-motivated violence

- In March, the offices of two LGBTI NGOs were attacked in the city of Warsaw. A brick was thrown through the windows of Lambda Warszawa’s office during the night on 1-2 March. On 3 March, three men attempted to break into the Campaign against Homophobia (KPH) building while shouting homophobic insults. KPH staff called the police but the men left before officers arrived. The Polish Commissioner for Human Rights Adam Bodnar condemned the attacks and held a meeting with NGO representatives after the incident at KPH’s office. On 10 March, the Helsinki Foundation for Human Rights reported that over 300 Polish NGOs had written to Prime Minister Beata Szydło (PiS) asking her to take action against the NGO attacks. Windows in the KPH office were broken in an attack on 23 April and again, in a similar incident, on 27 April.

Data collection

- ‘Transgender youth in Polish schools’ – the first comprehensive study in the country to examine how the education system enables trans children to live according to their gender identity – was released on 8 December. NGO Foundation Trans-Fuzja conducted interviews with directors of schools across Poland and the study revealed that while there are general systematic problems for trans students, that there are also good practice examples of schools that are supportive and understanding.

Diversity

- During World Youth Day in July, a Warsaw-based organisation (Faith and Rainbow LGBT) organised a space for LGBT participants attending the event. The ‘LGBT Pilgrim’s Haven’ was not part of the official Youth Day programme but was run in a café in Krakow. Jim Mulcahy, a pastor working in Ukraine (see Russia), was one of the speakers to address the group. During a private meeting with bishops during his visit to Poland for World Youth Day, Pope Benedict called gender identity initiatives a form of colonisation and reportedly said that “Today, in
schools they are teaching this to children -- to children! -- that everyone can choose their gender.”

- The first social media campaign linking LGBTI organisations and representatives of Catholic backgrounds was launched by NGOs KPH, Faith and Rainbow, and Tolerado in September. The Znakpokoju campaign aims to highlight the fact that LGBT people are also present in faith communities. In October, campaign billboards were erected in 10 cities across the country.

**Education**

- The first handbook for teachers, management and psychologists on the needs of trans students was published in September. NGO Foundation Trans-Fuzja compiled the handbook to assist teachers in supporting trans children and young people, as well as helping them to foster respect for diversity among students generally.

- In September, NGO Foundation Trans-Fuzja wrote to the Ministry of Science and Higher Learning to express concern at proposed changes to the Regulation on the documentation of the course of study. Under the proposal, after going through the legal gender recognition process, trans students would have to give diplomas and materials back to their education institution in order for them to be reissued in their name. At the end of 2016, Trans-Fuzja has received no response from the ministry.

**Equality and non-discrimination**

- Commissioner for Human Rights Adam Bodnar presented his annual activity report at the Parliamentary Commission of Justice on 5 September. At the same time, several PiS MPs announced their intention to file a motion to dismiss the commissioner. Any motion would require the support of three-fifths of MPs to pass; the proposed motion had not been filed by the end of 2016. On 27 October, the International Ombudsman Institute published recommendations that urged the Polish parliament to support the office of the Commissioner for Human Rights.

- In September, the Supreme Administrative Court ruled that the interior ministry must re-examine the application of a same-sex couple to purchase property together. A Polish citizen and his Chilean partner (who had entered a registered partnership in the UK) had asked the ministry for permission to buy the apartment in Szczecin. When purchasing property in border towns like Szczecin, people from outside Poland are asked to provide evidence of a connection to the country. The couple’s partnership was not accepted as evidence by the ministry and this decision was upheld by the Regional Administrative Court. The couple appealed and Judge Jacek Chlebny of the Supreme Administrative Court then ruled that ‘ties with Poland’ should not be defined as referring to marriages or partnerships between different-sex couples only.

- Fundamental human rights rights in Poland were discussed by MEPs during a debate in the European Parliament on 13 September. A resolution calling on the government to “…solve the country’s constitutional crisis” was adopted by 510 votes to 160; 29 MEPs abstained.

**Family**

- The Supreme Court responded to a question from the Court’s own first president Malgorzata Gersdorf on 25 February, confirming that same-sex couples can refuse to testify against each other. Gersdorch had posed the question in an attempt to clarify the legal situation. The Court held that same-sex couples who are living in a de facto union cannot be called as witnesses in criminal proceedings against their partner.

**Freedom of assembly**

- On 30 November, a public assembly bill successfully passed the first reading stage. The draft law, put forward by the ruling PiS party, would prioritise certain rallies of ‘national importance’ and prevent demonstrations being staged at the same time as events sanctioned by the authorities or the church, effectively banning counter-protests. The bill, which was criticised by NGOs and the Commissioner for Human Rights, was passed by parliament in December. President Andrzej Duda declined to sign the freedom of assembly bill on 29 December, sending it to the Constitutional Court for their adjudication.
**Freedom of association**
- Prime Minister Beata Szydło (PiS) drafted a bill, proposing the creation of a National Centre for the Development of Civil Society. The plans were announced in late November and outlined intentions to centralise state funding for NGOs. Public consultation on the bill’s contents was ongoing at the end of the year.

**Legal gender recognition**
- The Warsaw Regional Court confirmed that a Polish trans woman, who had legally transitioned in Germany, did not have to obtain a medical evaluation and go through the usual civil court process to change personal documents. The woman had contacted LGBTI NGO Foundation Trans-Fuzja in 2015 when her local Polish registry office refused to amend her birth certificate. On 1 June, the court in Warsaw confirmed that the decision issued by the German courts should be recognised in Poland for the purposes of correcting a birth certificate.
Several legislative proposals in the area of family law (that had been discussed for a long time) were finally introduced in 2016. The legal changes around the adoption system looked to have been slowed down early in the year by a presidential veto in January. However, parliament overturned this decision, extending access to joint and second parent adoption to same-sex couples. Another improvement to family laws was finalised during the summer; now all women in Portugal can avail of medically assisted reproduction techniques, with automatic parental recognition for lesbian couples. The law around legal gender recognition was not developed during 2016, although government did promise to put forward proposals for legal improvements during the course of 2017. Following a funding agreement with the government, LGBTI NGOs also began providing support for LGBTI people who had experienced violence. Another step towards equality was made when the blanket blood donation restriction was completely removed for men who have sex with men.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Updating the existing framework for legal gender recognition, to ensure the process is based on self-determination and is free from abusive requirements (such as GID/medical diagnosis, or age limits).

- Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.

- Drafting and adopting an anti-discrimination framework law that expressly mentions all SOGISC (sexual orientation, gender identity, sex characteristics) grounds, and also contains references to multiple discrimination.
Bias-motivated speech

- The European Court of Human Rights held that a well-known television host had not suffered a violation of his Convention rights as a result of a joke made by a late-night comedy show in 2009. Manuel Luís Sousa Goucha had complained to Strasbourg, stating that the domestic courts had discriminated against him on the grounds of sexual orientation. Mr Sousa Goucha's original defamation case, dismissed at national level, had focused on a joke referring to him as one of the best female TV hosts. On 22 March, the European Court dismissed the complaint under Article 8 and 14, stating “…there is nothing to suggest that the Portuguese authorities would have arrived at different decisions had the applicant not been homosexual”.

Bias-motivated violence

- The government signed funding agreements in November with three NGOs to run support services for LGBTI victims of violence. ILGA Portugal and Casa Qui will run the Lisbon-based service, while residents of Matosinhos will receive support from the Plano i Association.

Equality and non-discrimination

- In September, the Publico newspaper reported that the health directorate general (DGS) was considering changes to the clinical guidelines relating to blood donation. On 19 September, the health ministry published a new norm on blood donation criteria removing the restriction for men who have sex with men (MSM). Minister for Health Adalberto Campos Fernandes (Socialist Party, PS) responded on 19 October to a parliamentary question from Isabel Alves Moreira (PS), clarifying that no deferral period would be included for MSM and explaining that the Portuguese Blood Institute would follow the norm and had 60 days to do so. The minister also stated that health professionals would receive training on the new norm.

Family

- Weeks after the parliament voted in December 2015 to extend access to joint and second parent adoption to same-sex couples, President Anibal Cavaco Silva (Social Democratic Party, PPD/PSD; centre-right) vetoed the decision. On 25 January, Silva stated that he thought the best interest of children should be the priority for MPs rather than equal treatment “between different and same-sex couples”. A motion to overturn the presidential veto was passed by parliament on 10 February with 137 MPs voting in favour. The joint and second-parent adoption law was published on 29 February and came into effect on 1 March.

- On 21 April, the Working Group on Medically Assisted Reproduction (MAR) approved a proposal to extend access to all women, with the support of all the left-aligned parties. Previously MAR was only available to married, different-sex couples. The proposal was subsequently approved by the Health Committee and was passed in a final parliamentary vote on 13 May. The change applies to all women, regardless of marital status or sexual orientation, and ensures automatic parental recognition for same-sex couples. The change was effective from 1 August.

Foreign policy

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Portugal, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Legal gender recognition

- In May, the Left Bloc (BE) put forward a proposal to introduce legal gender recognition based on self-determination for people aged 16 and older. Existing legislation granted access to the process for those over the age of 18. The Left Bloc also stated that the requirement placed on trans people to produce a mental health diagnosis report should be repealed. Before the end of the year, the government announced plans to submit a similar plan for consideration in 2017.

Police and law enforcement

- In April, the Observador website published an interview with a lieutenant-colonel at Lisbon’s military
school who suggested that gay students at the school were discriminated against. Defence Minister Azeredo Lopes (independent) reacted by saying that his ministry “… considers any discrimination for sexual orientation or any other questions absolutely unacceptable and against the Constitution and the Law.” He also asked the military school deputy director to resign. General Carlos Jeronimo, head of the Army, saw this as an unnecessary interference in the armed force’s chain of command and resigned on 7 April.
LGBTI equality issues continued to attract significant public attention, with ongoing high-profile court cases and referendum discussions in 2016. Groups opposed to equal marriage for same-sex couples carried on with a signature collection campaign in an attempt to force a referendum on the constitutional definition of marriage. The manner in which these signatures were being accumulated was criticised by the Ministry of Education following complaints from students that collections were taking place in schools. During the summer, the Constitutional Court ruled that a popular vote on the issue could take place, despite concerns from international NGOs that the proposed amendment would violate human rights. In another prominent legal discussion, the Constitutional Court decided to refer questions to the Court of Justice of the European Union for the first time. That particular case concerns a married couple who wish to be recognised as spouses in Romania, but the answer could give clarity to many other same-sex couples in a similar position across the European Union. One particularly public show of solidarity for the LGBTI community came in October, in the form of the first public statement of support from a Romanian president.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.
- Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).
Bias-motivated violence
- The European Court of Human Rights ruled that the Romanian police’s investigation into an attack on Bucharest Pride participants in 2006 was ineffective and failed to take an anti-LGBTI motive into account. In the MC and AC v Romania judgment, released on 12 April, the ECtHR found that these failures were a breach of Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights, read together with the anti-discrimination Article 14. In 2006, two people had been subjected to verbal abuse, punched and kicked by a group of six people as they returned home following the Pride march. The ECtHR found that the subsequent criminal investigation was far from satisfactory. The judgment points out the long periods of inactivity, the fact that the police did not make use of any of the evidence submitted and that the actions taken by the authorities to identifying or punish the perpetrators cannot be accepted as appropriate. Later in April, LGBT NGO ACCEPT initiated discussions with the ECtHR government agent for Romania on a plan of measures to implement this decision at national level.

Employment
- NGO ACCEPT conducted a small-scale research project to document policy, practice and attitudes regarding LGBTI workplace discrimination in Romania for the first time. The online survey received 180 responses. Less than half of the LGBT respondents said their current or past employer appreciated diversity; 32% said they were sure it was not appreciated in their workplace. 64% of respondents said they are generally ‘closeted’ at work or only open with very few colleagues. 44% reported an absence of internal policies to protect LGBTI individuals from abuse and almost a quarter of respondents saying they worried about their own personal safety.

Data collection
- From September 2015 – January 2016, NGO ACCEPT collected data for a pilot study on high school students’ attitudes towards LGBT people. The research project results were published on 29 February. Entitled ‘A safe high school for all: perception and attitudes regarding LGBT individuals in education’, the report was based on 613 forms collected from 10 high schools, surveys with teachers and youth workers, an online questionnaire with responses from 158 self-identifying LGBT students, and an in-depth analysis of the experience of nine specific students. (see Education).

Education
- The ‘Safe high school for all’ report, released in February, showed that seven out of ten LGBT high school students think they are not safe at school. Six out of ten students were witnesses to or victims of an act of aggression; 5% said they would ask for help from a teacher or school headmaster if they saw someone being bullied because of their sexual orientation. Two out of five students interviewed believe that gay men or lesbian women should not teach in schools.

Equality and non-discrimination
- During a speech in October, while a case concerning recognition of same-sex couples was before the Constitutional Court (see Family), President Klaus Johannis stated “It’s important to reiterate one thing I believe; we have to go back to the tolerance and acceptance of each other. (…) It is wrong to listen to or follow religious fanaticism (…) I believe in tolerance, trust and openness towards each other “. This was the first firm statement by a Romanian President in support of LGBTI equality.
“Tolerance and acceptance of others are vital. These are the values I believe in.”
President Klaus Johannis, 19 October 2016

- The Coalition for Family and the Romanian Orthodox Church criticised the president for his pro-equality remarks. Dacian Ciolos (independent), then prime minister, supported the president’s position, saying in an interview with Hotnews.ro: “…I believe that family is the core of society in Romania and it should not be systematically put in contradiction with the idea of tolerance. (Tolerance) manifests itself by respecting the choices of others”.
- The anti-discrimination strategy, due to be adopted in early 2015, had still not been finalised and put into practice by the end of 2016.

Family
- A campaign, initiated in 2015 by the Coalition for Family (a group of 23 NGOs), to amend the constitutional definition of marriage continued in 2016. The initiative sought to describe marriage as a union between a man and a woman only, changing the wording of Article 48.1. On 5 January, Patriarch Daniel of the Orthodox Church commented that people in Romania must “…resist some new family models that consider the natural woman-man union only one model among others.” Orthodox priests encouraged their parishioners to sign up to the initiative, for example, in the Timisoara and Iasi regions at events to mark Epiphany Day celebrations on 6 January. The petition was filed with parliament on 23 May having been signed by approximately three million people. On 20 July, the Constitutional Court began hearing arguments from a Romanian national that his marriage to his American husband should be recognised in the same way as a union between a different-sex couple would be. Adrian Coman and Claibourn Hamilton were married in Belgium in 2010 but their union is not recognised in Romania. They initiated a legal challenge, questioning the constitutionality of the section of the domestic Civil Code that excludes same-sex marriages carried out abroad from being recognised in Romania. Their case was postponed until 20 September. On that date the hearing was delayed again until October. The case was postponed again on 27 October, with the court setting a new hearing date for 29 November. On that date, the Constitutional Court referred questions to the Court of Justice of the European Union; this was the first time that the Court has ever referred questions to Luxembourg.
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- On 1 November, then justice minister Raluca Prună said, during a debate, that marriage is a fundamental right and belongs to ‘everyone’. Prună, on 24 November, also stated that restricting the definition of family in law “…would be an intolerant thing”. Daniel Buda MEP (National Liberal Party, PNL; centre-right) then called on Raluca Prună because of her pro-equality comments.

The Senate itself was due to discuss the proposal on 7 November but this was postponed until after the general election scheduled for 11 December.
- NGO ACCEPT received numerous complaints from LGBT students following the commencement of the signature collection campaign to restrictively amend Article 48.1 of the Constitution. Students reported that signatures were being collected in high schools, during classes, by a variety of teachers, including religion teachers. Supported by the Anti-Discrimination Coalition and the Gender Equality Coalition, ACCEPT launched a public appeal against this practice on 14 January and brought the anonymous complaints to the Ministry of Education’s attention. After the appeal, the Ministry issued a public statement to confirm that signature collection in schools to modify any article of the Romanian Constitution is a political activity and illegal, under Article 3 of the National Education Law.
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Freedom of assembly
- The twelfth Bucharest Pride March on 25 June attracted a record number of participants; media reports estimated the attendance as being over 2500. Some of the organisers with NGO ACCEPT reported a number of difficulties in advance of the march, such as problems acquiring the necessary authorisation and they were requested to pay a significant fee to the municipality for the first time. A so-called ‘normality’ march was organised on the same day by the New Rights Party. The event, to protest against “gay marriage and gay adoption”, attracted a few hundred participants.

Freedom of expression
- During Bucharest Pride, some participants carried banners with the slogan “They were gay in Orlando, Mr Johannis”; this was in direct reference to the President’s failure to say that the attack targeted the LGBTI community in particular. Police who were present at the march attempted to remove these banners. After long conversations with the Pride organisers, the police allowed the banner to continue being displayed.

Legal gender recognition
- In June, NGOs ACCEPT and TRANSform organised a meeting with the Ministry of Justice on trans issues, a first of its kind in Romania. Among the issues raised were amending the anti-discrimination laws to include gender identity as a protected ground, and drafting legal gender recognition legislation based on good practice models. The Ministry of Justice had not initiated any of the suggested measures before the end of 2016.

Police and law enforcement
- NGO ACCEPT received several reports about a lack of police support during the year for LGBTI individuals who tried to lodged complaints about violence or abuse. Two of these cases took place in Bucharest; in both cases the perpetrators targeted gay men or LGBTI-affiliated individuals at gay bars. Investigations were ongoing at the end of 2016.
Events in Russia during 2016 were typified by a few familiar hallmarks – the ongoing lack of state protection of LGBTI people, and the tenacity of the LGBTI movement in cities across the country. Even in the face of the so-called ‘anti-propaganda’ law that has existed since 2013, activists refused to treat the absence of fundamental freedoms as a normal state of events. LGBTI groups and individuals attempted to mark a series of landmark dates, from the Day of Silence and May Day, to IDAHOT and Pride season. Authorities moved to suppress and disrupt these solidarity efforts; by frustrating organisers attempts to plan events, banning the gatherings altogether, or detaining activists. The work of LGBTI NGOs, support groups and media outlets was also tangled up in the workings of the ‘anti-propaganda’ law. LGBTI people continued to experience intolerance on a daily basis. These human rights infringements can be anything from difficulties using ID cards that differ from your gender expression, discrimination when applying for a job, to more physical threats such as bias-motivated violence. State authorities rarely take homophobic or transphobic motives into account in cases of violence, so access to justice for LGBTI victims of crime is an additional problem.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Introducing hate crime laws and policies that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- Removing obstacles to the effective exercise of freedom of assembly, association and expression.
- Repealing the legislation prohibiting ‘propaganda of non-traditional sexual relationships’.
Bias-motivated violence

- A trans woman was murdered in the city of Ufa on 1 February. According to local police, the victim had been arguing with a man who appeared to be drunk. The man then stabbed the victim five times in the chest. The perpetrator (who was the partner of the victim’s ex-wife) was found guilty of murder by the Oktyabrsky District Court in May. They were sentenced to six and a half years in prison. A transphobic motive was not taken into account.

- A man from Syzran was punched multiple times by another customer while shopping at a local supermarket in February. The man was called a ‘fag’ before being hit in the face and body. The attacker was later arrested on hooliganism charges by police.

- Dmitry Tsilikin, a journalist and well-known theatre critic, was found dead at his St Petersburg apartment on 1 April. While Tsilikin’s sexual orientation was not public knowledge, his friends and colleagues believe he was murdered because he was gay. One man, who Tsilikin had met online, was arrested and told police he intended to blackmail the journalist because of his sexual orientation. Sergei Kosyrev also referred to his own life as a “crusade against a particular social group”. He was later charged with murder and theft; a homophobic motive was not taken into account.

- In June, Russian football fans attacked an LGBT nightclub in Ekaterinburg. The attackers shouted homophobic insults at people standing outside, before entering the club. They fired air pistols during the incident. One patron inside the club was assaulted and suffered a broken leg and concussion.

- Star Rally – an event organised by the Russian LGBT Sport Federation’s Nizhny Novgorod branch – was attacked in August. The event’s sport and social programme attracted a mixed audience of LGBTI activists, allies and local people. The organisers had not posted prominent LGBT-related signage, in order to comply with the “propaganda” legislation. At night, the campsite was attacked by between five to eight people, armed with bats. Property was damaged and three people were seriously injured. This was one of three Russian LGBT Sport Federation events to be disrupted in 2016; the others were the St Petersburg Winter Festival and the Tomsk Siberian Athens festival (see Freedom of assembly). The subsequent police report did not mention any potential bias motive, focusing on compensation issues for damage to the participant’s vehicles. The authorities then refused to commence any investigation as they said those who were responsible for the attack couldn’t be identified, even though the victims stated that they knew who the attackers were. The case was not reported as an anti-LGBTI hate crime by any of the victims.

Data collection

- The Transgender Legal Defence Project carried out research between December 2015 and June 2016 on the discrimination experienced by trans people. The findings of their monitoring work were published in the ‘Violation of transgender people’s rights in Russia’ report. The paper mainly focused on the problems experienced by trans people when their personal ID documents differed from their gender expression. The report concluded that trans people seek to avoid conflict by deliberately refraining from accessing certain goods and services. The authors’ general recommendation is for the introduction of a quick, transparent and accessible legal gender recognition procedure, along with removing unjustified requirements such as sterilisation; the report also contains specific recommendations aimed at (among others) NGOs, trade unions, doctors, the health ministry and the Russian government.

- On 5 October, international NGO Equal Rights Trust published the results of the first legal study to examine the practice of Russian courts when dealing with LGBT rights cases. ‘Justice or Complicity’ analysed over 200 cases dealing with a broad range of subjects, including employment, education, private life, freedom of expression and assembly, and anti-LGBT violence. Among the report’s conclusions were that the Russian courts are currently denying LGBT people in Russia access to justice, by failing to provide adequate redress to victims of discrimination and also by contributing to prevalent discriminatory societal attitudes.
Employment

A woman was awarded damages by Zheleznodorozhny district court of Novosibirsk after being refused a job due to her sexual orientation. Anna Balash had applied for the same job twice with LTD “Sib-Alians”. On both occasions, she was told she had been turned down because of her sexual orientation. When she questioned the company in February, after her second rejection, the company wrote to her, stating “non-traditional sexual orientation doesn’t meet job requirements, can negatively affect company’s reputation and will impede to carry out work duties. The position requires a lot of work with clients. The majority of our clients support traditional values. Therefore the employment can lead to financial losses”. On 29 July, Anna Balash was awarded RUB 1,000 (approx. EUR 15) in moral damages.

Equality and non-discrimination

In June, NGO Legal and Psychological Centre “Personality” met with Valentina Bronevich, the ombudsperson for the far-east region of Kamchatka. During the meeting, the NGO presented the ombudsperson with a report by the Russian LGBT Network on discrimination and anti-LGBT violence. Bronevich said that she was aware of LGBT people as a social group but that she was surprised that “these people” are in the Kamchatka region.

Family

A proposal to ban same-sex marriages (first initiated in 2015) was rejected by the State Duma on 3 November. Deputies Aleksey Zhuravlev (United Russia), Dmitry Gorovtsov and Anatoly Greshnevikov (both A Just Russia, CP; social-democratic) suggested amending the Family Code to prevent same-sex couples and trans people from marrying, citing a child’s right to grow up in a “traditional family culture”. The Duma committee on women, family and youth issues rejected the bill at first reading in November. Among the reasons for the bill’s rejection was the fact that registry officials do not have the authority to conduct medical examinations to determine the gender of anyone who wants to get married.

Freedom of assembly

The European Court of Human Rights communicated a series of questions to Russia on 15 January, in relation to two cases; Alekseyev v Russia and Alekseev and others v Russia. The cases related to the restriction and prohibition of multiple LGBTI-related events in several cities during the period 2009-2015.

On 15 April, to mark the Day of Silence and highlight the discrimination faced by LGBTI people worldwide, eight activists gathered at Moscow’s Novopushkinsky park. Three LGBTI activists were detained and taken to Tverskaya police station. In St Petersburg, the solo Day of Silence protests organised by the Alliance of LGBT and Heterosexuals for Equality were not disrupted. Another 15 April gathering, with a march and distribution of leaflets planned, was interrupted by police. LGBTI activists had held a similar event in 2015 with no issue. The participants were delayed by riot police and the organisers of the march were detained at police stations. The march continued without the organisers and finished at Kazan Square. Three people were detained and later released, in what the authorities called ‘preventative discussions’.

On 29 April, authorities in St Petersburg banned LGBTI groups from taking part in the annual May Day Parade. This was a departure from previous years, when LGBTI groups had been included in the event. Neo-Nazi group Slavic Power Northwest had been authorised to march on 1 May. The VKontakte social media page where the LGBTI groups had been discussing their plans for the march was blocked two days before the event. The reason given was that it was “on the basis of the requirements of the Russian Federation Prosecutor General’s Office”. No official rainbow column was organised as part of the parade. LGBTI activists took part in the ‘green’ or ‘left’-orientated columns. During the march, activists unfurled rainbow flags and 14 people were detained as a result. No explanation was given to the activists during police questions; no charges were brought.
The Siberian Athens LGBT sports festival took place in Tomsk from 7-9 May, after overcoming obstructions and venue cancellations in advance. Organisers believed that venues were pressured to cancel by opposition groups or authorities.

LGBT activists in St Petersburg attempted to organise a rainbow flashmob to celebrate IDAHOT. They notified the city’s law and order committee in early May. The Committee replied, stating that they could not hold the event in Mars Field as the area was already too busy on that date. It also cited the so-called “anti-propaganda” law; no alternative location was proposed. The rejection invited the organisers to apply to hold the event on the following day, before rejecting the subsequent reapplication – a scenario that was repeated 11 times. This was the first time that the IDAHOT event in the city was not authorised. Activists filed a legal complaint and were warned by police over the phone that they would be arrested if they proceeded with the planned event. Instead of a flashmob, activists released rainbow balloons at St Isaac’s Cathedral on 17 May. On 18 May, the court rejected the activists’ complaint, and the City Court upheld the District Court’s decision in August.

Also on 17 May, approximately 40 LGBT activists released balloons and handed out leaflets in the Arbat district of Moscow. The location of the event was not publicly circulated so there were no police present or attempts to stop the event. One LGBT activist was attacked by two women while distributing leaflets; all three were later brought to a police station. The women reported the activist for sharing so-called “gay propaganda among minors” even though the activist said they had not given any leaflets to children. The activist was detained at a police station for three hours, without receiving any information on the grounds of her detention from the officers. The activist was later released without charge.

An IDAHOT flashmob was approved by authorities in Tyumen for the first time but organisers cancelled the event, as they were concerned about the physical safety of participants. Contact details of organisers and potential participants had been publicly disseminated before the event by a local parents organisation and there were fears that those taking part in the flashmob would not be protected. On 21 May, activists gathered on a bridge in the centre to release rainbow balloons.

Attempts to organise IDAHOT celebrations in Murmansk were denied once again. Activists were informed that they could not hold an event, as another gathering had been authorised for the same location and date; this has been the reasoning offered by the authorities in previous years. LGBT activists reported that no other event took place on 17 May.

In June, over 800 residents in the Kuban region signed a petition calling for the LGBT Black Sea 2016 festival to be banned. In June, a petition was launched on the Change.org website, calling for the LGBT Black Sea 2016 festival to be banned. The petition stated that “...we cannot dare let this festival happen” and called the event in the Kuban region “a shame for every single citizen of our region”. The petition reached over 4500 signatures and the NGO Russian LGBT Network asked the website’s administrators to cancel it on the grounds of hate speech. It was then suspended – the signature function was disabled – but the petition was not deleted. After that, a new CitizenGo.org petition was initiated by the “Fund of Family and Demography of Saint Peter and Fevronia”. It referenced ‘anti-propaganda’ laws and called for the event to be banned, attracting an estimated 10,000 signatures. The LGBT Black Sea festival took place from 7 to 10 July with information being shared privately between attendees. Some of this information was leaked and led to further petitions from Orthodox activists. The location of the event itself was quite remote and only shared with participants in the days before it was due to take place, yet the police regularly visited the site, even on the first day of the festival.

A gay couple was arrested outside the US embassy in Moscow on 13 June. The two men had gone to the building to lay flowers, candles and a banner after the attack on the Pulse nightclub in Orlando, but were detained by police officers. They were released after being charged with holding a public event without prior notice. When the couple returned the following day to view the
case papers, they were told by police that they should wait to be notified about their court date. The couple had received no further correspondence by the end of 2016.

- The St Petersburg-based activists who attempted to organise an IDAHOT flashmob continued with their efforts throughout the summer. On 12 July, two activists went to Mars Field with rainbow flags and placards to protest against the restrictions on their freedom of assembly; they also invited some journalists to join them. The activists were arrested and detained for over three hours. They were released, after being charged with violating Article 20.2 of the Administrative Code (public order offences related to the organisation and holding of public assemblies).

- In July, US pastor Jim Mulcahy was arrested in Samara, as authorities claimed he was preparing to perform same-sex marriage ceremonies. Mulcahy is Eastern Europe coordinator for the U.S.-based Metropolitan Community Churches and lives in Ukraine. He was visiting Samara, where he planned to speak to LGBTI activists at the offices of NGO Avers. Following his arrest, the pastor was held for eight hours, charged with violating an “anti-missionary” law, fined and told to leave Russia within five days.

- In September, the 8th QueerFest took place in St Petersburg. The opening session attracted 220 participants. It was the first time in the eight years of the pride festival that the opening reception took place peacefully, without attacks or counter-protests.

“*We become stronger, more diversified, more aware. We might not have the power to change the repressive laws, but we have the power to invest in people: to establish dialogue with the society around us, to find new allies, and to continue empowering the LGBT people of Russia. What can be more important?*”

Polina Andrianova, LGBTI activist with NGO Coming Out St Petersburg, speaking at the opening of QueerFest, 15 September 2016

- LGBT activist Nikolai Alexeyev applied for permission to hold a Pride parade and a rally on 18 September in the city of Tyumen. The event would coincide with the Duma elections scheduled for the same day. He also applied for events in the cities of Tula and Kaluga, but all applications were rejected. Moscow Pride notified the authorities in St Petersburg of their intention to hold Pride events in the city on 26 and 27 September. By the end of the year, Alexeyev had also appealed against the administration’s rejection of LGBTI events in Kaliningrad, Yoshkar-Ola, Vyborg, Cheboksary, Voronezh, Ulyanovsk, Volgograd, Syktyvkar, Abakan, Novosibirsk, Tomsk, Krasnoyarsk, and Barnaul.

**Freedom of expression**

- A law which proposed criminalising public demonstrations of “distorted sexual preferences” was rejected by the State Committee on Constitutional Legislation on 18 January. The Committee failed to endorse the bill and also advised the Duma to reject it. The draft law, originally put forward in October 2015, stated that individuals could face fines or 15 days of detention. One of the law’s drafters, Ivan Nikitchuk (Communist Party, KPRF) commented that the provisions would only apply to gay men, as “…we think women are more reasonable people and more able to manage their emotions”. On 19 February, the bill was then rejected by the Duma at first reading.

**Developments related to the ‘anti-propaganda’ law**

- In January, Novosibirsk lawyer Aleksei Krestyanov stated that the manager of Primorsky Safari Park should be prosecuted for violating the so-called “anti-propaganda” law. This followed widespread media coverage of a tiger and a goat living in the same enclosure; Krestyanov said that this promoted gay relationships to children. The Russian Prosecutor-General’s Office was examining the complaint.

- LGBT activist Sergei Alekseenko (former director of NGO Maximum) was fined by a court in Murmansk for violating the “anti-propaganda” law. The Leninsky District Court stated that posts, dating from 2015, on the NGOs VK social media channel breached the law which bans
dissemination of positive information about LGBT relationships to children. The complainants in the case were parents of children who had visited Maximum’s page. On 18 January, Alekseenko was fined RUB 100,000 (approx. EUR 1400). Maximum had been unilaterally registered as a ‘foreign agent’ in 2015. Alekseenko appealed the decision but his appeal was rejected in May.

In September, a court in Parabel, Siberia ruled that LGBT news website Blue System should be banned. Communications regulator Roskomnadzor subsequently banned the site and internet providers began blocking Blue System before it was shut down completely. Blue System’s administrators received no warning or explanation for the ban; they were not notified of the court case while it was taking place. According to the website’s administrators, it attracted an average of 100,000 visitors a day. By the end of 2016, the website had been moved to another domain and was functioning again.

On 10 October, Roskomnadzor added the Children 404 online support group to a list of banned resources. The website, which offered support services to LGBT teenagers, was due to be blocked from social networks for violating the “anti-propaganda” legislation, unless it removed certain materials. The site had been the subject of several court cases in 2015. On 13 April, the Bernaul Central District Court had decided to register the site in a list of banned resources, and the Altay Regional Court rejected an appeal on 22 June.

Legal gender recognition

On 16 February, the Primorsky District Court in St Petersburg ruled that a trans man had provided the necessary documentation and should be permitted to change the gender marker on his birth certificate. The man had been refused documents reflecting his gender in September 2015 by the Primorsky district registrar, despite providing a range of medical documents verifying that he had undergone psychiatric evaluation, several years of hormone treatment and gender reassignment surgery.

The Ministry of Health published a draft order on 19 February that proposed establishing sexologist offices. Activists were concerned by a number of elements contained within the proposed changes to the existing ‘procedure for the provision of medical care in cases of mental and behavioural disorders’ order. It was unclear if the new offices would replace the existing medical commissions, how the proposed order would operate under the ‘anti-propaganda’ legislation or how the measures would be supported, seeing as trans-specific health care is not part of a medicine student’s curriculum.

Participation in public, cultural and political life

NGO Avers, the Russian LGBT Sport Federation and runners living with HIV ran with rainbow flags in the Kazan Marathon on 15 May, aiming to draw attention to the need for regular HIV testing. This was the first time that LGBT organisations had openly joined the marathon; no participants were detained for displaying rainbow symbols.
There were very few developments related to sexual orientation, gender identity or sex characteristics recorded in 2016.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

In the absence of specific recommendations from country experts based in San Marino, ILGA-Europe encourage national authorities to take proactive steps to engage with LGBTI activists to improve the legal and policy situation for LGBTI people in 2017.
Equality and non-discrimination

- **UPDATE FROM 2015:** On 15 October 2015, Council of Europe Commissioner for Human Rights published his report following a visit to San Marino on 9 and 10 June. Nils Muižnieks’ report specifically mentioned the treatment of LGBTI people, saying that the authorities should engage in awareness-raising campaigns to promote respect for LGBTI people. The Commissioner’s report also recommended the introduction of legal gender recognition based on self-determination, protection of same-sex couples under civil union or partnership law, and to ensure same-sex cohabiting couples are treated equally under the law.

Family

- Media reports in March suggested that several political groups intended to table legislative proposals concerning civil unions for same-sex couples. The Christian Democrats party (PDCS), the United Left, and the Laboratorio Democratico San Marino (LabDem) citizens’ group also stated they were drafting civil unions bills.
Implementation of existing legal standards was emphasised as an area of key importance during the European Commission’s annual assessment of Serbia. The human rights of LGBTI people are referenced within some equality and hate crime laws but the enlargement report stated that more sustained efforts were required to make them effective. Some recommendations put forward included the need for greater political support and tackling of bias-motivated crime. In relation to political cooperation, an analysis of political party materials showed that only a small number specifically referred to the rights of LGBTI people in their programmes. Meanwhile, the first openly LGBT government minister was appointed in 2016, and a government ministry employee spoke out about his sexual orientation while receiving an equality award. Anti-discrimination protection on the ground of gender identity was included in a new police act, but sexual orientation was omitted. At the end of the year, trans people continued to face a situation where there is no clear procedure governing legal gender recognition.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).

- Introducing policies designed to tackle hate crime that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

- Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.
Bias-motivated speech

- During a meeting of the Trstenik municipal assembly on 5 February, Dragan Vilimonović (Serbian Progressive Party, SNS) said “I have to cross myself because I have information that the municipal budget of Trstenik has funded the LGBT population. Faggots. I have to ask who here would give money from the municipal budget of Trstenik for the gays”. The Commissioner for Equality later issued an opinion on 23 May that Vilimonović’s comments violated anti-discrimination laws.
- In April NGO Gayten-LGBT submitted a complaint against Orthodox Church leader Patriarch Irinej, after the patriarch accused gay men of spreading HIV throughout Serbia in an article in the Srpski Telegraf newspaper. The patriarch later claimed he had been misinterpreted and the equality commissioner’s investigation ended.
- The Court of Appeal in Belgrade dismissed the appeal of a high school professor on 7 September, confirming the earlier Higher Court ruling that the professor had incited hatred and discrimination against members of the LGBTI community. Jelena Popović Ivanović was given a suspended three-month prison sentence for posting discriminatory comments about LGBTI people on Facebook.

Bias-motivated violence

- Belgrade Pride organiser Boban Stojanović was attacked by two unknown perpetrators on 22 August in Belgrade. Stojanović was on the phone when one of the attackers began to shout: “Here, he is a faggot!” and then the two attackers physically assaulted the LGBT activist. The incident was reported to the police.
- Local trans activists held an event on 29 August in front of the Turkish Embassy in Belgrade, to remember Hande Kader (see Turkey) and also to highlight the assaults that take place against LGBTI people in Serbia.
- A trans man was attacked by three men in the south-eastern town of Vlasotince on 11 October. The victim recognised the group of men, as he had already brought criminal charges against them for a previous assault. The group physically and verbally assaulted him, saying “…you’ve been already told to sit down on your ass, and quiet down if you don’t want things to get worse!”. Police officers came across the scene but did not follow or question the group of three men. The victim contacted trans* NGO Egal for legal support.

Data collection

- NGO Labris published the “From principles to concrete measures - Political parties on human rights, gender equality and LGBT rights” report in June. This analysed 66 statutes and programmes of political parties and found that the human rights of LGBT people are mostly referred to when discussing ‘marginalised’ groups or equality on sexual orientation grounds. 11 of the 66 programmes specifically mentioned the rights of the LGBTI community, and one party dedicated a section in their programme to LGBTI issues. One party mentioned LGBTI people in a negative context in their programme.
- In November, NGO Labris commenced data collection on bullying based on sexual orientation and/or gender identity in high schools. At the end of 2016, 119 high school students from 7 schools had participated. The high school pupils surveyed identified LGBTI children as the group most likely to be exposed to violence in their schools. The final research results will be presented in 2017.

Education

- Following the 2015 introduction of the Law on Textbooks which prohibits discrimination in textbooks, a 2016 analysis by NGO Labris discovered that nine high school texts still contained negative content about LGBT people, portraying them in a discriminatory manner.
- As part of their work to monitor the implementation of the strategy and action plan to prevent discrimination, NGO Labris wrote to the Ministry of Education during the year. Labris contacted the ministry in relation to the activities they are due to implement to prevent institutional discrimination, including the development of a rulebook for changing names in school transcripts and diplomas. The ministry confirmed that they had not adopted such a rulebook for high schools and universities, a move that was criticised by LGBTI NGOs.

Enlargement

- Serbia formally applied to join the European Union in 2009 and began negotiations in 2014. In its annual
enlargement package reviewing progress made towards EU accession, published in November, the European Commission pointed out that while a legal framework is in place for fundamental rights, more is needed to be done to consistently implement these laws. Greater sustained efforts are required to improve the situation of LGBTI people, including more visible political support and increased investigation and penalties for bias-motivated hate crimes.

Equality and non-discrimination
- From 27 January, the new Law on Police explicitly prohibits discrimination based on sex, gender and gender identity (Article 5). The law regulates the affairs of the Ministry of the Interior and the organisation and competence of the police. There is no provision in the current Law on the Police that prohibits discrimination based on sexual orientation. The law expressly states in Article 27 that the police have to develop professional capacities for the socially responsible operation of police services, with full respect for human and minority rights and freedoms and the protection of all vulnerable groups.

Freedom of assembly
- There were two Pride parades in Belgrade, each organised by a different group of LGBT organisations. ‘Serbia’s Pride’ took place on 25 June, with around 350 participants marching with members of the LGBT community through the capital. There was minimal police protection so the general public could join the parade. ‘Belgrade Pride’ was held on 18 September under the slogan “Love changes the world”, with approximately 1000 attendees. The event took place peacefully with a security presence and several political figures in attendance, including the city’s mayor Sinisa Mali Bojan Pajtic, (Democratic Party, DS; centre-left) and Cedomir Jovanovic, Liberal Democratic Party president (LDP; centre).

Health
- According to figures prepared by the Institute of Public Health of Serbia and released by NGO JAZAS (Association against AIDS) on 1 December to mark World AIDS Day, 178 people were newly registered as living with HIV during 2015. 74 people were newly registered in the first half of 2016. These increases were some of the highest figures in 25 years and the increase meant that Serbia once again became eligible for support from the Global Fund for HIV.

Participation in public, cultural and political life
- On 8 August, two months after the new government was announced, then prime minister-designate Aleksandar Vucic (Serbian Progressive Party, CHC; centre-right) announced his new cabinet. Ana Brnabic (independent) was named as Minister for Public Administration, becoming the country’s first openly LGBT cabinet minister. Her appointment was confirmed by parliament on 10 August.

“Hopefully this will blow over in three or four days and then I won’t be known as ‘the gay minister.’ I’ll be known as the minister of public administration and local government.”
Ana Brnabic, before being sworn in as Minister for Public Administration, 9 August 2016

Police and law enforcement
- Five public discussions between police liaison officers and the LGBT community took place in February in Belgrade, Niš, Kragujevac and Novi Sad. The sessions informed LGBT people about who their police LGBT liaison officers are, what their role is, and what cooperation can take place between liaison officers and the LGBT activists. Information about what to do in cases of violence was also presented.
- On 17 May, Aleksandar Stojimenevic, the national liaison officer for the LGBT community within the Ministry of the Interior, publicly came out while receiving the ‘Rainbow’ award at Belgrade City Hall. This was the first time a government employee spoke publicly about their sexual orientation.
- Through an initiative implemented by NGO Labris, eight LGBT liaison officers from Serbia participated in the first World LGBT Conference for Criminal Justice Professionals in Amsterdam in August.
Political momentum on LGBTI equality issues was not very apparent in Slovakia in 2016. Various human rights NGOs and LGBTI activists repeatedly spoke out against the lack of references to protections for LGBTI people in programmes released by the newly elected Fico government. The ongoing absence of any legal recognition for same-sex couples was emphasised but had not been rectified by the end of the year. Significant gaps also remain in the areas of legal gender recognition and protection from bias-motivated crimes on the ground of gender identity. One visible and positive development was the return of the Pride march to the streets of Bratislava after a year’s absence.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Adopting legal measures to recognise and protect same-sex couples, such as civil unions, registered partnership and/or cohabitation.

- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).
Bias-motivated speech

- On 25 October, a package of legislative changes was introduced, on the issue of extremist crime. Parliament approved the amendments, transposing a number of EU directives into national law. One of the changes introduced was an amendment to the 2005 Criminal Code. This introduced penalisation for public incitement of violence or hatred directed against a group of persons or an individual because of their real or perceived sexual orientation. The law is due to come into effect on 1 January 2017.

Equality and non-discrimination

- On 13 January, the government announced that it would not be proceeding with previously announced intentions to adopt a National Action Plan on LGBTI equality. The government had met with Council of Europe officials in 2015 to plan for the adoption, but then stated that the action plan should be an issue for the next government to deal with after the parliamentary elections in March.
  - In the March parliamentary elections, Robert Fico was returned as prime minister. His SMER-SD (social-democratic) party subsequently formed a four-party coalition and the government’s programme statement was published in April. It was critiqued by LGBTI activists, as there was no mention of the LGBTI community in the document. NGO Inakost called the decision to omit advances for LGBTI people from the government’s plan “…beyond all understanding” in a press release.
  - During a conference of bishops from central and eastern Europe, entitled ‘Migration Crisis and the Family’, parliament speaker Andrej Danko (Slovak National Party, SNS; right-wing) spoke about how “…hard I tried to explain and block various issues and rulings” on LGBTI issues. Danko also told the summit in September that he was “…proud that I live in a country predominantly inhabited by people of faith and Christian values”.

Family

- In media statements in January, Zuzana Števulová (director of the NGO Human Rights League) criticised the government’s lack of advances in human rights policy. She referred to the lack of legal protection or recognition of same-sex couples as “…apparent discrimination…”, particularly in the wake of the 2015 Oliari v Italy decision from the European Court of Human Rights.

Freedom of assembly

- The Rainbow Pride parade took place in Bratislava on 30 July. (The event had been voluntarily postponed by organisers in 2015 due to tensions following the unsuccessful referendum campaign.) Ombudswoman Jana Dubovcová, Monika Flasikova Benova MEP (SMER-SD) and opposition MP Martin Poliacik (Freedom and Solidarity/SaS; centre-right) were present and media reports estimated that 2000 people took part in the parade. The event was protected by 500 police officers and passed off peacefully. Opponents held two counter-demonstrations; one involved the ‘Proud of Family’ Christian group forming a human chain outside parliament, the other protest was organised by far-right People’s Party – Our Slovakia (LSNS). In advance of the Pride parade, leader of the SNS party Andrej Danko criticised the Foreign and European Affairs Ministry’s support for the event. Prime Minister Fico (SMER-SD) also commented that no flags apart from the Slovak Republic and EU flags should be flown from Slovak embassies abroad, following the display of a rainbow flag by its embassy in Hungary.
  - The city of Kosice hosted its fourth Pride on 3 September. While local politicians did not attend the event, there were an estimated 300 participants and the parade took place without any reported incidents.
The main developments in Slovenia during 2016 involved legislation – both the passage of LGBTI-inclusive laws and subsequent attempts to repeal them. New grounds were added to an updated anti-discrimination law, meaning people are now protected against discrimination based on their sexual orientation, gender identity and gender expression. Following the rejection of equal marriage legislation in a popular vote in 2015, a proposal for a more inclusive form of civil partnership was put forward by an independent MP. This was finalised, meaning that, in 2017, same-sex couples in civil partnerships will enjoy the same rights as married couples (with the exceptions of adoption and access to in-vitro fertilisation). Both the Civil Partnership Act and the Protection against Discrimination Act were among the list of laws that a workers’ union made efforts to repeal, via a signature collection campaign. Fortunately, their attempts were unsuccessful, as the Constitutional Court ultimately dismissed the petition.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Developing a fair, transparent legal framework for legal gender recognition, based on a process of self-determination, free from abusive requirements (such as sterilisation, GID/medical diagnosis, or surgical/medical intervention).
- Introducing laws designed to tackle hate crime that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
- Drafting and adopting legislation to allow same-sex couples to have access to joint adoption.
Equality and non-discrimination
- On 21 April, the National Assembly voted to pass a new anti-discrimination law (replacing the previous Implementing the Principle of Equal Treatment Act dating from 2004) by 50 votes to 17. The Protection against Discrimination Act extended the number of specific discrimination grounds and introduced a new independent equality advocate mechanism. Sexual orientation, gender identity and gender expression were expressly included in the list of protected grounds. The law’s provisions are applicable to areas of life including employment and work, education, social security, social benefits, access to goods and services. The act was signed by the president and entered into force on 24 May.
- A trade union representing migrant workers began a signature collection campaign to repeal six pieces of legislation. One of the laws concerned was the Protection against Discrimination Act passed by parliament in April (see above and Family). On 28 April, the Union of Migrant Workers of Slovenia tabled a referendum request but this was refused by the National Assembly’s President on 5 May. Milan Brglez (Modern Centre Party, SMC; centre-left) said that the petition was abusing the laws around the right to a referendum. The union subsequently lodged a constitutional complaint on 10 May against Mr Brglez’s decision. On 14 July, the Constitutional Court dismissed the petitions to hold a referendum on the six laws and the complaint against Milan Brglez. This prompted trade union representatives to issue a statement, outlining their intention to start European Court of Human Rights proceedings.

Foreign policy
- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Slovenia, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Sexual and reproductive rights
- The Constitutional Court, at a sitting on 1 December, dismissed a request from a group of MPs to assess the constitutionality of the Law on Infertility Treatment. The act, dating from 2000, restricted the availability of assisted reproductive procedures to married couples or men and women living in a “consensual union”. In 2014, a group of 61 MPs argued that this restriction was unconstitutional but the Court rejected the request to review the act, saying that as the group of MPs were themselves an absolute majority of parliament at the time of the request, then they could have amended the law if they believed it was unconstitutional.

Family
- A bill proposed by Jani Moderndorfer MP (independent) to extend greater equality to same-sex couples in civil partnerships was passed on 20 April. It entered into force on 24 May but its practical application was deferred until 24 February 2017. The Civil Partnership Act means that same-sex couples will enjoy the same rights as married couples, except for access to joint adoption and in-vitro fertilisation. (The Moderndorfer bill was originally submitted to parliament in December 2015, after an amendment to the law on marriage, designed to open access to marriage to all couples, was defeated by a referendum.) A challenge to the Act’s implementation was also raised by a trade union representing migrant workers (initiated alongside a similar petition against the anti-discrimination law) but this was also dismissed by the Constitutional Court.
Spain

Hate speech, in several instances from prominent church officials, directed at LGBTI people was a negative trend in 2016. Incidents were recorded by NGOs or became the subject of complaints by pro-equality MPs. The language used referred to anti-discrimination laws as a negative development, spoke of a trend of so-called ‘gender ideology’ or questioned the morality of LGBTI people. In one specific case, the director of a Catholic school was fined after comparing hate crime laws with terrorism. Even within the police, bias-motivated harassment was raised as an issue in December by a lesbian member of the force. LGBTI NGOs continued to assist individuals who reported violent incidents; a Madrid-based NGO had recorded more than 200 LGBT hate crimes over the course of the year. In a more positive development, several regions bolstered their family law provisions by opening access to assisted reproduction techniques to all women.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Extending anti-discrimination protections in employment law to ensure that LGBTI people in all regions are protected on all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

- Specifically including all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in legislation prohibiting discrimination in the field of education.

- Specifically including all SOGISC (sexual orientation, gender identity, sex characteristics) grounds in legislation prohibiting discrimination in the field of health.
Asylum

- The Temporary Immigrant Shelter Centre (CETI) in Melilla (an enclave on the coast of Morocco, legally part of Spain) received 45 asylum applications on the grounds of sexual orientation in the first quarter of 2016. In December, Melilla’s CETI facilities were described as unfit for refugees by the UNHCR, based on research carried out by Amnesty International Spain.

Bias-motivated speech

- Archbishop of Valencia, Antonio Cardinal Cañizares Llovera, referred to a ‘gay empire’ during a speech on 13 May. The archbishop stated that, in Spain, “…we have legislation contrary to the family, the acts of political and social forces, to which are added movements and acts by the gay empire, by ideologies such as radical feminism – or the most insidious of all – gender ideology”. LGBT NGO Lambda Valencia filed a criminal complaint against the statement; the Spanish Immigration Network also complained against comments made in the same speech about refugees. On 25 June, both complaints were dismissed due to lack of evidence. The judge said that the court could see no “public incitement to violence or hatred” in the comments.

- Antonio Hurtado MP (Spanish Socialist Workers’ Party, PSOE; social-democratic) complained to the Prosecutor of Cordoba about comments made by local bishop Demetrio Fernández. The complaint, filed on 26 August, cited public statements by the bishop of Cordoba where he referred to homosexuality as a “plague”. 2,000 people signed an online petition from Hurtado, calling for an investigation into the anti-LGBTI remarks.

- During the Circuit LGBTI festival in Barcelona, messages were posted on Twitter on 4 August by a man who called for an “Orlando killing”. The same individual also posted a video with a gun, which was later deleted. José Miguel Camargo was later arrested on 3 September and charged with hate speech; he was awaiting trial at the end of the year. NGO Arcopoli reported the incident to the police and provided them with screenshots of the tweets. Arcopoli subsequently received online death threats from anonymous Twitter profiles.

- In September, the Spanish Observatory Against LGBTphobia issued a criminal complaint to the hate crimes special prosecutor in relation to a letter written by three bishops about Madrid’s anti-discrimination laws. The Law of Integral Protection against LGTBphobia and Discrimination for Reasons of Orientation and Sexual Identity was introduced in Madrid in July (see Equality and non-discrimination). Bishops Juan Antonio Reig Pla, Joaquín María López, and José Rico Pavés published a joint letter that stated the law was “Inspired by an inadequate anthropology which denies the sexual difference male-female and unity of the body-spirit person” and that it was “in contradiction with natural morality”.

- The Madrid Observatory Against LGBTphobia filed a complaint to the national State Commission Against Violence in Sport in November following a series of homophobic slurs directed towards Real Madrid footballer Cristiano Ronaldo. In December, a sports court based in Madrid ruled that there would be no sanction, as the player did not submit a complaint.

Bias-motivated violence

- A young gay man was attacked while he was returning home after New Year’s Eve celebrations in the Salamanca area of Madrid. The perpetrators made homophobic comments while travelling in the same Metro car as the victim before punching him in the face when he got off at his stop. Passers-by intervened and LGBT NGO Arcopoli provided legal assistance at the police station.

- On 21 May, a man was punched and had his nose broken by another man who he had called ‘handsome’ while socialising in Madrid. The victim filed a complaint the following day, accompanied by the Madrid Observatory against LGBTphobia and two friends who had witnessed the attack.

- On 29 June, three people who had attended the Pride celebrations at Plaza de Chueca were attacked by a group of three unknown assailants. The perpetrators threw stones and bottles and shouted homophobic abuse.

- Also on 29 June, a court sentenced a man to 16 years in prison for the murder of a gay man in 2014. The Sección
Cuarta (fourth section) of the Audiencia Provincial in Valencia found Aivaras Franskiavicius guilty of the murder of Javier Abil Orpegui. The sexual orientation of the victim was found to be an aggravating factor in the incident, as the attack happened after a group of men discovered Orpegui was gay and had tried to flirt with them. Another three men were found guilty of helping Franskiavicius to conceal the crime.

- In August, the Court of Instruction No. 39 in Madrid fined a man who had physically attacked four other men in April 2015 while calling them “fags”. The perpetrator was ordered to pay each victim EUR 250 but the judgment did not classify the incident as a homophobic hate crime.
- Seven people were arrested following an attack on two men at Madrid’s Plaza de Chueca in August. The victims reported that they were beaten when they did not respond to the homophobic comments made by the larger group.
- In September, a man required medical treatment after he was punched by two men who had been shouting homophobic abuse at him and a friend from a car. The incident took place in the Retiro area of Madrid and was reported to the police the following day, with support from the Madrid Observatory against LGBTphobia.
- Two gay men were attacked by a group of 10-15 people as they walked home in the early hours of 18 October. The attack took place in the Puerta del Sol area of Madrid and was reported to the police and the hate crimes prosecutor.
- Three people were attacked by a larger group shouting homophobic comments outside a nightclub at the Plaza de Espana in Madrid on 29 October. One of the victims was grabbed by the hair and slapped in the face. The incident was reported to the police and the Madrid Observatory against LGBTphobia also called for it to be investigated as a hate crime based on sexual orientation.
- In December, three Mallorca policemen were arrested following a complaint from their colleague about harassment. The colleague is a lesbian woman, the only female officer in a particular police unit. Her house and car had been attacked several times and she made the official complaint when the problem was not solved through the unit’s internal human resources process.
- The Madrid Observatory against LGBTphobia recorded 240 attacks against members of the LGBTI community in Madrid in 2016.

Data collection
- According to the Madrid Observatory against LGBTphobia, the incident in October at the Plaza de Espana (see Bias-motivated violence) was the 198th LGBT hate crime recorded by their organisation since January. By the end of 2016, this figure had risen to 232 cases.

Education
- The director of a Catholic school in Alcorcón was fined by the Community of Madrid for circulating a letter to all students at the start of term that compared laws preventing LGBTphobic crimes with terrorism. Carlos Martinez, the principal of the Juan Pablo II de Alcorcón College was fined EUR 1,000; LGBTI NGOs believed the sanction was not severe enough and called on the director to publicly state that his comments were wrong.

Employment
- EMIDIS, the first employment index compiled by LGBT NGO FELTGB, was published in December. Along with the top 10 rated companies (with P&G named number 1 for inclusion), a study on company practice in diversity management in Spain was also released.

Enlargement
- A platform of ultraconservative pressure groups distributed a 44-page booklet to 16,500 schools that stated heterosexual people would be made second class citizens. The Hazte Oir booklet, entitled ‘Do you know what they want to teach your child in the school? The laws of sexual indoctrination’, stated that anti-discrimination laws really aimed to forcibly introduce “the ideology of gender” and “sexual diversity”. Some regional governments (including Cantabria, Castilla La Mancha, Extremadura and Andalucia) condemned the booklet and Catalonia Conselleria reported it to the Attorney.
Equality and non-discrimination

- On 17 May, the Parliament of the Balearic Islands passed a law to eradicate LGBTIphobia, proposed by Podemos, the More for Majorca (MES) coalition and PSOE. Under the law, trans people will have access to hormone treatment and lesbian women will have access to assisted reproduction treatment. Discrimination on the grounds of sexual orientation and gender identity is punishable by a series of fines, the maximum being EUR 45,000 for extreme violations of the act.

- Murcia’s regional assembly unanimously passed the Law on Social Equality for LGBTI people on 19 May. The act seeks to target discrimination on the grounds of sexual orientation and gender identity and aims to protect victims of attacks on these grounds in any field.

- The ECtHR delivered its judgment in the case of Aldeguer Tomás v Spain on 14 June. It held that a surviving same-sex partner who had been denied access to a survivor’s pension was not discriminated against on the grounds of sexual orientation. The Court did not find the applicant’s scenario to be relevantly similar to a surviving partner of a heterosexual couple who faced an impediment to marriage.

- On 14 July, the Madrid government passed the Law against LGBTI discrimination in a unanimous vote. The law was initially proposed by the People’s Party (Partido Popular, PP; Christian-democratic) and was subject to 138 amendments (76 of which came from the PSOE party). It prohibits and sanctions discrimination on the basis of sexual orientation and gender identity, and also requires public and private schools to include education on diversity in their curricula.

- A group called Plataforma por las libertades/Platform for Freedom launched a manifesto in December, calling for signatures from individuals opposed to laws protecting LGBTI people from discrimination. The group stated that such laws are unconstitutional and were “promulgated in the heat of the gender ideology”.

Freedom from torture, cruel, inhuman or degrading treatment

- LGBT NGO Arcopoli reported a website to the Community of Madrid’s Ministry of Social Policy and Family that claimed to offer ‘therapy’ under the tagline “You can leave homosexuality behind”. Elena Lorenzo’s website refers to homosexuality as a “psychological condition”; the Madrid government opened an investigation into the site in August.

Health

- As part of the region’s 2016-2020 health plan, the Catalan Minister for Health Antoni Comin announced a model of healthcare for trans people based on self-determination. The model was devised following cooperation between health professional, the Department of Health and Platform Trans* Form Health and is based on a demedicalisation principle; trans people no longer have to obtain a psychiatric diagnosis before healthcare support is available.

- In November, LGBTI NGO FELTGB and Triángulo highlighted the fact that two medicines prescribed to trans people (Testex Prolongatum and Meriestra) were no longer being made available in pharmacies. In the case of Meriestra, no explanation was offered by the Ministry of Health for the removal.

Human rights defenders

- In September, threats were made on social media against a number of LGBTI activists including Madrid assembly members Carla Antonelli (PSOE) and Beatriz Gimeno (Podemos), as well as Rubén López from the NGO FELTGB. The messages were reported to the police and FELTGB called on the interior minister to outline what actions are being taken to combat attacks on LGBTI people.
Participation in public, cultural and political life

- Several sportspeople came out publicly during the year: Olympic ice skater Javier Raya and Olympic water polo player Victor Gutierrez both came out in May. Jesus Tomillero became the first football referee to come out as gay; he received an honour award at a ceremony (named after activist Pedro Zerolo) in November.

Sexual and reproductive rights

- From 11 July, access to publicly funded assisted reproductive services was extended to all women in Catalonia, regardless of marital status, sexual orientation or clinical status. The new protocol was approved by Minister for Health Antoni Comin; previously free access was only guaranteed to couples, people with fertility issues or single heterosexual women.
- The health ministry of Castilla-La Mancha introduced a similar protocol in December; Minister of Health, Regina Leal announced that the new instructions would open access to assisted reproductive services to all women. The changes will come into force on 1 January 2017.
As in many other European countries, the issue of LGBTI asylum was to the fore in 2016. Swedish LGBTI NGOs, like many of their European counterparts, offered support services to LGBTI asylum seekers throughout the year. This practical assistance took many forms, from providing legal advice and expertise during status determination proceedings, to documenting incidents of bias-motivated violence against asylum seekers. Such attacks serve as a reminder of a gap within Sweden’s legal framework, as it currently does not mention gender identity or sex characteristics within its hate crime or speech laws. Additional grounds were added to the 2008 anti-discrimination law; meaning that, in future, employers and schools will have to take proactive steps to prevent discriminatory treatment on the basis of sexual orientation, gender identity and gender expression. In an attempt to address historical human rights violations, the government moved to compensate trans people who had previously been sterilised in order to have their gender recognised.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, and is free from abusive requirements (such as GID/medical diagnosis, or surgical/medical intervention).

- Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent.

- Introducing and implementing laws and policies on asylum that guarantees effective protection on all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.
Access to goods and services

- A bisexual woman received homophobic comments on social media when she and her girlfriend began looking for an apartment together in Gothenburg. After writing posts on Facebook ‘accommodation search’ groups, they received negative remarks and were also sent biphobic private messages. The woman explained her decision to publicise the situation via an interview with the GT Expressen newspaper in March: “I was surprised that people could sit behind their laptops and say such bad stuff to people… I think that I have good tolerance levels but when someone says something bad about your girlfriend you fire back”.

Asylum

- New temporary legislation that limits the possible ways individuals can obtain residence permits came into force on 20 July. One of the changes included in the law (that will automatically expire after three years) affects people who have not been granted refugee status but have been given permission to stay under the “otherwise in need of protection” category. Under the new rules, this status will only be available to children or families who sought asylum before 24 November 2016. According to NGOs, this status is commonly awarded to many LGBTI asylum seekers; organisations are concerned that LGBTI people could be impacted by the change. LGBTI NGO RSFL, along with other civil society groups, have criticised the new law. Another situations critiqued by NGOs working with LGBTI asylum seekers was the use of temporary three year residence permits for refugees or 13 month permits for people granted subsidiary protection, and also the stricter rules for close relatives of refugees who are seeking residence permits.
- Throughout the year, two asylum lawyers employed by LGBTI NGO RFSL acted as a public counsel or provided legal aid in approximately 60 cases representing LGBTI asylum seekers.

Bias-motivated speech

- Milos Yiannopoulos, editor with far-right website Breitbart, announced that he intended to lead a so-called Pride march through a predominately Muslim part of Stockholm. The Jarva march on 27 July, organised by a populist group opposed to immigration, took place without Yiannopoulos and attracted an estimated 50 participants.
- Kaukto Antbacke (Christian Democrats, KD) a local politician in the Alvesta municipality criticised the city of Vaxjo for displaying rainbow flags on municipal buildings. He made the comments on social media in May, saying that “Pride doesn’t belong in our culture”. He also compared the flying of the rainbow flag to flying a flag of the so-called Islamic State/ISIS. The KD party criticised the comments and stated that it lacked confidence in Antbacke. In June, he resigned from the municipal council. In September, Antbacke also made public comments about Vaxjo bishop Frederick Modéus, who had stated in an interview that love between same-sex and different-sex couples has equal value. Antbacke again commented on Facebook, saying God didn’t create people to be “transvetite, lesbian, gay, pedophile …”. On 23 September, Antbacke was excluded from the KD party.

Bias-motivated violence

- The government instructed the Swedish Police to improve their work on bias-motivated crime in 2016; throughout the year, specialised anti-hate crime groups were established. LGBTI NGO RFSL have been involved in training the police officers involved with these specialised groups.
- According to reports received by LGBTI NGO RFSL, threats and bias-motivated attacks against LGBTI people who are seeking asylum increased in 2016. These incidents commonly occurred in public spaces and in refugee housing. RFSL raised their concerns in dialogue with the police and the Swedish Migration Agency during the year.

Diversity

- The Funkisprojektet initiative ran throughout 2016, as part of LGBTI NGO RFSL’s aim to become more accessible to people with disabilities. Through the project, a new intersectional platform was created for RFSL to meet with disability NGOs, and a meeting place (hbtq-hänget) for LGBTQ people with disabilities was also set up in
Equality and non-discrimination
- The 2008 Discrimination Act was amended by the Swedish parliament (Riksdagen) on 26 June, extending the grounds that employers and schools must take active steps on to prevent discrimination. Previously, the education system and employers had to take preventative measures to protect people from discrimination based on ethnicity, gender or religion and belief. Under the changes, the proactive measures must be taken on all discrimination grounds, including sexual orientation, gender identity and gender expression. This change comes into effect on 1 January 2017.
- PostNord, the Swedish-Danish postal service, announced that it was turning the rainbow flag into a stamp in Sweden. It is believed to be the first postal service in the world to issue a rainbow flag stamp for Pride; the commemorative stamp was launched on 4 May to mark the diversity of “modern Sweden”. PortNord also set up rainbow post boxes in May in seven locations throughout Stockholm.

Family
- The government initiated a public consultation on 4 February into possible changes in the state insurance system for paid parental leave. Under the current system, only the legal parents can avail of the 16-month paid leave period (with some exceptions). This means that in a rainbow family, where more than 2 people are acting as parents to a child, the parents without legal custody do not have access to paid parental leave. One of the purposes cited by the consultation is to “investigate possibilities for different family constellations to use the parental leave and, if needed, propose changes”.

Foreign policy
- Under the Swedish Foreign Service’s Action Plan for Feminist Foreign Policy 2015-2018, one of the focus areas for 2016 was for the Foreign Service to “…scale up action for sexual rights without discrimination, abuse and violence, including by focusing on forced, early and child marriage, sexual harassment in schools and LGBTQ rights”.
- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Sweden, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

Health
- Based on data from Statistics Sweden, cross-referenced with their own information, the National Board of Health and Welfare showed an increased occurrence of stress-related mental illness among people in same-sex marriages compared to people in different-sex marriages. NGO RFSL commented that this report, published on 8 April, confirmed the need for targeted mental health support for LGBT people, something the NGO has campaigned for over many years.

Legal gender recognition
- On 27 April, public health minister Gabriel Wikstrom (Swedish Social Democratic Party, Social Democrats; SAP) announced that the government intended to compensate trans people who had been forcibly sterilised. Under gender recognition laws in force between 1972 and 2013, trans people had to lack “the ability to procreate” before they could have their gender legally recognised. Following the 2013 amendment, approximately 160 individuals submitted a compensation claim to the Attorney General. This was rejected, and NGOs advocating for the rights of trans people prepared to sue the state, before the government announcement in April.
- Also in April, an appeal attempt by the Swedish Tax Agency against a negative ruling against the agency was rejected by the Supreme Administrative Court. As a result, the earlier decision from the Administrative Court stood; that court had found the Tax Agency had no right to register a man who had changed his legal gender as a “divorced partner”. This designation made it possible to
access information about the man that revealed he had changed his legal gender. This was one in a series of case brought to court, with the support of RFSL, that challenges the definitions used in the civil registry for trans people. This had caused the individuals involved problems with authorities and healthcare providers. The Tax Agency lost all of these cases and all of the subsequent appeals. On 31 May, the Agency presented a report, detailing the changes they would make to the matter they treat this data.

**Sexual and reproductive rights**

- On 13 January, parliament approved changes proposed by the government to extend access to assisted reproduction to single women. From 1 April, single women could avail of the system under Swedish healthcare in a similar way to married couples, registered partners and cohabitants.
- On 24 February, an investigation into reproductive legislation published its findings. Lead investigator Eva Wendel Rosenberg said that the investigation recommended that Sweden does not introduce legislation regulating surrogacy, either for agreements inside or outside the state.
The topic of rainbow families and their legal rights featured heavily in political discussions in 2016, even if the original conversation was not framed as an LGBTI equality issue. A referendum in February was pitched as a vote to clarify taxation laws, but would have also restricted the definition of marriage and possibly blocked same-sex couples from marrying in the future. Following a successful NGO awareness-raising campaign, the initiative was rejected. In another popular vote, citizens of Zurich voted against narrowing the definition of marriage in their own canton’s constitution. NGOs also successfully turned a negative incident (transphobic comments in the media) into a potential opportunity to develop a trans-inclusive policy with a mainstream TV station. Disappointingly, the Federal Council rejected calls to introduce a new anti-discrimination action plan and legislation, despite earlier reports that suggested improvements be made in this area. While several other advances were made in the area of family, including the decision to allow registered partners to adopt each other’s children, Swiss legislation still does not include references to LGBTI people in hate crime or hate speech laws. In the absence of any police data on the issues, LGBTI NGOs established a helpline service to support people targeted by bias-motivated attacks.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
Legal and policy situation in **Switzerland** as of 31 December 2016

In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Updating the existing framework of anti-discrimination laws by expressly mentioning all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

- Explicitly including SOGISC (sexual orientation, gender identity, sex characteristics) in an equality action plan, accompanied by specific measures of progress.

- Developing, in consultation with the trans community, a specific national action plan to protect the human rights of trans people.
Bias-motivated speech

- NGO Transgender Network Switzerland (TGNS), along with other NGOs, issued a complaint with the Ombudsman about comments made about trans people during a TV programme. In the Giacobbo/ Müller show, broadcast on 10 April by SRF, insulting remarks were made about trans people. A petition calling for an apology was signed by 900 people in three weeks. Following the NGOs' complaint, the Ombudsman examined the case and on 25 April, it found that the comments infringed the non-discrimination provisions of the Radio and Television Act. On 30 May, TGNS and representatives of the SRF station met to discuss future coverage of trans-related topics, including the development of a trans policy.

Bias-motivated violence

- A new telephone helpline was set up to support victims of homophobic and transphobic violence. In the absence of police data on bias-motivated crimes, the volunteer-led LGBT+ Helpline began to catalogue the cases reported to it over the phone, by email, through their online form, or in face-to-face sessions. The helpline is partnered by NGOs Aids-Hilfe Schweiz, Dr Gay, Du bist Du, Lesbenerorganisation Schweiz, Network, PinkCop, PINK CROSS, TGNS, and Queeramnesty.

Equality and non-discrimination

- The Federal Council announced that while Swiss anti-discrimination law was generally seen as sufficient, some improvements were required to adequately protect the rights of LGBTI people. This conclusion was based on an earlier report, compiled in 2015 by the Swiss Centre of Expertise in Human Rights (SCHR). LGBTI NGOs called on the government to introduce a range of measures, including relating to bias-motivated violence, family law, new blood donation criteria, legal change of name and protection for non-binary individuals. On 18 August, the National Council’s legal affairs commission reacted to the Federal Council and SCHR reports by submitting a motion asking for an action plan for protection against discrimination. This was rejected by the Federal Council on 19 October, stating that the Council was already planning to implement some of the SCHR recommendations, so the action plan would be “an additional administrative burden”.

- The Swiss Transfusion Centre (SRC), the service within the Swiss Red Cross that deals with the country's blood supply, issued a press release saying that the blanket exclusion of men who have had sex with men (MSM) is no longer a suitable criterion. The SRC recommended introducing risk-based donation criteria instead, in a statement issued on 20 June. The request (submitted to Swissmedic – the Swiss Medicinal Products Agency for Therapeutic Products) asked for the replacement of a compulsory exclusion with a 12-month deferral period and to develop criteria that assesses individual risk. The blood donation procedures had not been amended before the end of the year, but MSM could donate blood stem cells from 22 June.

- The UN CEDAW Committee published its latest set of concluding observations on Switzerland on 18 November. The Committee expressed particular concern over a number of LBTI-related issues, including the lack of inclusion of LBTI people in health registers and surveys, the unnecessary surgical practices performed on intersex people, lack of laws to protect bodily integrity, the ongoing barriers to legal gender recognition faced by trans people and reimbursement of the costs of gender reassignment surgery.

Family

- A popular initiative, originally proposed in 2012 by the Swiss Christian Democratic People’s Party (PDC; centre-right) was voted on in 2016. The stated aim of the ‘For the couple and the family – against the marriage penalty’ initiative was to end existing fiscal inequality where married or registered couples paid more tax than non-registered couples. In order to confirm this change, the initiators of the vote also sought to introduce a definition of marriage in the Federal Constitution. Article 14 guaranteed the right to marriage and a family in gender-neutral terms, but the proposed article would read: “Marriage is the sustainable and regulated union between a man and a woman. From a fiscal point of view,
marriage constitutes an economic community. It cannot be discriminated against other ways of living, in particular in terms of tax and social insurance”. A coalition of Swiss LGBTI organisations, with the support of various civil society organisations and political parties, mobilised to inform voters about the possibility of preventing same-sex couples from marrying in the future. They launched a multi-lingual campaign: Avancons Ensemble (in French) / Gemeinsam Weiter (in German) / Avanti Insieme (in Italian). On 28 February, the popular initiative was rejected by 51% to 49%.

- The Legal Affairs Committee of the Council of States discussed potential amendments to adoption laws; among the suggestions debated was extending stepchild adoption to registered partners. The committee supported the change on 12 January by seven votes to four. The proposal proceeded to the Council of States, where it was approved by 32 votes to seven in a vote on 8 March. This was followed by a National Council vote on 17 June, approving the change with 125 votes in favour, 68 against and three abstentions. This change will permit all registered couples to apply to adopt their partner’s children; de facto couples (who are not married or registered, but who have been living as a common household for at least three years) are also included. A committee called ‘No to This Adoption Law’ attempted to force a referendum to block the legal change. In October, it was announced that the committee had failed to collect the 50,000 required signatures within the stated deadline. The law was finalised but it was not known, at the end of 2016, when the provisions would come into force.

- The Federal Democratic Union (EDU; Christian-right) launched a popular initiative in Zurich to amend the canton’s constitutional definition of marriage. The ‘Protection of Marriage’ initiative claimed that ‘various forces’ intend to introduce same-sex marriage, polygamy or abolish marriage entirely. The proposal to restrictively define marriage as a union between one man and one woman only was rejected by over 80% of voters on 27 November.

**Foreign policy**

- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, Switzerland, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.

**Health**

- On 26 June, the Federal Court held that hair removal procedures do not have to be reimbursed under basic health insurance if the procedure is performed by a beauty therapist as opposed to a medical doctor. The decision also stated that the fact that no doctor could be found to effectively remove white hair (the claimant in the case had white hair due to her age) is not age-based discrimination. (The technique used for darker hair would usually be offered by a dermatologist and would be reimbursed).

**Legal gender recognition**

- During 2016, several non-binary people were granted a name change by their canton’s administration, after explicitly stating that they have a non-binary gender identity. The first ever decision was recorded by the Basel-Stadt canton in February; there were several other cases in the Zug and Zurich cantons later in the year.

**Public opinion**

- An opinion poll, carried out for NGO Pink Cross by GFS Zurich, 69% of the 1011 survey respondents said they were in favour of marriage equality; 25% opposed extending marriage to same-sex couples. When asked about adoption, 50% said that same-sex couples should be able to adopt children and 39% opposed the idea. 86% of people agreed with the idea of criminalising anti-LGBTI hate crimes.

**Social security and social protection**

- On 16 June, the Zurich Social Insurance Court decided in favour of a trans person, finding that they were entitled to sick pay when undergoing gender reassignment surgery.
Turkey

A claustrophobic atmosphere, increased by the state of emergency declared in the wake of July’s attempted coup – this is the backdrop against which the work of LGBTI activists in Turkey played out in 2016. Detention periods were increased, legal assistance was limited, and being a lawyer, journalist or civil society organisation meant your job security became tenuous. This all combined to create a scenario where freedom of assembly could be limited in the name of ‘anti-terror measures’ and ‘security’, resulting in a banning of the IDAHOT march in Ankara, and Pride marches in both Istanbul and Izmir. The office of a prominent LGBTI NGO was also forced to close, due to rumoured security threats. In advance of Pride season, a series of ominous threats were made by several extremist groups. LGBTI people, in particular trans women, were the victims of violent bias-motivated attacks, many of them fatal. The brutal murder of well-known trans activist Hande Kader created a public outcry and inspired protests in Turkey and all over Europe. A landmark judgment sentenced the individuals who had raped activist Kemal Ordek to lengthy prison terms. A human rights committee was established but grounds to protect LGBTI people against discrimination were not included in its remit. Concerns over the situation for minority groups, especially LGBTI people, was emphasised both by the Council of Europe and the EU institutions. The European Commission referred to the ‘backsliding’ that was happening on fundamental rights, which is a particularly concerning trend considering the minimal law and policy protection for LGBTI people that existed in the first place.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Introducing hate crime laws and policies that explicitly cover all bias-motivated crimes based on sexual orientation, gender identity and sex characteristics.
- Removing obstacles to the effective exercise of freedom of assembly, association and expression.
- Explicitly including SOGISC (sexual orientation, gender identity, sex characteristics) in the mandate of a national human rights institution/equality body.
Access to goods and services
- A trans man, whose gender marker was still recorded as female on his public transportation card, had the card confiscated by a bus driver on 29 January. The man was travelling on the Kadikoy-Uskudar bus in Istanbul when the driver questioned him, in front of other passengers, saying that he didn’t take the man’s driver’s licence into account “…as it says on my screen that you are a woman. Are you a woman or a man?”
- A trans man was forced to leave his gym in September after he was told to use the gendered facilities that corresponded with his ID documents. The man had applied to the courts for legal gender recognition but his ID card had not been updated and still referred to him as ‘female’. The manager of the Anadolu Hisarı branch of MACFit in Istanbul told him that “…you have a pink ID card, you cannot use the men’s changing room…”. The following day, the gym froze the man’s membership.

Asylum
- The parliament’s Commission of Justice met on 6 April to discuss the International Legal Cooperation Bill on Criminal Matters. The bill included provisions on the procedures for extraditing refugees and MPs from the Peoples’ Democratic Party (HDP; left-wing) and argued that sexual orientation and gender identity should be added to the list of exceptions, as several countries still criminalise homosexuality. Minister of Justice Bekir Bozdağ (Justice and Development Party; AKP) stated that “…of course, there will come a motion on sexual orientation, but as the government we don’t agree with that. It is our political approach. As a conservative democrat party our approach on this matter is very clear…”.

Bias-motivated speech
- During a meeting of the parliamentary Commission on Equality for Women and Men in February, MPs discussed a proposal to establish a Human Rights and Equality Committee. Sexual orientation and gender identity were excluded from the possible discrimination grounds that the proposed body would act to prevent.

The Republican People’s Party (CHP; social-democratic) and the HDP criticised this omission. In response, Ayşe Doğan MP (AKP) said “There is no need to change our commission’s agenda by including a different subculture, with artificial sexual tendencies that are not in line with human nature and our society’s customs and traditions…”. The law establishing the human rights body was passed on 6 April and received presidential approval on 27 April.
- In the days leading up to Pride week, several extremist groups issued public threats against the Pride event planned for Istanbul (see Freedom of assembly). The Anatolia Muslim Youth Association (MAG) invited people (via Facebook) to gather together to attack Pride marches, saying “We won’t let the dishonourable perverts walk! Do not let the disgrace that is ironically called Pride March take place on June 19.” On 14 June, the Alperen Hearths (a far-right group with links to the nationalist Great Unity Party (BBP)) issued a press statement, inviting state officials to stop the event “…otherwise, our response will be very clear and harsh”. The statement refers to Pride’s “vileness and immorality”, states that LGBTI events are not normal, and urges that “either the state will do what is necessary or the Alperens will.” BBP party leader Mustafa Destici sided with the Alperen Hearths in a speech on 18 June: “…perversion and immorality cannot be called freedom… they should go do the march somewhere else, they can’t do it in my country.”
sexual assault in 2015, as the men had threatened them over the phone and via SMS). The main case’s final hearing was scheduled for November. On 17 November, two of the men were sentenced to five years in prison for robbery, insults and threatening behaviour. The third man was sentenced to 20 years in prison for the same offences as well as qualified sexual assault, in what was described as a ‘landmark’ decision by activists.

- Two trans women who work as sex workers in Ankara were stabbed by a man on 8 February. The women were treated in hospital, complained to the police and the attacker was detained. In a statement, he said that “I do it for pleasure. I will stab more transvestites.”

- A trans woman was found dead at her home in the Bakırköy district of Istanbul in March. The district attorney began an investigation of her home and camera footage was inspected in an attempt to verify the perpetrator. A suspect was arrested on 11 March.

- A trans person, working as a sex worker in the north-western city of Çorlu, was murdered in March by a client who had become involved in a fight with them. The perpetrator told a taxi driver that he had killed someone and the driver called the police. The man was arrested at his home and taken to Çorlu’s police station. The case was ongoing at the end of 2016.

- A gay man was found dead at his house in the city of İşkenderun on 17 April. His friends told NGO Kaos GL they believed that this was a hate crime, saying that “İskenderun is a small coastal city and everyone knows each other. You cannot live like you want. You have to wear a costume when you’re alive…”.

- Muhammad Wisam Sankari, an asylum seeker originally from Syria, was murdered and beheaded in Istanbul in July. His friends told NGO Kaos GL that gangs had previously threatened them and sexually assaulted Sankari; they believed he was targeted as he was an openly gay man.

- On 8 August, trans activist Hande Kader was found in a forest in Istanbul. She was last seen getting into a client’s car; she had been murdered and her body had been burned. Kader was well-known in Turkey after her public resistance against attempts by the police to break up Istanbul Pride in 2015. On 22 August, hundreds of people protested in Istanbul city centre at a demonstration organised by LGBTI NGOs, calling for justice and an investigation into Kader’s death. No arrests had been made in the case by the end of the year.

- A Syrian trans woman who had travelled to Istanbul as a refugee was found dead at her home; it is believed she was murdered by a client on 17 December. Representatives from NGOs Women’s Solidarity Foundation (KADAV) and the Istanbul LGBTT Solidarity Association were following the case at the end of the year.

**Diversity**

- The Kadıköy and Şişli municipalities in Istanbul (in cooperation with Lambdaistanbul LGBTI Association) displayed an LGBTI-friendly billboard campaign, supporting LBTI women, to mark International Women’s Day on 8 March.

**Employment**

- On 17 March, a court case involving clothing brand GAP Istanbul branch and a former employee began. The former staff member said that he faced homophobic insults once it became known in the clothing shop that he was gay; eventually he said he was forced to resign, after working in the particular shop for 10 years. Lawyers for GAP did not appear at the first hearing and the case was adjourned until 19 October.

**Enlargement**

- Turkey applied to join the European Union in 1987; negotiations began in 2005. In its annual enlargement package reviewing progress made towards EU accession, published in November, the European Commission noted that there had been “backsliding” on the issue of fundamental rights, with particular reference to freedom of expression. The July coup was referred to as “a shocking and brutal attack” on democratic institutions but also stated that “…many serious violations of the prohibition of torture and ill-treatment and of procedural rights were alleged in the aftermath…”. In the Commission’s view,
human rights violations against LGBTI people “continue to be a source of a serious concern”.

**Equality and non-discrimination**

- On 14 April, the European Parliament published a resolution on its 2015 report on Turkey. The Parliament made several LGBTI-specific recommendations to the authorities, including the need to introduce comprehensive legislation to protect against discrimination and hate crimes on the grounds of sexual orientation and gender identity.
- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on Turkey on 4 October. ECRI expressed concern over the deterioration of conditions for particular groups, including LGBTI people, with specific reference made to the violent dispersal of Istanbul Pride 2015. The independence of several human rights authorities was questioned and the increased use of hate speech by public officials was described as “particularly worrying”. The deaths of LGBTI people and under-reporting of hate crimes were noted by ECRI, leading ECRI to recommend that sexual orientation and gender identity be included in discrimination legislation as protected grounds and that the authorities adopt and implement an LGBTI-specific action plan.
- Several municipalities (run by the CHP and HDP parties) continued to extend their services for LGBTI people. Bursa Nilufer provided gender equality classes to 16 schools during the 2015/2016 academic year. In May, the Şişli Municipality started offering free gynaecology services to LGBTI people and, in August, it became the first Turkish municipality to join the international Rainbow Cities Network. The Çankaya Municipality Public Health Centre began offering a free and anonymous HIV testing service from 1 December.

**Freedom of assembly**

- NGO Kaos GL organised a march against homophobia and transphobia in Ankara, to celebrate IDAHOT. The event had been scheduled to take place on 22 May but the capital’s Governorate banned it. The governor stated that the march incited “certain social sensitivities” and the city could not guarantee the safety of the event.
- Izmir Pride, organised by the Rainbow Solidarity Network and supported by Konak City Council, was due to take place on 4 June. On 3 June, the Izmir Governorate banned the event. According to the governorate, “partially confirmed” intelligence tips suggested that people involved with terrorist organisations would infiltrate the crowd. The Rainbow Solidarity Network issued a statement criticising the last-minute decision, saying that the “vague, baseless, and frivolous statement preventing our democratic right to demonstrate is unacceptable”. Over 100 people gathered at Alsancak Kıbrıs Şehitleri Avenue in Izmir on 4 June and marched in defiance of the ban.
- The 6th Trans Pride was due to take place in Istanbul on 19 June, but was banned by local authorities who cited security concerns following a series of threats from right-wing extreme groups (see Bias-motivated speech). Trans activists and supporters gathered at the city’s Taksim Square. According to international media, hundreds of riot police were also present. The police cordoned off the square and fired tear gas and rubber bullets to disperse the protestors.
- It was announced by Istanbul city authorities on 17 June that the 14th Istanbul Pride (scheduled for 26 June) was being cancelled. Safeguarding security and public order were the official reasons given for the cancellation. The organisers were not allowed to hold a press conference “due to threat of terror attacks”, according to Istanbul’s deputy governor. Istanbul LGBTI+ Pride Week Committee called the ban a “flagrant violation of the constitution and the law” and said they planned to take legal action. On 20 June, CoE Human Rights Commissioner Nils Muiznieks urged the authorities to reverse the decision, saying a ban on the Pride event would be “…yet another blow to freedom of expression and freedom of assembly in an already particularly negative context…”.

The Committee attempted to read a statement at a gathering of supporters in the city centre on 26 June but they were dispersed by the police. 17 activists and a number of supporters (including German MEP Terry
Reintke (Greens/EFA)) were briefly detained and later released. No legal action was taken against those detained.

**Freedom of association**
- In April, a document was circulated on social media that listed institutions, organisations, and public spaces believed to be under threat from the so-called Islamic State/ISIS. The internal correspondence from the Turkish Counter-Terror Department included NGO Kaos GL. The NGO reached out to the counter terrorism department with Ankara’s police and the Gulhane Military Academy, who informed the NGO that this information had not been confirmed. Kaos GL also contacted the Office of the Prime Minister, the Governorship of Ankara, and the police and armed forces to ask for further information and urgent protection. When they did not receive an official response, Kaos GL temporarily closed its office for four months, before moving to a new, undisclosed, address.
- The Istanbul LGBTI Solidarity Association was asked to vacate its offices in the Beyoğlu district of Istanbul by one of the property’s owners. The request was issued in September after one of the co-owners of the Öğüt street apartment said they did not condone the organisation’s activities. The association refused to leave, saying “What you call ‘these kind of activities’ is the struggle for equality and freedom…”.
- Under measures introduced by the government during the post-coup official state of emergency, 1789 civil society associations were closed during 2016. No LGBTI organisation was included among these closures.

**Freedom of expression**
- On 16 November, 14 LGBTI organizations from Ankara, Bursa, Çanakkale, Diyarbakir, Giresun, İstanbul, İzmir and Mersin issued a joint press release, reacting to the restrictions imposed on activists and the media since the attempted coup in July. The statement reminded the authorities that a state of emergency cannot be an excuse to suspend human rights.
- On 22 November, the European Court of Human Rights unanimously ruled that there had been a violation of Kaos GL’s right to freedom of expression in the case of Kaos GL v Turkey. In 2006, all the copies of an edition of a magazine produced by the LGBTI NGO had been seized by the courts, under the request of the Ankara Chief Prosecutor. The publication contained articles and images relating to homosexuality and pornography; the prosecutors stated that the images contravened public morals. The magazine’s editor-in-chief had been through a series of legal hearings and appeals between 2007 and 2012. In the European Court of Human Rights decision, judges acknowledged that protecting public morals is a legitimate aim and that (given the content of the magazine) some measures to prevent access by certain groups (such as minors) may have been justified. However, the Court found that the methods employed by the state could not be considered proportionate and held that Article 10 of the Convention had been violated.
- Three participants in the 2015 Beyoğlu Pride march had a lawsuit filed against them in May for carrying a banner during the previous year’s event which read “Ramazan can’t interfere with Şaban and Recep’s love” (a pun playing on the Turkish names of the three sacred months of Islam). The prosecutor stated that the banner had denigrated religious values. The case was heard at the İstanbul 33rd Criminal Court of First Instance. On 27 December, the three defendants were acquitted as the court stated that the act that they were charged with was not a criminal offence.

**Freedom from torture, cruel, inhuman or degrading treatment**
- Esra Arikan, a trans woman serving an 11-year prison sentence at the men’s Eskişehir H Type Closed Prison, wrote about her living conditions in a letter to her sister that was published online in November. The letter described being threatened as well physically and sexually assaulted, and also stated that she was not able to receive hospital treatment after these assaults. Esra’s supporters intended to complain to the Parliamentary Human Rights Investigation Commission and the Ministry of Justice before the end of 2016.
Human rights defenders

- An LGBTI activist was forced to leave her home in September after she had been harassed by a group of young men living in the same neighbourhood. Kıvılcım Arat, a spokesperson for the Istanbul LGBTI Solidarity Association, left Beyoğlu after being repeatedly threatened by the group. She intended to file criminal complaints before returning to Istanbul.

Legal gender recognition

- On 31 January, the Constitutional Court added an item to its agenda concerning Article 40 of the Civil Code. This provision states that trans individuals must be unable to reproduce, meaning that trans people have to resort to sterilisation in order to complete the gender recognition process. A petition to repeal this article had been submitted to the Court by lawyer Sinem Hun and a team of nine colleagues. The article had not been repealed by the end of 2016.

Participation in public, cultural and political life

- Levent Pişkin, a lawyer, LGBTI activist and an administrator for the HDP in Istanbul, was detained for three days in November. The detention occurred after he visited HDP co-Leader Selahattin Demirtaş in prison, and Pişkin was accused of “lobbying” against the country via international media outlets. Mersin Akdeniz co-mayor Yüksel Mutlu (Democratic Regions Party, DBP; centre-left), was arrested on 25 December and replaced by a government appointed trustee. Mutlu had previously signed NGO SPoD’s LGBT-friendly municipal protocol; LGBTI NGOs called for her release and reinstatement. Although both events were linked to Pişkin and Mutlu’s political affiliations, their detentions had an impact on the LGBTI communities as their pro-equality work was hindered.

Public opinion

- The “Void of Liberalism: a view on liberal values in Turkey” poll, conducted by the Friedrich Naumann Foundation’s Turkey Office, was published in August.
A series of public LGBTI events took place in Ukraine in 2016, many of which were memorable for a variety of reasons. The city of Odesa hosted its first ever Pride March, with participants marching with a sizable police presence for security reasons. Kyiv Pride, which had been violently disrupted in 2015, was also heavily policed. But, in a positive development, it attracted its largest ever attendance. LGBTI activists planning to take part in the Equality Festival in Lviv had a very different experience. The festival was ultimately banned by local authorities. Opposition groups issued threats, venues pulled out of hosting events, and counter-protestors surrounded the participants’ hotel. LGBTI NGOs also experienced frustration with government ministries when following up on the contents of the human rights action plan. Specific anti-discrimination law references to sexual orientation and gender identity, envisaged in the action plan, appeared not to be a priority – despite the fact that protection for LGBTI people remains extremely limited outside the employment provisions of the 2015 labour law. In one particularly positive development, work on reforming the legal gender recognition procedure in Ukraine (that had started in 2015) brought its first results. The work of trans activists was not completely finished by the end of the year, but the revision did make essential changes to the gender recognition progress for the first time in several decades.

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In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Introducing laws and policies designed to tackle hate crime that contain express mention of all SOGISC (sexual orientation, gender identity, sex characteristics) grounds.

- Adopting legal measures to recognise and protect same-sex couples, such as civil unions or registered partnership.

- For public authorities take proactive and visible steps to protect the right of LGBTI people and their allies to freely assemble.
Bias-motivated speech
- On 3 December, the Synod of the Ukrainian Greek Catholic Church published their ‘Message on the Dangers of Gender Ideology’. The senior church figures warned that so-called gender ideology is “…trying to destroy the perception of human sexuality as a gift of God that is naturally linked to the biological differences between men and women.”

Equality and non-discrimination
- The European Parliament’s resolution on the human rights situation in Crimea, adopted on 4 February, highlighted its “…grave concern regarding the situation of LGBTI people in Crimea, which has substantially worsened following the Russian annexation, and regarding repressive action and threats by the de facto authorities and paramilitary groups”.
- Speaking at the Munich Security Conference on 13 February, President Petro Poroshenko (Poroshenko Bloc; centre-right) said that one of the biggest threats to Europe are “alternative values bringing isolationism, intolerance, lack of respect for people’s rights, religious fanaticism and homophobia”.
- A report on the 2015 situation for LGBT people in Ukraine was presented by LGBT NGO NASH MIR Centre at their international conference in Kyiv on 15 March. The report, entitled ‘The Ice is Broken’, found that while explicit homophobic rhetoric from public figures such as church officials was not as severe as in previous years, the level of aggression coming from right-wing groups increased significantly.
- A parliamentary vote on ratification of the Istanbul Convention had been scheduled to take place on 17 November. The president had submitted a draft bill on the convention’s ratification to parliament on 15 November. After a debate where several lawmakers expressed support for “traditional values” and religious standards, the Ukrainian parliament announced that references to sexual orientation and gender would be removed from the bill. The Council of Europe’s Istanbul Convention aims to prevent domestic violence and combat violence against women. At the end of 2016, it has still not been ratified and no new parliamentary hearing date had been set.
- LGBT NGO Nash Mir submitted questions to the Ministry of Justice over the implementation of the action plan designed to initiate the National Strategy on Human Rights 2015-2020. The action plan stated that the basic anti-discrimination law would be amended to bring it in to line with EU standards, specifically the prohibition of discrimination on grounds of sexual orientation and gender identity. Nash Mir were told, via a letter from the ministry on 29 March, that this would not be happening as LGBT rights were already sufficiently protected under the Code of Labour Law amendments carried out in November 2015. Nash Mir criticised the government’s failure to fulfil this particular provision of the action plan.

Family
- Metropolitan Onufrii spoke out against the 2015 amendments to the Ukrainian Code of Labour Laws during a Bishops’ Council meeting in Moscow. On 2 February, the current head of the Ukrainian Orthodox Church (Moscow Patriarchate) said that the provisions banning discrimination on the grounds of sexual orientation and gender identity were “…new for (the) Ukrainian legislative environment. Such innovations may become a first step towards propaganda of homosexual way of life and attempts of legalization of same-sex marriages in Ukraine.”
- At a meeting between President Poroshenko and the Ukrainian Council of Churches and Religious Organisations on 23 April, the same Metropolitan of Kyiv spoke about the country’s “traditional values” and the “danger” of introducing marriage equality for same-sex couples.

Freedom of assembly
- Following on from a successful event in Kyiv, LGBTQ NGO Insight planned to hold a similar Equality Festival in Lviv. Insight wrote to the city’s mayor Andrii Sadovyj on 25 February, asking the office to officially support the event and also to invite the mayor to personally take part in the festival’s opening. The letter was delivered on 29 February.
but Insight received no response from the mayor. Deputy Mayor Marta Lytvyniuk subsequently told local media that “The City Council considers it inappropriate to hold such events in Lviv, in order to guarantee the safety of all residents and visitors of our city”. Information about the festival, planned for 19-20 March, was published online on 12 March. Over the following days, the programme was shared on social media and by regional media outlets. Groups who opposed the festival began to threaten the organisers and participants. The proposed venue for the festival, the Underground Museum of Ideas, pulled out on 15 March after it received anonymous threats. Insight then wrote to Lviv city hall and the police to request security support for the festival. On 18 March, the night before the festival was due to open, a court ruled that all public events planned for the weekend were banned. Approximately 70 participants had already arrived at a local hotel in preparation and, on 19 March, the Dniester hotel was surrounded by 200 armed protestors who shouted “kill, kill, kill”, according to activists. The police were called and a special forces unit arrived several hour later. The participants were evacuated from the hotel by bus. The US and Canadian ambassadors Geoffrey Pyatt and Roman Waschuk both condemned the disruption on social media. Minister of Foreign Affairs Pavlo Klimkin (independent) expressed similar condemnation and confirmed a police investigation was underway.

An equality celebration in Kyiv, organised in solidarity with Lviv’s Equality Festival, was supported by the Kyiv City State Administration, who said in a statement dated 13 May, “Kyiv as the capital has to be an example in complying with democratic standards across the country” and that it considered “…unacceptable any manifestation of violence some individuals or social groups over others.”

Equality Festivals were also organised in Odesa, Dnipro and Zaporizhzhia. The festival in Dnipro was moved from the central city library to a new location after the library refused, fearing homophobic aggression. Organisers in Zaporizhzhia had a similar experience, when the Max Grant Jewish Centre refused to host the event after receiving homophobic threats. Kyiv’s annual Equality Festival was held from 8 to 11 December, without any reported incidents.

On 10 May, the Kherson District Administrative Court heard a case involving an LGBT public event and the city council. Unlike the district courts in Lviv and Odesa, the Kherson court refused to ban the LGBT event.

The chair of the Verkhovna Rada human rights committee Hryhoriy Nemyria (All-Ukrainian Union Batkivshchyna, “Fatherland”; centre-right) issued a statement marking IDAHOT, remarking that 17 May was “…another opportunity for Ukraine to demonstrate its strong commitment to the observance of human rights and non-discrimination on any grounds” and calling for a collective effort to overcome homophobia and transphobic intolerance. This was the first time that the committee had issued a public statement for IDAHOT.

On 12 June, the largest Pride march to date took place successfully in Kyiv. According to police estimates, 1,500 participants marched while being marshalled by 5,500 police officers. 57 people were detained and released, as some protestors attempted to break through the police cordon. The 2015 event had been held in a secret location and was still disrupted by violent counter-protestors.

The first ever Pride March in Odesa went ahead on 13 August. Local authorities had banned the march on 14 August, citing security concerns and the possibility of clashes with far-right groups opposing the march. The organisers then submitted another event notification, stating a new time and location for the march; this notification was not disputed by the City Council. Over 50 participants took part in the march itself, with approximately 700 police officers protecting the area around the city’s Potemkin Stairs (a different location than was originally planned). People from a nationalist group known as Sokol (or ‘Falcon’) attempted to disrupt the event but were stopped by the police cordon; 20 protestors were detained by police and later released.

On 14 August, a march organised in Odesa in response to Pride attracted approximately 100 participants. The Odesa march in support of “traditional values” was organised by nationalist groups and members of the clergy.
In September, the Spiritual Council of Christian Churches in Zaporizhzhia wrote to the city's mayor, asking that all LGBT-related activities carried out there by equality NGOs be banned. The Council announced plans to hold a march in Kyiv on 2 October to promote traditional family values; similar marches also took place in Khmelnytskyi, Lutsk, Chernivtsi and Ivano-Frankivsk.

The Culture-Art LGBT Maidan event hosted by LGBT NGO LIGA was relocated to a new location following threats made to the venue owner from nationalist and ring-wing groups. The event went ahead with extra security in a new location on 9 September.

‘This is gay propaganda’, a documentary film about the Maidan revolution in the context of the LGBT community in Ukraine, was screened on 18 October in Chernivtsi. The event was disrupted when supporters of the right-wing Pravyi Sektor (‘Right Sector’) and Azov groups threatened attendees with physical violence. Two participants were beaten up after they left the screening by unknown people in masks and camouflage. Oleksiy Kaspruk, the mayor of Chernivtsi, later apologised and called the attack a “shameful incident”. A complaint was filed but it was not initially registered by the police; an investigation started following a court decision. On 29 November, the screening was held again, by invitation only and with police outside. A right-wing group protested with placards in front of the venue.

On 22 October, LGBTQ NGO Insight organised a public street action in Kyiv, dedicated to International Day of Action for Trans Depathologisation. The action was held as legislative reform was being conducted by Ministry of Health (see Legal gender recognition). Entitled “Trans March”, it became the first publicly announced trans public action in the country. About 50 trans people and allies marched under police guard provided by the Kyiv city authorities. No incidents were reported during or after the march.

Human rights defenders

NGO Memorial released their “Violations of the rights of LGBT people in Crimea and Donbas” report on 14 June. The report, prepared in cooperation with the Centre for Civil Liberties, analyses the existing legal situation in Crimea and eastern Ukraine and also includes information on the social situation from eyewitness interviews. It concludes that “…the position of LGBT people in Crimea and eastern Ukraine has deteriorated greatly in the past two years, and activists of the movement have been forced to leave or abandon their work in organising the community.”

Legal gender recognition

On 8 June, the Kyiv Administrative District Court ruled that a trans man and a trans woman who had not undergone sterilisation must have their gender identities recognised by issuing them medical certificates of sex change by the Commission on Sex Change/Correction. In September 2015, the Commission had issued certificates that were incorrectly filled out and could not be used to obtain new ID documents. After the new decision, both trans people received correctly completed certificates, were legally recognised, and obtained new passports.

On 15 September, the Ministry of Health published a unified clinical protocol to improve the health care system for trans people. This protocol had been developed by a ministerial working group and introduced three levels of health care, ranging from general practitioner services to highly specialised professionals. It also proposed eliminating the existing central commission, enabling any qualified psychiatrist to give a diagnosis on an outpatient basis (removing the need for compulsory hospitalisation). The new protocol also proposed opening access to assessment for children and adolescents (under 14 required the consent of both parents; those aged 14-18 required parent and child consent) as well as access for trans people to reproductive technologies and adoption. However, LGBTI groups stated that the text of the new protocol still contained problematic aspects, such as irreversible surgical intervention and required psychiatric assessment for at least two years. Acting Minister of Healthcare Ulana Suprun met with LGBTQ NGO Insight on 30 September and promised remove the requirements urgently. At the end of 2016, they remained in the protocol text. A new order, which came into force on 30
December, revoked Order No 60 of the Ministry of Health which regulated trans healthcare procedures and prerequisites for legal gender recognition. This order also introduced a new form of medical certificate of sex change and new indications for it based on definition of “Transsexualism” diagnosis in ICD-10. Being married or having children under the age of 18 are no longer limitations for legal gender recognition. NGOs, trans activists and acting Minister Ulana Suprun also agreed to create an international working group to further improve the unified clinical protocol to bring it into line with modern European standards.
The decision by almost 52% of the electorate to opt to leave the European Union was undoubtedly the most infamous development in UK political and cultural life during 2016. However, two of the four nations making up the UK – Northern Ireland and Scotland – voted (by a large margin) in favour of EU membership. Both ‘Leave’ and ‘Remain’ advocates had referred to LGBTI equality during the referendum campaign and the decision (that would colloquially become known as ‘Brexit’) was said to have knock-on effects for LGBTI people. Data from LGBTI NGOs suggested that hate crimes had risen in England and Wales in the wake of the vote, prompting discussions on the future of human rights and equality laws in the UK. Once again, the issue of varying levels of legal recognition depending on geography was raised; the situation faced by LGBTI people living in Northern Ireland was cited by the CoE monitoring body, ECRI. The experience of LGBTI people in various institutions was also critiqued during the year, in analyses of asylum detention centres and the experience of LGBTI people in prison. The first-ever survey with non-binary people in the UK was carried out, and intersex activists called for greater recognition. The UK and Scottish governments stated that more needed to be done to update legal gender recognition laws following the first trans inquiry. In another acknowledgement, the UK government moved to pardon men who were historically convicted in England, Wales and Northern Ireland for now-abolished “homosexual offences”; the Scottish Government promised to also do so.

For more information on developments in 2016, visit www.rainbow-europe.org where you can read the full country chapter.
In order to improve the legal and policy situation of LGBTI people, ILGA-Europe recommend:

- Updating the existing legal framework for legal gender recognition, to ensure the process is based on self-determination, is free from abusive requirements (such as GID/medical diagnosis), free from age limits, and includes non-binary recognition.

- Prohibiting medical intervention on intersex minors when the intervention has no medical necessity and can be avoided or postponed until the person can provide informed consent, and including references to sex characteristics in anti-discrimination legislation.

- Ensuring access to marriage equality for all, in all parts of the United Kingdom.
Access to goods and services

- A gay couple were asked to leave a London supermarket on 8 August after a customer complained about them holding hands, saying this was “inappropriate”. Management at the Hackney Road branch of Sainsbury’s later apologised and said they would review the work of their security company. Approximately 200 people staged a ‘kissathon’ at the supermarket on 13 August to protest against how the couple were treated.
- The legal dispute between an LGBTI activist and a Northern Ireland bakery continued in 2016. On 24 October, Belfast’s Court of Appeal upheld the 2015 High Court ruling that Asher’s Bakery had directly discriminated against Gareth Lee by refusing to provide a cake with a pro-equal marriage slogan in 2014. On 8 November, First Minister Arlene Foster (Democratic Unionist Party, DUP; unionist/conservative) commented that the Equality Commission (who had supported Lee’s case) needed to explain to the NI Executive “…what affirmative action they intend to take in terms of the faith communities, because there is certainly a chill factor there…” NI Attorney General John Larkin applied for leave to appeal to the Supreme Court on 16 November, but this request was rejected by Lord Chief Justice Declan Morgan on 21 December, saying there were no exceptional circumstances that required the case to be reopened. The family who own the bakery said they intended to pursue their own Supreme Court appeal and would file papers in early 2017.

Asylum

- In January, a bisexual man received refugee status after a three-year legal appeal against the Home Office’s intention to deport him to Jamaica. The original judge held that Orashia Edwards had been “dishonest” about his sexual orientation; Edwards said that he had provided intimate pictures of himself but that officials had refused to accept them as evidence of his sexual orientation.
- The results of an independent review, conducted by former prisons ombudsman Stephen Shaw, was published by the Home Office in January. Shaw specifically stated that immigration detention is unsuitable for trans people as centres cannot guarantee a safe, supportive environment.
- A joint report on the treatment of LGBT asylum seekers in UK detention centres was released by NGOs Stonewall and UKLGIG (UK Lesbian and Gay Immigration Group) on 26 October. No Safe Refuge was based on 22 interviews with LGBT asylum seekers who had been held in detention centres – telling researchers that they were denied access to medication, including anti-depressants or drugs to treat HIV, as well as experiencing discrimination and violence from fellow detainees and staff. The report’s recommendations included ending Home Office detention and the use of accelerated measures for LGBT asylum seekers, prohibiting solitary confinement as a way to ensure the safety of LGBT asylum seekers and ensuring access to free, good quality legal advice.
- In November, LGBTI NGOs criticised Home Office officials when it emerged that LGBTI asylum seekers were being questioned on specific LGBTI terminology. In a specific case involving a bisexual asylum seeker from Pakistan in August, he was asked why he had said that the T in the acronym LGBT referred to ‘trans’ when the official said it meant ‘transgender’. The man’s application was rejected and an appeal was ongoing.

Bias-motivated violence

- Home Secretary Amber Rudd (Conservative) launched Action against Hate – a hate crime action plan - at an event hosted by NGO Galop on 26 July. The plan, which applies to England and Wales, outlines plans to prevent and respond to hate crime until 2020. It included commitments to equip schools to deal with homophobic bullying, the introduction of a GBP 2.4 million funding scheme for security measures, working with groups who underreport hate crime, and working with community groups who assist LGBT victims of hate crime.
- The Scottish government published the report of the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion on 23 September. The group had been set up in 2015 to make suggestions for future
action. On publication, the government said that it would accept all the report’s recommendations for further action on hate crime in Scotland.

- According to the Home Office’s Statistical Bulletin dated 13 October, between 1 April 2015 and 31 March 2016, the police recorded 7,194 sexual orientation hate crimes and 858 trans hate crimes in England and Wales. These were 12% and 1% respectively of the overall 62,518 recorded hate crimes. This was an increase of 29% and 49% respectively when compared to the 2014/2015 figures.

- The Hate Crime in Scotland 2015/16 report produced by Scotland’s prosecution service showed that 1,020 sexual orientation hate crimes were reported by police to prosecutors (a rise of 20% on 2014/15 figures). There were 30 trans hate crimes reported to prosecutors during the same period (an increase of 43% on 2014/15). Court proceedings were commenced in 86% of sexual orientation hate crimes and in 23 of the 30 trans charges.

- LGBT NGO Galop reported an increase of 147% in the number of LGBT people facing hate crime that they provided advice and support to in the three months following the referendum vote compared with the same three months in the previous year. That was a rise to 178 people during July, August and September of 2016, compared with 72 in the same period the previous year. The Galop figures apply solely to England and Wales.

**Bodily integrity**

- Three intersex activists staged a protest outside the Houses of Parliament on 10 March, calling on MPs to initiate an Intersex Equality Inquiry. The activists chained themselves to gates outside Westminster before attempting to lobby MPs on the issue.

- The UN Committee on the Rights of the Child’s concluding observations, published on 3 June, recommended that the UK ensure that no child is subjected to unnecessary surgery, provide families of intersex children with adequate support, educate medical professionals on the consequences of such interventions for intersex children, and to provide redress.

**Data collection**

- *Shh…No Talking*, a report focusing on LGBT-inclusive sex and relationships education in the UK, was released by the Terrence Higgins Trust in July. An online survey was carried out with over 900 young people during LGBTI History Month; 99% of respondents said that age appropriate sex and relationships education (SRE) should be taught in schools. Where SRE was taught, 95% of respondents said that they had not learnt about LGBT-inclusive sex and relationships and 98% of the 817 young people who responded said that they did not recall trans issues being part of their SRE classes.

- Scottish campaign group Time for Inclusive Education (TIE) published the results of their survey with students, former pupils and teachers in September. The research highlighted high rates of bullying, with 90% of the respondents who identified as LGBT saying they had experienced homophobia while at school. 64% said they had been bullied specifically because of their sexual orientation or gender identity.

- NGO The Scottish Trans Alliance published the results of the first research into the experience of non-binary people in the UK. The survey findings, released in October, referred to the responses of 895 non-binary people who filled out an online questionnaire. 65% said that services they accessed were never inclusive of non-binary people; 63% said they were less likely to access services as a result of this invisibility. When discussing their gender identity and employment, 52% said they never felt comfortable sharing the fact they identified as non-binary at work, and 55% were worried sharing this would impact their career progression. 64% of those surveyed said they would like to have their gender or sex on official documents registered as something other than male/female.

**Diversity**

- *The Good Parliament* report by Professor Sarah Childs was launched on 20 July. Childs compiled a set of recommendations designed to make Westminster more sensitive to gender and diversity, to bring it in line with the Inter-Parliamentary Union’s global framework.
Education

- In February, then Education Secretary Nicky Morgan (Conservative) announced that sex and relationship education would not be made compulsory for all schools in England. New Education Secretary Justine Greening stated that SRE was one of the issues she was considering following her appointment by Prime Minister Theresa May. This reconsideration of SRE's status was confirmed by the junior education minister on 8 November in response to a parliamentary question. Five chairs of parliamentary select committees write to Secretary Greening later in the month calling for a more urgent reaction and for the secretary to “engage constructively” on the issue.

Employment

- Over 400 organisations took part in NGO Stonewall’s Top 100 Employers Index, the highest number in the ranking’s 12-year history.

Equality and non-discrimination

- The Court of Appeal in Belfast ruled in March that it was the role of the Northern Ireland health minister to decide whether to amend the blood donation criteria and lift the current blanket ban, not the UK Health Secretary. After her appointment as health minister following the NI Assembly elections, Michelle O’Neill (Sinn Fein, SF; Irish republican) announced on 2 June that the permanent exclusion of gay and bisexual men from donating blood would be replaced by a 12-month deferral period. This change, bringing NI into line with similar policies in England, Wales and Scotland, came into effect on 1 September.
- Prior to the Assembly elections, then Welsh Minister for Communities and Tackling Poverty Leslie Griffiths (Welsh Labour) launched a Transgender Action Plan on 14 March. The document had been produced following a public consultation, and contained recommendations on removing barriers to equality in certain key areas, including health, housing and sport.
- The Isle of Man’s proposed Equality Bill (including references to sexual orientation and gender reassignment) passed the first and second reading stage in the House of Keys in November. A further ‘clauses stage’, where amendments can be put forward is due to begin on 31 January 2017.
- An All-Party Parliamentary Group on Blood Donation was established in March and, on 19 October, launched its first evidence session in its public inquiry into the criteria surrounding blood donation (A government review had been announced in late 2015; this group is working in parallel with that analysis.)
- As part of its five-year monitoring cycle, the European Commission against Racism and Intolerance (ECRI) published a report on the UK on 4 October. ECRI praised the UK’s legislative programme and its “substantial efforts to promote LGBT rights” during the review period. The Commission drew attention to the inequality experienced by LGBT people in Northern Ireland compared to the rest of the UK, a lack of equal marriage or anti-discrimination protection on the grounds of gender identity for example. Anti-LGBT bullying in schools was highlighted as problematic by ECRI. It called on political parties to take a firm stance against intolerant speech by members and recommended that gender identity be included as a ground in ‘stirring up hatred’ offences.
- Speaking at a conference hosted by NGO Stonewall in April, GCHQ director Robert Hannigan (UK intelligence agency and Alan Turing’s historical employers) discussed the treatment of Turing and other LGBTI people: “...the fact that it was common practice for decades reflected the intolerance of the times… but it does not make it any less wrong and we should apologise for it. Their suffering was our loss, and it was the nation's loss too”. A private member’s bill submitted by John Nicolson MP (Scottish National Party, SNP; social-democratic) that called for an automatic pardon for all gay and bisexual men convicted of historical sexual offences was filibustered by Justice Minister Sam Gyimah (Conservative) on 20 October. The Scottish government subsequently announced that they would move to introduce their own legislation on the issue. The Conservative government at Westminster proceeded with their proposed amendment to the Policing and Crimes Bill that would grant an automatic pardon to deceased men in England and Wales convicted...
of sexual acts which are no longer criminalised. It was announced on 7 December that the amended bill would also apply in Northern Ireland, so gay and bisexual men there will be able to apply to the Department of Justice for a pardon. On 12 December, an amendment put forward to the Policing and Crime Bill – led by Lord Michael Cashman – received government support, allowing the Home Secretary to add other offences which would be totally legal today to the Home Office’s disregard scheme. The amended Policing and Crimes Bill had not received royal assent by the end of 2016 so its provisions were not yet in force.

Family
- The Isle of Man’s Marriage and Civil Partnership Amendment Act was given royal assent on 19 July. The law officially came into effect on 22 July and introduced marriage equality for same-sex couples, as well as extending the option of civil partnerships to different-sex couples.
- Activists in Northern Ireland launched the LoveEquality campaign on 14 April, calling for the introduction of marriage equality. Speaking in October, First Minister Arlene Foster (DUP) said that her party would continue to use the petition of concern mechanism to effectively veto equal marriage in Northern Ireland. Foster said that her party represented the views of the majority who didn’t want to see marriage “redefined”. She also said that it was the online behaviour of LGBTI activists that confirmed her party’s position: “…they are not going to influence me by sending me abuse - in fact, they are going to send me in the opposite direction and people need to reflect on that”.
- The Church of Scotland’s General Assembly voted in May to allow its churches to appoint ministers who are in same-sex marriages, by 339 votes to 215.
- Gibraltar’s parliament unanimously passed legislation to allow same-sex couples to enter civil marriages on 26 October. Chief Minister Fabian Picardo (Gibraltar Socialist Labour Party, GSLP; social-democratic) said that “…we are changing a law that got in the way of love and in doing so we are doing the right thing”.

Foreign policy
- The United Kingdom voted to leave the European Union on 23 June, by 51.9% to 48.1%. Majorities in England and Wales voted to leave (by 53.4% and 52.5% respectively); Northern Ireland and Scotland voted to remain in the EU (55.8% and 62% respectively voting ‘Remain’).
- On 13 July, during the Montevideo Global LGBTI Human Rights Conference, the UK, together with 30 other states, joined the Equal Rights Coalition, a coalition committed to work towards equal rights and the eradication of discrimination and violence against LGBTI people.
- In August, the Foreign Office confirmed that Foreign Secretary Boris Johnson (Conservative) had reversed his predecessor Philip Hammond’s instruction, meaning that Foreign Office buildings can once again display the rainbow flag.
- On 14 September, the Women and Equalities Select Committee held a one-off evidence session, with academics in the areas of human rights and EU law, to discuss how the UK’s decision to leave the European Union could impact on equality legislation. Following on from this session, the Committee launched an inquiry to examine the implications further.

Health
- In May, the government announced a pilot scheme to offer gay and bisexual men in England vaccination against the human papilloma virus (HPV). Previously, this was only available for girls of school-going age, but this approach left men who have sex with men vulnerable to infection. The vaccine was available through selected sexual health clinics in England from June.

Legal gender recognition
- Following the first ever trans inquiry carried out by the Women and Equalities Select Committee in 2015, the committee published its report on 14 January. It contained over 30 accompanying recommendations for the government, including reform of the Gender Recognition Act to allow for self-determination, protection under the Equality Act for people who do not identify as male or female, and improvements to the care
provided for trans people by the National Health Service (NHS). The government’s response was published on 7 July, which stated its intention to develop a new trans action plan (including a review of the legal gender recognition legislation, new training of NHS staff and monitoring public attitudes towards trans people). NGOs such as Stonewall welcomed the acknowledgment that gender dysphoria is not a mental illness, but regretted the government insistence that ‘gender reassignment’ is an adequate ground under the Equality Act. Several of the points raised by both reports were raised during the first parliamentary debate on trans equality, held on 1 December.

- Figures released in February by the NHS England’s Gender Identity Development Service (GIDS) stated that 969 people under the age of 18 were referred to the service in 2015/16, compared to 94 in 2009/10.
- NGO Equality Network compared the manifestos of political parties participating in the Scottish parliamentary elections; their analysis showed that all the parties who won seats in May’s elections had committed to reviewing Scotland’s gender recognition laws. At an Equal Opportunities Committee meeting on 30 June, the Scottish government said it would hold public consultations in the first half of 2017.

**Participation in public, cultural and political life**

- On 13 January, Secretary of State for Scotland David Mundell came out, becoming the first openly gay Conservative cabinet minister.
- Ellen Murray was the first trans person to stand for election in Northern Ireland; she represented the Green Party in the West Belfast constituency in May’s Assembly elections.
- 10 of the 129 members of the Scottish parliament elected in May are openly LGB; this is the highest proportion of any national parliament, according to analysis by NGO Equality Network.
- Justine Greening MP announced on 25 June that she was in a same-sex relationship, becoming the first woman who is openly LB to hold a cabinet position.
- Bishop of Grantham, Nicholas Chamberlain became the first Church of England bishop to come out publicly. He came out in an exclusive interview with the *Guardian* on 2 September, saying that the fact that he had a long-term partner was no secret but that a Sunday newspaper threatened to ‘out’ him.

**Police and law enforcement**

- A report by *Pink News* on 4 June revealed that a trans woman, who wished to remain anonymous, had been sent to a men’s prison in England. On 9 November, the Ministry of Justice published its *Care and management of transgender offenders* policy paper. It acknowledged that practice in England and Wales focused on gender at birth or following surgery, and that policy needed to respect the lived gender identity of prisoners. It also stated that National Offender Management Service staff need to understand the rights of trans and non-binary people through training and e-learning. Also on 9 November, a new instruction for National Offender Management Service staff on the care of trans offenders was also published and will come into effect on 1 January 2017. Official Ministry of Justice statistics showed that 27% of prisons in England and Wales surveyed in March/April said they had one or more trans prisoners.
- Chloe Allen, a soldier in the 1st Battalion Scots Guards, became the first trans woman to serve as an infantry soldier in the British Army in September.

**Public opinion**

- The *Scottish Social Attitudes Survey: Attitudes to Discrimination 2015* figures, published by the government on 30 September, showed a fall in prejudiced views towards same-sex relationships. In the latest survey, 18% of respondents said that sexual relations between two adults of the same-sex were “wrong”; in 2000, this figure was 48%.

**Social security and social protection**

- The Supreme Court referred a case involving a trans woman’s pension rights to the European Court of Justice
on 10 August. The case involved a woman known as MB, who underwent gender assignment surgery in 1995, turned 60 in 2008 and applied for her state pension. This was refused as she did not have a gender recognition certificate as she was married to another woman and marriage equality was not yet law.

- On 10 November, the Court of Appeal ruled in favour of the NGO National AIDS Trust, confirming an earlier High Court decision that NHS England can legally fund PrEP. PrEP or Pre-Exposure Prophylaxis is a HIV prevention treatment and NHS England had previously stated that it could not fund the drug’s use. In response, on 4 December, NHS England announced that it would fund a major extension to the national HIV prevention programme. Through Public Health England, a large clinical PrEP trial is planned for 2017/18, involving 10,000 participants over three years.
Treatment of LGBT persons deprived of liberty in Ukraine: risks of ill-treatment

Submission to the Subcommittee for the Prevention of Torture, 8 February 2016

Compiled by ILGA – the International Lesbian, Gay, Bisexual, Trans and Intersex Association,¹ in consultation with Insight²

Introduction

This document provides a short overview of the situation of lesbian, gay, bisexual and Trans (LGBT) persons deprived of liberty in Ukraine. After presenting the context of discrimination, violence and harassment in which LGBT persons live in Ukraine, it briefly discusses the particular situation of LGBT persons in detention and the issue of Trans persons in psychiatric institutions. The challenges concern the gaps in the legislative framework, abuses by state actors and their lack of training on LGBT issues, consequent underreporting of abuses by victims and inadequate investigations into complaints, the lack of monitoring and data collection, and the requirements imposed on Trans persons in order to obtain legal recognition of their gender identities.

In general, very limited information is available on LGBT persons in detention in Ukraine, due to the failure of public authorities to monitor the situation and resource restrictions of civil society organizations.

General overview of the situation of LGBT persons in Ukrainian society

It is important to take into account how LGBT persons are perceived in Ukrainian society, as this sheds light on the attitudes of state actors and detainees towards LGBT persons deprived of liberty, and the consequent risks of torture and ill-treatment that they face.³

Societal discrimination against LGBT persons remains a major problem in Ukraine. A 2011 study by the Gorshenin Institute showed that 78.1% of the population considered sexual

¹ ILGA is the world federation of LGBTI organisations, with a membership extending to more than 1200 member organisations in all continents.
² Insight is a Ukrainian organisation that works to improve the quality of life of LGBTI people. It engages in advocacy and capacity-building, and also provides information and education on gender, sexuality, sexual and reproductive health, human rights and non-discrimination.
³ This document does not discuss LGBT persons in the territories occupied by the Russian Federation. However, those areas are now subject to Russian law, including the “Anti-Propaganda Law” which severely restricts the freedoms of assembly, association, expression and opinion of LGBT persons. According to reports, discrimination against LGBT persons in those regions has increased significantly, and many have fled. See, for example, reports from the European Parliament’s Intergroup on LGBT Rights: http://www.lgbt-ep.eu/press-releases/situation-for-lgbt-people-worsens-in-russia-crimea-and-ukraine/.
relations between two persons of the same sex to be unacceptable in all circumstances, with a civil society survey in 2013 finding that 63% of respondents agreed that homosexuality is unnatural and immoral — that LGBT people are both mentally and emotionally ill. 39% of respondents in another investigation from 2011 believed that LGB people should be isolated from society, and in 2013, a GfK study found that 80% of respondents opposed any recognition of relationships between same-sex couples. Of particular concern is the fact that these attitudes appear to be worsening over time. As a result of this social context, many LGBT persons choose not to disclose their sexual orientation or gender identity, as doing so exposes them to severe discrimination in employment, education and healthcare.

As regards the legal context, the withdrawal of a number of explicitly homophobic and transphobic legislative bills in 2014 has been welcomed. However, there is no comprehensive protection against discrimination on the basis of sexual orientation and gender identity and expression (SOGIE) in Ukraine; SOGIE are not listed as protected grounds within national non-discrimination legislation adopted in 2014. Although the list of prohibited grounds in the legislation is non-exhaustive, courts have not recognised SOGIE as generally prohibited grounds of discrimination. A law was adopted in November 2015 prohibiting discrimination on the basis of sexual orientation and gender identity in employment, but this only applies to the existing Labour Code. The draft of the new Labour Code, which is currently being considered by the Parliament, does not include the prohibition on discrimination on the basis of SOGIE. Moreover, there remain significant protection gaps in all other areas of life.

The situation regarding hate crimes and hate speech is also of serious concern. In the last five years, all the major churches in Ukraine have made homophobic statements, and state...

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7 GFK Ukraine, “Українці не підтримують узаконення одностатевих шлюбів”, 17 May 2013, as cited in Op Cit, Equal Rights Trust, p 64.

8 See Op Cit, Equal Rights Trust, p 63.

9 Ibid, p 87.


13 Law No. 3442 of 2015 On amendments to the Labor Code of Ukraine on harmonization of preventive and anti-discrimination legislation with the European Union laws. It is widely reported that this law was adopted under pressure from the European Union, and without Government commitment to protect LGBTI persons in practice.

14 Op Cit, Equal Rights Trust, p 64-65.
officials have frequently made similar remarks. Legislation does not provide for hate crimes committed on the basis of sexual orientation and gender identity and expression. The Police do not record statistics on such crimes, and the Ukrainian Parliament Commissioner for Human Rights has raised concerns about the failure to record and investigate hate crime incidents.

According to the Organisation for Security and Co-operation in Europe (OSCE), almost 40% of all hate crimes reported by civil society in 2014 were on the basis of SOGIE, and over 56% of the violent attacks were motivated by the victim’s real or perceived SOGIE. According to civil society, the number of incidents increased in 2014 and were more serious in character. These facts become particularly concerning in light of reports of the involvement of law enforcement agencies in abuse, harassment, blackmail and extortion of LGBTI persons, as well as in failures to protect them from violence.

There is need for greater legal protection of victims; better understanding by state officials of SOGIE issues; improved hate crime legislation and training of law enforcement personnel; effective investigation, prosecution and data collection for hate crimes on the basis of SOGIE; and a clear commitment by the State to improve the social and legal situation of LGBTI persons.

LGB persons deprived of liberty

According to civil society reports, there are systematic and widespread abuses committed by law enforcement officials against LGBT persons in the Ukraine. This includes arbitrary detention, blackmail, treats, ill-treatment and poor conditions in detention facilities. Insight has highlighted that these situations are exacerbated by “the absence of systematic reporting or recording”.

Reports of arbitrary detentions of LGBT persons often include allegations of mental and physical abuse in custody. As Insight underlines, “there are consistent reports of disregard

18 Op Cit, LGBT Human Rights Nash Mir Center and Council of LGBT Organizations of Ukraine.
20 It has been agreed that human rights subjects will become part of the compulsory curricular for future police officers, including a short course on tolerance and non-discrimination, which also includes such topics as gender equality and hate crimes. Insight NGO, Briefing paper: Section reform – anti-discrimination law and framework developments – years 2014-2015, 2015.
22 Ibid. See also, Op Cit, Amnesty International, Nothing to be Proud of.
23 Ibid and Ibid.
24 Op Cit, Insight NGO and Heartland Alliance Global Initiative for Sexuality and Human Rights. See also Amnesty International, Ukraine: Don’t Stop Halfway, 2013, p 2, available at:
for legal procedures, including the unjustified collection and dissemination of personal information, such as sexual orientation and fingerprints.” The organisation emphasises that this is particularly concerning in light of reports of blackmail and extortion.

No state bodies conduct monitoring of the situation of LGBT persons in detention, and none of the legislative provisions make reference to prohibiting discrimination on the grounds of sexual orientation or gender identity and expression. Detention personnel do not receive training on SOGIE issues.

According to reports, Trans persons are only held in accommodation reflecting their gender identity when they have obtained legal recognition of their gender identity, a highly onerous process that can last for many years (see the section below). Trans people whose identity papers only reflect the gender attributed to them at birth are considered to belong to that gender and treated accordingly. Gender non-binary persons, who do not seek legal recognition as either a man or a woman, are not able to choose what prison they are accommodated in. There is no possibility for Trans people to continue hormonal treatment while imprisoned.

Trans persons in psychiatric institutions

The procedure in place for Trans persons to obtain legal recognition of their gender identity is extremely onerous, takes many years to complete, and results in severe violations of human rights, amounting to torture and ill-treatment. In particular, following a consultation with a sexopathologist, psychologist or psychiatrist, Trans persons are required to spend between 30 and 45 days living in a psychiatric institution, demonstrating that the person is ‘truly’ living in a different gender to that assigned to them at birth. The purpose of this requirement is to obtain a medical diagnosis of “transsexualism,” which will then allow the Trans person to access hormonal or surgical treatment.

This treatment, however, is not a choice, but a prerequisite for legal gender identity recognition, as the sex reassignment Commission – which controls whether a Trans person can begin the procedure of changing their legal documents – will only grant permission if it decides that the scale of medical interventions is ‘sufficient’. An investigation by Insight found that only 7 out of 27 participants in a survey “wanted or needed all surgeries offered


26 Ibid.
27 The procedure is set out in Decree No. 60 of 3 February 2011, issued by the Ministry of Health.
28 “Transsexualism” is the term used for “Gender Identity Disorder”, “a formal diagnosis in the International Classification of Disease used by psychologises and physicians to describe and diagnose transgender people, those who experience significant dysphoria (discontent with the sex and gender they were assigned at birth).” This diagnosis has been rejected as outdated and inappropriate, and the World Health Organisation has proposed removing the diagnosis from the ICD (http://tgeu.org/who-publishes-icd-11-beta/). See Insight NGO, Discrimination of transgender people in access to healthcare and legal gender recognition in Ukraine, 2015, p 4, available at: http://www.insight-ukraine.org/wp-content/uploads/2015/07/reaserch_transgender_2015_eng.pdf.
29 In practice, most Trans persons start hormonal treatment on their own before the official procedure because of the extreme shortage of qualified endocrinologists in Ukraine, and because it’s much easier to get a diagnosis from the Commission if your appearance already conforms with your desired gender. Op Cit, Insight NGO, p 38-43.
(and often forced) by medical professionals.”31 A further pre-condition to legal recognition is that a Trans person undergo sterilisation,32 and the relevant legal instrument also enumerates a list of extremely broad criteria that would lead to a negative decision by the Commission.33

The experiences of Trans persons in psychiatric institutions during their ‘voluntary’ hospitalisation varies considerably.34 Negative features included the confiscation of personal belongings and communication devices; restrictions on freedom of movement; dehumanising medical procedures (such as uncomfortable questions, the imposition of gender stereotypes, objectification and being forced to undress); not being accommodated in a ward of preferred gender or being allowed to use the bathroom of their choice (which also leaves persons open to bullying and discrimination); and refusal to address Trans persons by their preferred name/pronoun.35 In addition, the legal instrument regulating legal gender recognition states that “intensive psychotherapeutic work aimed at the patient's refusal of change (correction) of sex should be conducted with them”.36 Consequently, conversion ‘therapy’ is part of State policy and can be conducted at any psychiatric facility.37

However, these negative aspects do not apply in all cases and sometimes medical personnel can be very supportive and allow Trans persons to spend less time in psychiatric institutions than is legally required.38 The main challenge in this context is that there is an absence of prescribed tests or protocols, and a lack of knowledge among medical professionals of gender identity issues or the legal framework regarding legal gender recognition.39

The system of legal gender identity recognition requires extensive reform to guarantee non-discrimination, transparency and freedom from ill-treatment. While requirements such as coercive and forced institutionalisation, sterilisation and surgeries must be eliminated, it is essential that Trans persons maintain access to medical services and treatments.

Contacts and locations to visit

- **Insight NGO** – Address: Kiev 01001, PO Box 351B, Telephone: +38 097 983 3482 (Olena Shevchenko: manager.insight@gmail.com)
- **Pavlova City Psychiatric Hospital** – Address: Frunze st., 103, Kiev, Telephone: +38 044 468 4102
- **City Psychoneurological Hospital No. 2** – Address: Myropilska st., 8, Kiev, Telephone: +38 044 543 8702
- **Commission on issues of change (correction) of sex** – Address: Frunze st., 103, Telephone: +38 044 468 3258 (Tsiomik Oleksandr Vadimovich)

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31 All participants, however, stated that hormone therapy was important or key to their transition (their personal process of coming to terms with their identity and body). *Ibid*, p 33.


33 In addition to the checklist of conditions that must be met for a positive decision by the Commission, Decree No. 60 lists counter-indicators. These include having children who are under 18 years of age, being married, being gay and “gross violations of social adaptation” (including being unemployed or not having a permanent residence). *Ibid*, p 20.


36 Decree No. 60 of 3 February 2011, issued by the Ministry of Health, para 3.

37 UN bodies have highlighted that these ‘therapies’ can amount to torture, see A/HRC/29/23, para 52.


Tab 18
LGBT RIGHTS ARE HUMAN RIGHTS: PRIDE UNDER THREAT IN UKRAINE

By Midushi Pandey, Intern Identity and Discrimination Unit
Amnesty International USA

The month of June brings about many changes in the year: spring transitions to summer, schools let out for vacation, and LGBT Pride Month begins.

For many of us in the United States, Pride Month is a time of joy and celebration. We attend Pride parades in our big cities and small towns, decked in our finest rainbow Mardi Gras beads and waving our Pride Flags. Here in the nation’s capital, the Washington Nationals baseball team and the Smithsonian Museums hold free Pride events. And this Pride Month, we await a landmark Supreme Court ruling on marriage equality now just a few weeks away. You’ll also see (and can join!) Amnesty members working for LGBT human rights at Pride events around the country.
Pride Month is about celebrating a simple truth: We’re here, we’re queer (or trans), get used to it.

For activists in other countries, however, that simple celebration of self is often fraught with real threats to life. Ukraine is one such country. In both 2012 and 2014, efforts to organize Pride celebrations were dashed when local authorities withdrew their promise to protect participants, and the same problem is happening this year. Although Kyiv Pride organizers hope to hold this year’s event on June 6, city administrators and the local police have failed to meet with organizers to plan security measures for this event.

For lesbian, gay, bisexual, and transgender Ukrainians, each day comes with the threat of verbal abuse or intimidation, loss of employment, and potential violence. Polls in Ukraine indicate widespread homophobic views: a poll by the Ukraine Gay Alliance and Ukraine State Sociological Institute found that 63% of respondents labeled homosexuality as a “perversion” and a “mental disease.”

Since the 2014 “Maidan revolution,” Ukrainian authorities have softened their anti-LGBT rhetoric in order to strengthen ties with their partners in the European Union. At the same time, however, they have resisted EU recommendations to officially adopt legislation banning discrimination based on sexual orientation. On the ground, the threat of anti-LGBT violence remains real in post-Maidan Ukraine, as evidence most dramatically by the October 2014 attack on a historic Kyiv theater screening an LGBT film.

At the very core of this situation is the failure by Ukrainian leaders to recognize LGBT rights as human rights. Although the Maidan revolution sought to bring the country in line with the liberal values and democratic freedoms of Europe, Ukraine’s LGBT community has been left behind.

At its core, Kyiv Pride represents the fundamental human rights of LGBT Ukrainians and their allies to assemble peacefully, express themselves, and celebrate that simple truth. The refusal of the Kyiv police to arrange security for the Pride march is both a dereliction of duty and a violation of the participants’ human rights.

As we celebrate Pride 2015, Amnesty International reaffirms our dedication to ensuring that all LGBT people can peacefully celebrate without fear for their lives. Regardless of their sexual orientation, gender identity, or the country where they live or originate, all people should be able to exercise their full human rights. Join us in calling on Ukrainian authorities to ensure that LGBT activists and Kyiv Pride participants are able to exercise their right to peacefully assemble.

Happy Pride 2015!

Ian Lekus, Amnesty International USA LGBT Thematic Specialist, contributed to this post.
Tab 19
Being Trans in Ukraine

The processes for gender transition and sexual reassignment in Ukraine may have been simplified, but transgender people still lack their full rights.

Hanna Sokolova

8 November 2019
Anastasia Eva Domani is one of the best known transgender women in Ukraine. She began to transition in 2016, and two years later received her new legal documents. Anastasia is a consultant and member of TransCoalition in the post-Soviet Space, which helps people who want to begin transitioning legally, medically and socially.

Even as a child, Anastasia would secretly dress in girls’ clothes. In her student years, she realised her identity and started meeting other transgender people online. Before her transition, she worked in various jobs, including property sales, which meant frequent travel around Ukraine's regions. Before each trip she would go online to search for transgender people in the area and meet up with them in her free time.

In 2006, Anastasia got married, as she wanted to have children, and her parents had begun to hint that it was time to marry. Four years later, the couple had a daughter, but in 2016 she secretly started hormone replacement therapy (HRT), taking advice on appropriate drugs and dosage from transgender women she knew.

**Hormone therapy**

“The first endocrinologist I consulted about going on HRT advised me not to start transitioning because I had a family,” Anastasia tells me. “At that time married people with children weren't officially allowed to change gender.”

In Eastern Europe and Central Asia, Anastasia says, transgender people rarely consult a doctor before starting HRT. They know in advance that they won't get past the “Sex Realignment Commission”, which is regulated by the Ministry of Health. In other words, the state won't allow them to start medical treatment and take steps to change their sex officially later.

“But that doesn't stop people. They just start taking HRT on their own,” says Anastasia. “They can't change their ID papers, but they can change their bodies to feel more natural.
in them. Then they might be able to get a new official ID photo and take a gender neutral name. Lots of people resort to this kind of compromise.”

This self-directed approach to HRT is a result of Ukrainian doctors’ general lack of sympathy towards transgender people, says Fridrikh Chernyshev, who heads the Trans*Generation organisation. According to Chernyshev, even just three years ago people turning to Ukraine’s “Sex Realignment Commission” could be refused the diagnosis of “transsexualism” which is essential in order to receive HRT.
“Despite the fact that the commission was officially obliged to prescribe hormone treatment, people already taking HRT were more often prescribed it than those who weren't taking it when they applied to their doctor,” says Fridrikh.

According to Chernyshev, hormone treatment, like any other medication, has side effects and can lead to complications. Serious effects such as malignant tumours are, however, not common.

“I only know of one or two cases,” he says. “The idea that HRT can lead to cancer is unproven and was used in the past to justify sterilisation, which transgender people had to undergo to get past the commission right up until the end of 2016.”

The medics

Once she started HRT, Anastasia Domani started wearing makeup and bought herself a new wardrobe. The difference in her appearance was visible after only a few months, and changes to Ukrainian law motivated her to continue her transition. At the end of 2016, as a result of the efforts of a working group that included ministry officials, LGBT+ organisations and individual activists, Ukraine’s then acting Health Minister Ulyana Suprun simplified procedures for gender transition and sex reassignment.

“Despite the fact that the law in Ukraine changed at the end of 2016, it took until 2018 for transgender people to start changing their documents en masse. By that stage, a few sympathetic doctors had appeared and people could legally change gender,” says Anastasia Domani.

According to Ukraine's new regulations, anyone looking for sex reassignment has to start with a visit to their doctor. In 2017, Anastasia, with the help of the Ukrainian LGBT+ organisation Insight, met one of the few sympathetic medical specialists in Kyiv, who agreed to help her, studied the new legislation and helped collect the necessary medical documentation.
Anastasia then went through an assessment by an endocrinologist and a psychiatrist, who issued her a diagnosis of “transsexualism”. (The old procedure for gender reassignment involved a month in a psychiatric in-patient clinic in a general male or female ward.)

“Transgender women could be placed in a male ward, sometimes alongside soldiers and ex-soldiers. You can imagine the conflict,” says Anastasia. “The doctors realise that transgender people are perfectly sane, but that was the system.”

Anastasia took her psychiatrist's diagnosis back to her doctor, who set up a Medical Supervisory Committee that drew up a document relating to gender transition or sex reassignment. One copy remained with the medics; the other was given to Anastasia, so that she could begin the process of acquiring new legal documents.

**Documents**

Ukraine’s Ministry of Health did not respond to openDemocracy's information request about the number of people who applied to the “Sex Reassignment Committee” before 2016 and how many were given permission, and also how many applications and authorisations there have been since the changes in the relevant laws. Last year, however, ministerial official Serhiy Shum stated that of 55 people who had requested sex reassignment under the old regulations, 35 were given an official diagnosis of “transsexualism”.

https://www.opendemocracy.net/en/odr/being-trans-in-ukraine/
Damian Hort of TransGeneration confirms that there are still very few doctors, endocrinologists and psychiatrists who are sympathetic to transgender people, and feels that the Ukrainian government needs to set up state awareness and training programmes for doctors.

“Doctors still believe in the old stereotypes about surgery being the only route to transition,” says Fridrikh Chernyshev. “They think: I'll sign a form, they'll have an operation and then wish they hadn't and it will be all my fault.”

However, according to Fridrikh and Insight coordinator Inna Iriskina, most transgender people don't have surgery on their sexual organs. The most common procedure is plastic surgery on the face and neck.
surgery on their breasts, usually carried out abroad.

Anastasia’s legal sex change process took about five months. She received a new birth certificate incorporating a new sex and given name (her last name wasn’t changed as it was gender neutral). Then she got new ID papers, also with a new sex and given name. She also took the decision to change her last name and went through the same procedure again.

“They were helpful to me because they realised that I knew my rights, felt confident and wouldn’t give up,” says Anastasia. “And I changed all my other documents – my ID number, my university graduation certificate, my driving licence and my employment record book – quickly and without any problems. But from what I’ve heard from other transgender people, it seems that problems can arise at any stage. Officials can start making jokes or calling their colleagues to look at the transgender person.”

The most traumatic part of Anastasia’s process was the visit to the military commissariat. To remove her name from the register, she had to bring all her ID papers and medical certificates and be checked by the military-medical committee.

“This is a basically male space,” she says. “I imagined how I would sit in a queue with men and how they would look at me. I just wanted it to be over as quickly as possible.”

Transgender women, however, can’t alter their marriage certificates or children’s birth certificates. These documents can’t have two women’s names on them, as Ukraine doesn’t recognise same sex marriage.

“In a lot of countries – Argentina, Malta, Denmark, Norway, Belgium – the law allows you to change gender-related documents without any reference to medical diagnoses or procedures,” says Inna Iriskina of Insight. “This approach is also recognised at UN and Council of Europe level. But change like this still isn't realistic in Ukraine.”

**Coming out**
Over the last three years, Anastasia Domani’s appearance has changed considerably. She has lost touch with old friends and colleagues, although she is still in contact with her family. But she hasn’t come out to them.

“My parents pretend that nothing has changed,” she says. “But my wife can’t avoid noticing the changes. She has known about this for some time: she’s seen photos on my computer and read my posts on social network forums. But she never took it seriously, said it was a passing fashion and thought that I was just cheating on her.
Transgender people regularly encounter hostility from their friends, family and co-workers, and suffer from depression as a result. “A few years ago a transgender lad told me he had made around 30 attempts at taking his own life,” Anastasia tells me. “I couldn’t understand that then.”

In June 2018, the World Health Organisation dropped being transgender from its list of mental health conditions. “We removed it because nowadays it’s no longer regarded as a mental health condition, and to define it as such would be tantamount to stigmatisation of transgender people,” commented WHO specialist Lale Say.

Between now and 2022, WHO member states must introduce health systems that comply with a new classification of illnesses. Last October, some activists held a protest outside the Ukrainian Ministry of Health, demanding a prompt implementation of the WHO ruling. In Ukraine, however, such a change would have to be a political decision, says Insight’s transgender department coordinator Inna Iriskina.

Because in Ukraine transgender people are diagnosed as “transsexuals”, they are banned from adopting children. “This problem will be solved when Ukraine implements the WHO ruling. But it could happen earlier if the relevant law is passed,” says Demion Hort of TransGeneration.

Transgender men and women are also barred from certain professions, especially those connected with education and defence. TransGeneration’s Fridrikh Chernyshev said in an interview last year that transgender persons’ problems with education and employment mean that they live on the verge of poverty. He also mentioned that parents often reject their transgender children, throwing them onto the street to earn their own living.

“If I lost my job in a human rights organisation, what would I do?” asks Anastasia Domani. “Transgender people’s only opportunities for employment are in the human rights field and distance working, such as IT.”

Transgender people have also often restricted access to healthcare. “Young transgender
men, for example, find it hard to sit in a gynaecology waiting room. People try not to go to hospital, they allow illnesses to develop,” Anastasia tells me. She admits that she herself avoids male doctors: she can’t count on their understanding.

“Transgender men and women may also be afraid to tell their doctor that they are on HRT, in case he or she might say that this was the source of all their problems,” Fridikh Chernyshev of TransGender tells me.

Transgender people also encounter psychological and physical violence. In September, Anastasia Domani was detained in a bank in Kyiv. According to Anastasia, the bank manager used masculine forms of address to her, said that she knew her story and suggested she “go and see a doctor”. Anastasia wrote about the incident and posted her account together with a photo of the manager on her Facebook page, after which the bank security guard blocked the door and tried to make her delete the photo. Anastasia called the police and wrote a statement complaining about her unlawful detention and attempts to disclose her identity details.

Last November, a right-wing radical groups broke up a march in Kyiv to commemorate transgender people who have been killed or subjected to violence, while members of ultra-nationalist organisations held a counter protest. Two marchers were injured while police, they said, stood around doing nothing. And transgender people are not the only group to be targeted: right-wing and ultra-conservative groups regularly attack members of the LGBT+ community during and after Equality marches in Kyiv and around the regions.

After a visit to Ukraine this spring, Viktor Madrigal-Borloz, a UN expert on LGBT+ issues, stated that he hadn’t noticed any signs of rough treatment or mass violence against the LGBT+ community. He did, however, voice his concern about discrimination on the part of some bureaucrats, ultra-nationalists and church officials, as well as the fact that these crimes take place with impunity - and senior officials fail to lend open support to the LGBT+ community.
Central Asian feminists are carving out their space in gender studies

Aizada Arystanbek
The moral education of a young woman in Kazakhstan

Sofya Du Boulay (Omarova)

Georgian Dream's "seven bloody years"

OC Media

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Tab 20
Chased by conflict in Ukraine, an artist finds a haven in Helsinki

By Will Englund and Kathy Lally

November 2, 2019 at 10:13 a.m. EDT

HELSINKI — Let’s call them “figurines.” That’s the name their creator, Spartak Khachanov, delicately uses.

He made 400 of them. They got him expelled from the National Academy of Arts in Kyiv and inspired death threats from right-wing vigilantes that drove him and his wife, Anastasia, from Ukraine.

Finland beckoned. The Khachanovs found temporary asylum here earlier this year, thanks to the help of an organization called Artists at Risk. They now live and work in an old fortress on an island in Helsinki harbor.

About those figurines: Made of plaster, each about six inches long and decked out to look like missiles or military vehicles or officers saluting, they are unmistakable reproductions of the male organ. Khachanov made an installation with them a year ago that stretched down the hallways of the academy in Kyiv.

A professor was furious. Ukrainian nationalists were outraged.
Though you wouldn’t always know it, if you walked around Kyiv, Ukraine is still at war with Russian-backed separatists in the east. Khachanov said he was told he could make amends if he gave the figurines a distinctly Russian identity. He refused. He pointed out that there’s nothing specifically Ukrainian about them, either.

They’re simply a commentary, he said, on war as a pageant of masculinity.

He was denounced in the press and forced to take refuge in the academy at one point when an ultranationalist gang called C14 came looking for him. Anastasia — known by the nickname Nastya — said they called the police, who threatened to arrest them.

“I wasn’t even thinking about consequences,” Khachanov said. “I just expressed what I had inside. I didn’t mean to provoke anyone.”

Ukraine, the country they fled, is more than simply the stage set for one act of America’s impeachment drama.

The war in the east has been dragging on since 2014, and Ukrainians are weary of it yet, on the whole, deeply unwilling to give in to Russian pressure.

The media is rambunctious, but acts of dissent and provocation, especially among those in the arts, have drawn strong and sometimes violent backlashes.

“Ukraine is a very volatile and dangerous place for artists of all sorts,” said Ivor Stodolsky, one of the founders of Artists at Risk.

Last year, an art exhibit on right-wing violence in Ukraine, especially against LGBT people, was quickly shut down after C14 condemned it. In 2017, vandals destroyed and defaced items in an exhibit of “anarchy” works by David Chichkan.
Neither of those topics is as fraught as Ukraine’s war, in which 13,000 people have died so far.

Serhiy Bondar, a member of C14, tweeted that Khachanov was a “scumbag” and “a moral degenerate” for making a mockery of the national struggle. Khachanov said he loves Ukraine, “but I don’t understand parades.” Whom are they supposed to impress? The Russians?

“Ukrainian society has been manipulated by this war rhetoric,” he said, while waiting to see visitors off on the ferry back to Helsinki one cool night. “You’re not allowed to speak up because we’re at war. ‘You can speak when the war’s over.’ That isn’t patriotism, it’s blindness.”

Khachanov, 35, with long flowing black hair, is from an Armenian family but was born in Azerbaijan. He and his parents had to flee a riot against ethnic Armenians. They then fled Azerbaijan, ending up in Armenia as those two former Soviet states went to war against each other. They finally settled in a peaceful Ukraine.

The Ukrainian town they picked 29 years ago was in the Donbass region, which in 2014 became the front line of Ukraine’s own war. One of his early artworks was made from pieces of their house, destroyed in the fighting.

“I see myself as a doctor who diagnoses disease, not one who cures it,” he said. “I’m sending a message to society.”

He began art school in Kharkiv when he was 25, then enrolled in the academy in Kyiv. When trouble struck, a Russian rights activist living in exile in Helsinki, Oksana Chelysheva, read about it and sent Khachanov a message on Facebook.
It was the first expression of support they had gotten, Nastya recalled. Chelysheva — along with Teemu Matinpuro, the executive director of the Finnish Peace Committee — referred them to Artists at Risk. A week later, the couple were in Helsinki, starting over.

Only full-time artists, under a demonstrated threat, receive assistance from Artists at Risk. Quality and prominence are not criteria.

With the encouragement of the Peace Committee, Spartak and Nastya have been working on a photographic series in which he is depicted demurely naked in the stances of ancient Greek athletes but with such modern twists as holding discuses with the U.S. and Russian colors.

“He’s a young artist who really has a lot of potential,” said Marita Muukkonen, a co-founder of Artists at Risk. “We have to work on that. He’s really at the very beginning of his career.”

They have three neighbors in the old fort-turned-artist colony. An Iraqi couple, Saddam Jumaily and Kholod Hawash, work in paint and textiles. Mohammed Jawad Hussein, a musician, is from Bahrain. He re-created a 4,000-year-old stringed instrument from a depiction on an ancient coin.

Eight other artists in the program — from Tunis to Turkey to Barcelona to Berlin — are living elsewhere with local hosts. About 50 artists have been helped to find new lives over the six years since the program was founded.

But the visas are temporary. The Khachanovs have until Nov. 10 to obtain a longer-term residency permit or figure out where they can go next.
For now, they are in their cozy apartment under the rafters of the fortress, a Russian redoubt between the Napoleonic wars and the end of World War I. It’s on the linked islands of Suomenlinna, and it was used as a prison camp for communists during Finland’s bitter civil war of 1918. The war, and its toll, are issues that Finns haven’t wanted to talk about, until recently.

Khachanov has been commissioned to create a monument to the victims of that war. He sees parallels to today’s conflict in Ukraine, with its implacable hatreds. His working model takes a more somber stance than the “Penis Parade” made in Ukraine. But the sentiment remains the same.
Tab 21
In the aftermath of Kharkiv’s first gay-pride parade, one incident stands out for its harrowing violence and the way it was stopped -- by a veteran photojournalist.

On September 15, around 2,000 lesbian, gay, bisexual, transgender (LGBT) rights activists marched through Kharkiv in the first event of its kind in the eastern Ukrainian city.

When the march ended, most of the participants left safely through a nearby subway station, but a crowd of far-right counterdemonstrators had gathered in a neighboring park, apparently on the hunt for LGBT activists attempting to leave on foot.

Video from the scene captured one slightly-built teenager with a streak of dyed hair trying to move through the burly opposition group.

Suddenly a tattooed man slaps the teen in the head and a mob chases him -- kicking at his legs and punching him in the head -- as his female friend, wearing a rainbow T-shirt, looks on helplessly.

After the teen is kicked to the ground amid chants and cheers, two masked men try to stomp on and kick him in the head.

Gleb Garanich, a veteran photographer with Reuters, shot several photographs of the shocking scene that unfolded in front of him.

Garanich has covered conflicts, mostly in the former Soviet Union, since 1991 and understands street violence better than most journalists. In 2013, he was famously photographed soaked with blood after being struck by a riot policeman during Ukraine's 2013–14 Euromaidan protests.
As the beating continued in Kharkiv's Shevchenko Park, a second photographer, Andrew Kravchenko, captured what happened next. After the same tattooed man who had begun the violence grabbed hold of the badly hurt teen, Garanich stepped in to seize the boy from the man's grasp and, without addressing the mob, simply walked the teen out of the situation.

Garanich told RFE/RL by e-mail that he intervened "because there was a serious threat to [the teenager's] life."

Kravchenko agrees, saying if it were not for Garanich's actions, the boy "could have been killed" by a mob that was hungry for violence and low on targets. "In short," Kravchenko said on Facebook, Garanich is "a real man."

Kharkiv police say they are aware of the attack in Shevchenko Park and "investigative actions are ongoing."
Is Ukraine turning the corner on LGBT rights?

A successful Pride event in Kyiv shows how far Ukraine has come. But for those who cause violence, impunity remains.

Matthew Schaaf

2 July 2019
The organisers of Kyiv Pride, Ukraine’s biggest LGBT+ rights event, stood on the roof of a building in a slick video and asked the country’s new president: “Will you be the first Ukrainian president to join the Equality March and support human rights”? While President Volodymyr Zelenskyy did not join the event on 23 June, thousands of others from all walks of society did, many demonstrating that patriotism and LGBT+ rights are complementary values. What’s more, several cultural and political leaders spoke out in support of LGBT+ rights, rejecting violence for the first time - a sign that support for LGBT+ rights in Ukraine is at a turning point.

President Zelenskyy ended up issuing a statement on the day of the Equality March, calling for law enforcement to guarantee the security of everyone during the event. The President’s statement, likely muted in the heat of a campaign to win a parliamentary majority on 21 July, was a still a major improvement on the previous president’s one and only public comment on pride in 2015. Zelenskyy’s statement was preceded by an even stronger one from the Kyiv city government, which pledged support for tolerance and called a safe Equality March “an opportunity to demonstrate that Kyiv is a true European capital.” Prominent cultural personalities, such as singer and musician Pianoboy, as well as actress Olha Sumska, also spoke out in support of Kyiv Pride this year.

At least 6,800 people participated in the Equality March, around double last year’s turnout. Participants were young and old, queer and straight, Ukrainian and foreign, all blissfully expressing their support for LGBT+ rights chanting slogans such as “Our tradition is freedom!” and “Rebel, love, and don’t give up your rights!” The feeling was electric, and in many ways the protest and slogans evoked both the elation and defiance of the 2014 Revolution of Dignity protests which toppled the previous government.

In addition to the big turnout and high-profile political support, the march was bolstered by LGBT+ veterans and soldiers - who marched for the first time as a group - with the message that LGBT+ people are among those fighting against separatists and Russian forces in Ukraine’s east. The Equality March this year was also joined by a large group of
trans rights activists, including a large trans flag, in a first for a country where trans people are nearly invisible. Throughout the march a rainbow pride flag soared above the marchers attached to a drone (“Pride in the Air”), elating participants and enraging counter protesters who plotted to shoot it down.

In the days before the Equality March, it was not clear how many people would participate and if the event would be marred by violence. Opponents of LGBT+ rights repeatedly threatened violence against the Equality March and Pride Week events. Following a film screening at the Pride House, several young people were pursued or attacked with pepper spray and beatings by opponents of LGBT+ rights. At a press conference in front of President Zelenskyy’s office, Kyiv Pride organisers criticised the President’s silence in response to the spate of attacks.

"While recent Equality Marches in Kyiv have been protected from violent opponents by throngs of law-enforcement officers, this hasn’t always been the case, and still isn’t"

Unfortunately, anti-LGBT+ violence continues to be a major problem in Ukraine - due in large part to the fact that perpetrators almost always get away with it. In 2018, there were at least 93 violent anti-LGBT+ attacks in Ukraine. While recent Equality Marches in Kyiv have been protected from violent opponents by throngs of law-enforcement officers, this hasn’t always been the case, and still isn’t, for many public LGBT+ rights events.

Nearly all of the 25 people detained for hurling explosives at participants in the 2015 Equality March in Kyiv, injuring many participants and police officers, were released without charges. Only four people, who openly admitted their anti-LGBT+ hate motivation, were eventually convicted of simple hooliganism, though the judge reduced their sentence from three years’ imprisonment to two years’ probation. No one has been held accountable for a violent assault on an event organised by Amnesty International
Ukraine in May 2018, despite the group's efforts to basically do investigators' job for them by providing them with extensive evidence. The LGBT+ rights group Nash Mir has documented these and dozens of other incidents in the past few years, almost all taking place without any consequences.

In a disappointing development for counter protesters this year, only around 300 showed up to oppose the thousands who came to march for equality. They threw eggs at Equality March participants, tried to break through the police protection, tore down LGBT+ rights signs, and, in a bizarre twist, robbed portable toilets of fecal matter in order to throw it at Equality March participants. Fortunately, their efforts to disrupt the March, including their gruesome fecal plot, was thwarted by thousands of police, National Guard, and other law-enforcement forces.

The thousands who came to participate in the Equality March, especially when compared to the sorry band of opponents, and the growing support from political and cultural leaders, veterans, and many others, suggests that major change is under way in Ukraine. Not only are politicians being more vocal about supporting the human rights of everyone, including LGBT+ people, but regular people are increasingly coming out to express their convictions in spite of threats. Ukraine has a long way to go towards accepting everyone for who they are, yet this year's Kyiv Pride shows that the movement for equality is gaining moment and that Ukraine’s democracy is growing more inclusive and diverse.

Next year, with parliamentary elections behind us, we can expect more support for Kyiv Pride from political leaders and hopefully President Zelenskyy's timid statement will be the new low bar. There will also likely be many thousands more participants as Ukrainians increasingly realise that the dignity they fought for on Maidan is the same one that LGBT+ Ukrainians are also fighting for.
Central Asian feminists are carving out their space in gender studies

Aizada Arystanbek

The moral education of a young woman in Kazakhstan

Sofya Du Boulay (Omarova)
Georgian Dream's "seven bloody years"
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A weekly roundup of political and social developments in the post-Soviet space.
KIEV (Reuters) - Before Kiev celebrates Pride on Sunday, Roman Ivasiy and Anton Pozdnyakov want to speak publicly about their wedding in the hope it will help change hostile attitudes toward same-sex couples in Ukraine and give courage to those “struck dumb with fear”.
Gay married couple Roman Ivasiy, a 27-year-old doctor and Anton Pozdnyakov, a 32-year-old event manager, is seen in their flat in Kiev, Ukraine June 19, 2019. Picture taken June 19, 2019. REUTERS/Gleb Garanich

Same-sex unions are not legally recognized in Ukraine and Pozdnyakov, 32, and Ivasiy, 27, wed in a ceremony attended by their friends in Copenhagen’s city hall in May.

Under Western-backed leadership, Ukraine’s parliament passed legislation in 2015 to ban discrimination in the workplace as part of a series of laws Ukraine needed to pass to qualify for an European Union visa-free travel agreement.

But activists say homophobia remains widespread.

“There are people who are afraid to even think about (marrying a same-sex partner). And because of this way of thinking, they are unable find a soul mate, because they are struck dumb with fear, pure fear, and they are unhappy,” Pozdnyakov said.

Sunday’s march in Kiev - part of “Pride Month” celebrated by lesbian, gay, bisexual and transgender (LGBT) people around the world - regularly attracts counter protests by right-wing and religious activists.

Earlier this week people attending a film screening held as part of Pride Month were attacked in the street, prompting the U.S. Embassy to call on law enforcement to help ensure Ukrainians could attend the march safely and without fear.
Human rights groups last year wrote an open letter to the authorities criticizing police inaction in response to violence against ethnic minorities, women’s rights activists and LGBT people.

For Ivasiy, a doctor, getting married to Pozdynakov, an event manager, was the second most important step for the couple behind gaining their families’ approval for the relationship.

He did not tell his family about his sexuality until he and Pozdnyakov had been dating for two years. When he told his mother, Ivasiy says she had two questions:

“If this would ever change, and I said ‘no’. (The second thing) she asked was if I understood that this would be difficult for me. I said ‘yes’. And that’s it. She said that everything was fine, and that she loved me as she did before.”

Pozdnyakov found coming out to his mother much easier. She raised him on her own and they had always been close. It was she who asked whether he was gay when he was still a teenager.

The lack of legal recognition for Ivasiy and Pozdnyakov’s marriage in Ukraine posed another potential problem, though one which the couple hope will never occur: “We can’t get divorced,” said Ivasiy.

“There is no divorce procedure in Denmark ... the only way will be when Ukrainian authorities recognize our marriage, and can divorce us. Therefore, our country is the biggest guarantor of our marriage, no matter how paradoxical that sounds.”

Editing by Matthias Williams and Raissa Kasolowsky

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Ukrainian gay couple hope Danish wedding will change mindsets at home - Reuters
No matter their allegiance, Ukraine’s politicians are ignoring LGBT rights

Homophobic statements by Ukraine’s leading politicians create a hostile atmosphere for the country’s LGBT community — and block public discussion.

Oleksiy Matsuka

29 March 2019
Ahead of Ukraine’s presidential elections, the problems of the country’s LGBT community are being ignored by our leading politicians. None of the leading candidates’ programmes even mention LGBT rights or address the issue directly, without vague euphemisms.

Instead of fighting for gay and lesbian rights, Ukraine’s presidential candidates continue to fight for their ratings by promoting populist ideas, rather than the ones that Ukrainian society needs. The idea of introducing same-sex marriage is still not accepted in Ukraine, and the majority of the population do not understand what the term “civil partnership” means.
At Donbas News, our recent survey on the streets of the cities of Mariupol and Slovyansk proved this fact. We asked people the following two questions immediately after one another: 1) Do you support the introduction of civil partnerships? 2) Do you support the introduction of same-sex marriage? The first question received more positive responses, whereas the second tended to provoke dismay. For some respondents, it was embarrassing even to answer the question, let alone thinking about supporting the idea politically.

These kind of reactions aren’t particularly surprising. After all, presidential candidates freely declare their homophobia. Indeed, they are the ones saturating Ukrainian society with their arguments about LGBT rights - the most famous one being, for example, “this is not the right time to think about this”.
Even presidential candidate Volodymyr Zelensky, a seemingly liberal host and actor in popular Ukrainian comedy show 95 Block, is connected to homophobic statements. In a 2018 sketch about Pinocchio, actors decided to mock the idea of coming out, in which the Pinocchio character admitted to being a “she” rather than a “he”. The rest of the cast then proceeded to insult the Pinocchio character on air.

In response, activists organised a rally near the 1+1 television channel's headquarters in Kyiv. They held posters saying “95 Block = a systematic crime against humanity” and “I sui Pinocchio”. After this public reaction, the TV channel issued a press release: “We apologise for this episode and assure you that no harm was meant.”

Yet Ukrainian society did not react to the latest homophobic attack by the country's leading politicians. For example, Oleksandr Turchynov, head of the National Security and Defence Council, made the following statement at a recent family forum in Kyiv:

“Under the guise of defending human rights, an anti-Christian term [gender] is being forced on our society [...] We need to remove the ideological terms from our laws and reinstate the word ‘sex’ instead of the artificial term ‘gender’ that has been forced on us.”

This forum hosted many representatives of the country's top political elite: President Petro Poroshenko, Yuliya Tymoshenko, his main opponent, and key ministers of Prime Minister Volodymyr Hroysman's cabinet. The audience applauded Turchynov's statement.
In this video, Oleksiy Matsuka reports from the National Family Forum for Donbas News. Please turn on subtitles in order to watch in English.

In her address, Yuliya Tymoshenko went even further in her vision of Ukraine's future:

“We should create a country that will show Ukraine and the world that Ukraine can change both itself and the world, and become an example for others. Because it will be built on the right laws, the right faith and the right goals. I believe this firmly, and I want us to be a united Ukrainian national team on this.”

I wonder, will representatives of Ukraine’s LGBT community be allowed to join Tymoshenko’s united team, or will they be banned?

Outrage to these statements has not travelled beyond Ukraine’s LGBT community. Not a single politician has ventured to publicly criticise how the head of state and principal opposition candidate seemingly stopped their campaigns to send a joint signal to society: “We have remained in the USSR, and the values declared on Maidan five years ago mean nothing to us.”

Protecting LGBT rights in Ukraine will demand confidence from Ukrainian politicians that they won’t lose their already modest approval ratings. Today, it is politically more profitable to flirt with the “majority” of the population which enjoys bad jokes about a
“confused Pinocchio” than to start a real discussion about human rights and European values.

This kind of discussion requires work in the long term, and politicians are interested in results here and now. But how can Ukrainian democracy work without the values of universal democracy? Will Ukraine be able to become a member of the European Union without parliamentary groupings that will state their support for pride events, and protection for gay and lesbian Ukrainians?

We journalists ask ourselves these questions as well: how many articles can we write about the violation of LGBT rights in Ukraine? How many times can we ask politicians about their attitudes to pride events on national television?
Today, there’s only a few Ukrainian journalists trying to raise awareness of human rights in public discussion. For instance, on International Women’s Day in March this year, the majority of programmes on national TV were not about women’s rights or the demands of the Women’s March. When the host of news programme Podrobnosti Nedeli asked MP Tetiana Ostrikova about her attitude to 8 March, the MP answered that she loves the “spring holiday”, and that “Ukrainian women, despite gas prices, are energetic, kind, responsive, and can survive in any conditions.”

Hardly a single TV channel discussed the concerns of women who joined the demonstration on Kyiv streets on 8 March - in particular, about how to raise the voices and visibility of women in Ukrainian society.

This is the description of the demonstration by the organisers of the Women’s March 2019:

“We are women who have different sexual orientations, gender identities, skin colour, ethnicity, and nationality. We are of different ages, different beliefs and social classes. We belong to different social groups, which makes us vulnerable to different kinds of discrimination and violence. Our voice must be heard; our demands must be met, and our rights must be equal.”

Was anything from the above list discussed on Ukrainian television? Did Ukrainian politicians attend the march and include the participants’ demands in their programs? No.

It’s like a vicious circle: TV channels refuse to set the tone for a real public discussion and are ignoring human rights movements and women’s organisations; politicians are not able to explain their positions on any topic simply because they have no real understanding of the issues - particularly as something as “complicated” as gender studies.

Meanwhile, viewers set their own views in relation to the TV and politicians, and come to the conclusion that “this issue is not topical”.

The desire to preserve their popularity prevents Ukrainian politicians from solving the real problems of their fellow citizens - a part of whom are cast aside or are forced to follow the “generally accepted” political “norms” of today's Ukraine. But as they reject a section of their fellow citizens, Ukrainian politicians show that they are still very far from the “European dream” they claim to be following.
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Tab 25
ARTICLES

Political Art Exhibitions in Ukraine Face Attacks and Censorship

In December, a professor at the National Academy of Arts in Kyiv, Ukraine damaged a student’s artwork depicting the Russian army as phalluses. This follows a number of attacks on political artworks by rightwing groups across the country.

Svitlana Biedarieva  March 7, 2019

In December 2018, the work of the emerging artist Spartak Khachanov was destroyed at the thesis show of the National Academy of Arts in Kyiv, Ukraine. Khachanov had made a large-scale sculptural installation depicting a militarized parade of phalluses in the hall of the academy to reflect on the Russian invasion in Ukraine. The pacifist installation was condemned by Vladimir Kharchenko, a professor at the academy who considered it inappropriate for the sensitive topic of the war to be displayed in such an ironic way. He subsequently expressed his critique by seeing to the physical destruction of the sculptures. As a result, the artist (a refugee from Donetsk, Ukraine who traveled in Kyiv to study art) was also expelled from the academy.
On the day this was decision taken by the director, a paramilitary nationalist group arrived to threaten Khachanov and locked him inside the university for several hours. Khachanov is now in an art residency in Finland, but the academy attempted to retain his sculptures, claiming they were the property of the institution. This is believed to have been done in order to prevent Khachanov from showcasing his work in Berlin in February 2019.

While the situation at hand may seem shocking to some, the National Academy of Arts in Kyiv is known for its conservatism. For example, no classes of new media, installation, or performance art are given, and the director of the academy, Andriy Chebykin, has held his position for 30 years.

However, this is the first time the academy’s traditionalism has been met with violence inside the walls of the institution, provoking a wave of discussion in the Ukrainian and Eastern European media. The professor who initiated the destruction of the works claimed in an interview to the Ukrainian press that the anti-military content of the
work and the representation of war as a contest of masculinities seemed offensive to him in the context of the ongoing Russian aggression, calling it an insult to Ukraine’s necessity to defend itself.

The case of Khachanov is one of the symptoms of a larger problem. Paramilitary groups, the most active of which is called C14, have existed as a form of “art critics” since 2009, when they first burnt down the Gudimov Centre for its presentation of a book with a provocative name: 120 Pages of Sodome. Since then, they have intended to impact Ukraine’s cultural life, censoring the topics of gender, sexuality, and politics in art.

In April 2018, the exhibition Vykhovni Akty (Educational Acts), organized by Alyona Mamay and Valeria Zubatenko, was shuttered on its opening day. The show, which took place at a gallery affiliated with the National Pedagogical University in Kyiv, focused on violence employed by rightwing groups, with some works dedicated to the LGBT community and their uneasy situation in Ukraine, and other works reconsidering the topic of identity and violence.
Prominent Ukrainian artists, such as Anatoly Belov, Nikita Kadan, and Lada Nakonechna, contributed works. This exhibition was condemned by the same C14 group that acted in the case of Khachanov.

The co-curator of the exhibition, Alyona Mamay, commented on the situation to Hyperallergic, saying:

> The vice rector of the university closed it, using the letter from a group of ten students (belonging to the aforementioned rightwing organization) that the exhibition contains obscene images and those that offend state symbols. After the exhibition was closed, the student group brought the works to the police station claiming that “these works don’t belong to the university.” The works by Nikita Kadan, Lada Nakonechna, my own works, and those by other artists are still there. [...] There is no such dress that is possible to wear in order to avoid the threat of rape, and there is no such artwork that is possible to make in order to avoid the threat of censorship.

After the artworks were confiscated by police, they were never returned to the artists.

To name a few more cases, in May 2012, an exhibition of photographs by Eugenia Belorusets called *Svoia Kimnata (A Room of My Own)*, which focused on LGBT families in Kyiv, was destroyed one day before its closure. The attackers lightly wounded the exhibition’s security guard and tore apart the photographs. The police never reacted to requests for a proper investigation for either case.

This is a particularly insidious type of censorship that has become increasingly common in Ukraine. It is not led by the government, but rather the role of “censors” is taken by the informal groups that play the offended public fighting for traditional
values, and these actions are actively supported or ignored by authorities. Belorusets told Hyperallergic she believes the root of the problem is the unclear status of contemporary art in Ukraine, which “balances on the edge between the legal and the acceptable.” She also points out the absence of a museum of contemporary art in Kyiv and the city’s lack of display spaces and archives.

In February 2017, an exhibition of “anarchy” works by David Chichkan Vtrachena Mozhlyvist (The Lost Possibility) was violently attacked. Part of the works were completely destroyed, others defaced.

Recently, at a talk by sociologist Anya Hrytsenko, which focused on the participation of young people in right-radical organizations, an aggressive group stopped the lecture. In a remarkable, almost satirical gesture, the representatives of the group filed a complaint to police against the lecturer according to the article of the Ukrainian Penal Code that focuses on the discrimination based on to nationality, religious views, and other identities — the same article that is used by LGBT activists to report hate crimes. Hrytsenko told Hyperallergic: “What really interests them is not art; it is gender.” They aim to trigger media attention; therefore, they act for an effective image, using visual culture as a target.

All these actions contribute to the creation of an image of there being a human rights crisis in Ukraine and thus can be used to legitimize Russia’s claims of the rise of the rightwing groups in Ukraine and its need to intervene “to defend Russian speakers” (though many of these Russian speakers condemn such intervention). While the state of human rights in Ukraine is otherwise fairly good, the media image created by such pointed actions depicts the state as

deteriorating.
In 1999, Cold War historian Frances Stonor Saunders coined the term “cultural Cold War,” to indicate when art and culture become the ideological battlefield between two political systems. But now, an actual war between Russia and Ukraine has opened a cultural “hot” battlefield. Despite the virtual channels of disseminating information, this battlefield is very real. The selective aggression of the self-appointed censors uses media as a platform to distort social context and manipulate public opinion about culture, particularly the arts.

Ukrainian art finds itself unwillingly engaged in a media project that presents a threat to the state of democracy in Ukrainian society. If LGBTQ rights are slowly improving due to the public support often bolstered by visual culture, the art scene, being a powerful producer of political images, often falls victim to attacks in their unregulated “cultural war.” The educational institutions in Ukraine involved in the conflict suffer from a kind of a Stockholm syndrome, being unable to negotiate with the demands of groups that aim to limit the free expression of the artists, and, at the same time, are rigorous defenders of their own violent actions. This attitude encourages apoliticism in art, which in turn effects arts education and the development of artistic practices in Ukraine, spreading the fear of censorship by violence.
Tab 26
UKRAINE

Kyiv March For Transgender Rights Canceled After Violence By Far-Right Radicals

November 18, 2018 13:25 GMT
UPDATED November 18, 2018 16:12 GMT
By Christopher Miller

KYIV -- Activists for transgender rights were forced to disband a demonstration in Kyiv after counterdemonstrators assaulted several protesters and attacked a Canadian journalist trying to cover the event.

The organizers of the event criticized Ukrainian police for failing to protect about 40 lesbian, gay, bisexual, and transgender (LGBT) rights activists who had planned to gather in Shevchenko Park on November 18 for a legally sanctioned march through the streets of the Ukrainian capital coinciding with International Transgender Remembrance Day.

The demonstrators, who were holding rainbow flags and banners with slogans such as "Transphobia must be stopped," were forced to relocate to a nearby location after about 100 "religious radicals and far-right groups" arrived in the park for a counterdemonstration.

The counterdemonstrators included members of the far-right groups Tradition and Order, Right Sector, and the Religious National Front.

LGBT rights activists who moved their gathering place by two blocks to a location near Kyiv's University subway station were followed by a small group of counterdemonstrators who confronted them by shouting slurs and setting off smoke bombs.

Ukrainian police did not try to remove the counterdemonstrators, but shoved the LGBT rights activists through turnstiles of the subway station while swearing at them and shouting slurs.
The police officers then blocked the entrance to protesters to avoid further clashes.

An RFE/RL correspondent saw two female activists who remained on the street being physically assaulted by the counterdemonstrators.

The two women were attacked with pepper spray and were given first aid at the scene, according to the AFP news agency.

Canadian journalist Michael Colborne was also assaulted with pepper spray and punched in the face by two counterdemonstrators near the metro station, suffering a swollen lip and cuts on his face from his broken glasses.

Police said they have opened an investigation into the attack on Colborne, classifying the assault as hooliganism, and said officers were searching for the two suspects.

Colborne tweeted that the attack against him was "further proof" that Ukraine "has a huge far-right problem," and that Ukrainian officials should "stop downplaying it."

"Ukraine today: National Police opted to protect the right for (peaceful) assembly of far-rights and traditionalist[s] instead of Trans*march event," Ruslana Panukhnyk, executive director of Kyiv Pride and one of the organizers of the march, wrote on Facebook.

In a tweet later on November 18, Foreign Ministry spokeswoman Kateryna Zelenko said that "attacks on journalists, like any manifestations of intolerance and violence, are considered unacceptable. We are awaiting the results of the investigation by law enforcement organs."

Olena Shevchenko, director of the Ukrainian LGBT rights NGO Insight, said in a post on her Facebook page that "Ukraine seems under control of ultra-radicals."

In June, no serious incidents occurred when thousands of activists marched in Kyiv to mark an annual celebration of gay and lesbian rights that had been marred by violence in the past.

Police dispersed far-right protesters ahead of that march and detained more than 50 members of radical groups.

With reporting by AFP
Tab 27
Trans rights activists attacked with pepper spray during Ukraine march

Kiev demonstration was interrupted by far-right protesters who threw smoke bombs into the crowd

Agence France-Presse in Kiev
Sun 18 Nov 2018 09.18 EST

Two activists have been attacked with pepper spray in Kiev during a transgender rights march that was interrupted by dozens of far-right protesters.

About 30 people were taking part in the demonstration in the Ukraine capital, holding rainbow flags and banners with slogans including “Transphobia must be stopped” and “If you stay silent, they will come after you too”.

The far-right protesters lit smoke bombs and threw them into the crowd, an Agence France-Presse journalist at the scene said.
The two women attacked with pepper spray were given first aid at the scene, according to the correspondent.

Police led the activists into a subway station and blocked the entrance to protesters to avoid further clashes.

“Today’s events have demonstrated that the level far-right radical aggression and violence is increasing in Ukraine,” the organisers of the march wrote on Facebook.

The Canadian journalist Michael Colborne posted on Twitter that he had been punched in the face by a far-right radical while covering the rally.

Homophobia is still commonplace in post-Soviet Ukraine, even if Kiev authorities have allowed gay pride marches to take place, in contrast to neighbouring Russia.

Transgender rights marches have taken place in previous years.

Police detained more than 50 far-right activists who tried to disrupt a gay pride march in Kiev this summer. Around 5,000 people took part in that event amid heightened security.

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Tab 28
KIEV (Thomson Reuters Foundation) - Staring at the Berlin Wall mural of Soviet President Leonid Brezhnev kissing East German leader Erich Honecker on the mouth, Yevhenii Kalashnyk knew it was time to come out as gay.
The 20-year-old Ukrainian kissed a friend in front of the graffiti painting in September and posted the photo on Instagram. The decision changed his life.

“I was emotionally full,” he told the Thomson Reuters Foundation in an interview.

He said he had only kissed another man for the first time a few months earlier and had arrived in the German capital about 60-days into his first trip to western Europe where he hoped to find some peace of mind after a difficult period.

For while gay sex has been legal in Ukraine since 1991, it remains socially taboo with lesbian, gay, bisexual and transgender (LGBT) people facing stigma, discrimination and sometimes violent attacks, rights groups say.

Ukrainian authorities have increased their support for gay rights since a pro-Western government took power following the Maidan protests in 2014 and in 2015 passed a law banning workplace discrimination against the LGBT community.

But critics say homophobic attitudes remain widespread. The country scored 19 out of 100 points in a 2016 survey by EU-funded Rainbow Europe ranking LGBT people’s rights in Europe.

Shortly after posting the kiss photo, Kalashnyk received a call from his mother.
“She asked: ‘Are you gay?’. I said ‘yes’ ... Then she started saying very bad things,” he said, adding that his father also threatened him.

**RAINBOW SAFE HOUSE**

Too afraid to go home to Nikopol, Kalashnyk headed to Kiev when he returned to Ukraine about a month later where he found accommodation with Insight, a local gay rights group.

The organization runs Ukraine’s first and only LGBT shelter - a four-room flat, with bunk beds, a kitchen and communal area, in an old apartment block outside Kiev’s city center.

Up to eight guests at a time can receive food, clothing, medicines, a travel card, as well as legal and psychological help, and can stay up to three months, extendable on an ad hoc basis, Insight says.

“It’s a great opportunity for people to adapt and start a new life. You don’t have to worry about finding work without knowing where to sleep,” said Pavel, a 48-year-old resident from Donetsk, who declined to give his real name.

The facility was launched in June 2014 to help LGBT people fleeing the conflict in the country’s east but has since opened its doors to those from other regions.

More than 10,000 people have been killed and 1.6 million forced from their homes since pro-Russian separatists in the regions of Luhansk and Donetsk rebelled against Kiev’s pro-western government in 2014.

Members of the LGBT community were also affected by the violence with many losing their jobs, having their houses damaged or suffered homophobic attacks amid the upheaval, said Olga Olshanskaya, the Insight shelter coordinator.

She said transgender people were particularly vulnerable to abuse as they had to show ID documents that did not reflect their appearance or sex at checkpoints in conflict-hit areas.
“No one wants to leave their home, but (for many) coming to Kiev was the only hope,” said Olshanskaya in a room adorned by rainbow flags at Insight’s headquarters in central Kiev.

Oksana, a 35-year-old transgender woman from Donetsk, said a militiaman manning a checkpoint pointed a gun at her head because of her looks weeks before she left for Kiev in 2014.

She had started undergoing hormone treatment two years earlier after another weapon - a hunting rifle she held against her head - misfired in a failed suicide attempt. Until then she had kept her sexuality quiet, fearing the wrath of her family.

“I was born with all the right organs, two legs, two feet but ... not in the right body,” she said. “To live life as some else is very difficult”.

Yevhenii Kalashnyk, a 20-year-old from Nikopol, poses for a photo inside the headquarters of Ukrainian LGBT rights group Insi...
Oksana, who preferred not to use her full name, spent just over a month at the Insight shelter in Kiev, long enough to find work at a law firm, and has since founded an advocacy group for transgender rights called T-ema.

**GAY PRIDE AND PREJUDICE**

But life in Kiev can also be difficult.

Kalashnyk said he sometimes suffers verbal abuse and always carries pepper spray to fight off potential assailants.

In 2015 several dozen protesters attacked a gay pride march, throwing flares and clashing with police.

In June this year, the same event went ahead largely without incident under heavy security following threats from ultra-nationalist groups supporting what they say are traditional Ukrainian values.

Pavel, who works in the pharmaceutical sector, decided against attending the rally in case colleagues recognized him.

“It could have been the end of my career,” he said.

Some supporters of LGBT rights see progress in Ukraine as symptomatic of the country’s closer integration with the European Union and rejecting its ties with neighboring Russia.

But change is happening too slowly for Kalashnyk.

“I don’t see how I can realize myself here. I don’t see my future in Ukraine,” he said.

Reporting by Umberto Bacchi @UmbertoBacchi, Editing by Belinda Goldsmith; Please credit the Thomson Reuters Foundation, the charitable arm of Thomson Reuters, that covers humanitarian news, women’s rights, trafficking, property rights, climate change and resilience. Visit http://news.trust.org
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Tab 29
Gay and displaced on the frontlines of Ukraine’s conflict

Fighting is not the only thing driving people from their homes in eastern Ukraine. Persecution is also forcing LGBTI people to flee.

When Viktor,* a 27-year-old gay man, opened his door to police one morning, he knew his secret was out.

His claims of having a girlfriend met with scorn – one of his neighbours had told them everything. Unless Viktor could present the woman within 24 hours or pay a bribe he could not afford, he would be arrested.

Panicked, he packed a bag. By the evening, he was gone.

Tragically, Viktor’s story is a familiar one for many gay, bisexual, transgender and intersex (LGBTI) people living in Ukraine, where homosexuality was only legalized in 1991 and is still considered taboo.

“You need to lead a hidden life.”

Discrimination is further exacerbated in eastern regions such as Donetsk, where a devastating conflict has uprooted two million people and cost more than 10,000 lives.

Many LGBTI people face stigma, harassment and violent attacks. In some cases, home has become such a terrifying place that the only option is to leave.
Along with other internally displaced LGBTI people from non-government controlled territories in Ukraine, Viktor found help from an organization called Insight, which runs a shelter and offers legal aid for those without the means to support themselves.

“It is not easy to be LGBTI in the East,” says its director, Olena Shevchenko. “They can beat you, they can rape you. It’s not possible to be open, because you’re never sure what will happen next. You need to lead a hidden life.”

Even in Kyiv, the nation’s capital which this year hosted its fourth gay pride parade, homophobic discrimination abuse is not unusual. Graffiti recently emblazoned on the wall of a Lush store, which participates in the LGBTI-friendly Kyiv City Map, read: “Ukraine is against perversions. Get out of here!”

Viktor spent four months at the Insight shelter in Kyiv, trying to find a job and a place to live. For internally displaced people (IDPs), who face negative stereotypes in Ukraine, this can be difficult. But for gay or transgender people the stigma doubles.

On top of this, there is the constant worry about the conflict back home and loved ones left behind.
“Many people who come to the shelter still have parents back in Donetsk and Luhansk,” says Shevchenko. “There’s always some military operation so you never know if your house will be next. You don’t have any income, because you can’t find a job, and if somebody hurts you where do you go? It’s an awful life.”

“They tormented me for hours.”

For Oleg, a 22-year-old drama student from Donetsk, it was his own mother who reported him to police and forced him to see a psychologist.

“When my mum first found out I was gay, she didn’t understand,” he says. “It was very shocking for her. She called the police three times to scare me – the first two times they came to our home and just spoke with me, but the third time they took me to the station. They tormented me for hours and told me I was a faggot. I was terrified. When I got home, I remember I said: ‘You are not my mum, because mums don’t do this.’ We didn’t speak for a long time.”

At high school, Oleg was beaten and called names.

“I call it fox hunting,” he says. “They ran after me and I hid. Boys used to push me down the stairs. It happened many different times.”
In the summer of 2014, as conflict broke out, he decided he could take no more and moved north to Kyiv. His mother fled a few months later when their street came under attack. Miraculously, their house remains undamaged, but it is worth little in a conflict zone and neither of them expect to return.

“It's like a big snowball,” says Oleg. “For me, it was not only about the war – it was also about discrimination and LGBTI identity. It came all at once and you just disappear. You're misunderstood, lost.” He sighs, with a shrug. “We don’t understand how valuable things are until we lose them.”

UNHCR, the UN Refugee Agency, works to offer individual assistance to the most vulnerable LGBTI IDP’s in Ukraine, issuing legal guidance and training for field staff. It also supports a Ukrainian public initiative called ‘T-ema’ which helps displaced transgender people and is run by participants of a recent UNHCR focus group discussion with representatives of the displaced LGBTI community. In July, the agency took part in Kyiv Pride.

“IT TAKES COURAGE, IT TAKES BRAVERY.”

For Oleg, and many others like him, their future in Ukraine is uncertain. “I can’t go home because I will be in a jail or be killed. I don’t see that I can have a normal life in Ukraine, even in Kyiv. It’s a fight every day and I don’t want it. I want to be normal – I want to have a house and a husband and cats.” He shakes his head, sadly. “We haven’t fought for our rights yet. We haven’t this background. It takes courage, it takes bravery.”

Olena from Insight is among those ready to lead the charge.

“People in Ukraine need their rights and they need protection,” she says. “And they are ready to demand it.”

* Name has been changed for protection reasons
STORIES
Canada’s Samra Habib champions the rights of LGBTI refugees

STORIES
In their host countries, two LGBTI refugees from Venezuela start new lives

STORIES
Millions in eastern Ukraine endure invisible wounds of war

STORIES
Legacy of 19th century Empress of Austria extends to today’s refugees
Tab 30
CURRENT SITUATION

Discrimination against individuals with diverse sexual orientations and gender identities (SOGI) in Ukraine is widespread, with several dozen hate crimes and incidents reported each year. Almost 30% of all hate crimes reported in 2015 were based on SOGI, and almost 50% of violent attacks were motivated by the victim’s real or perceived SOGI.

Since the beginning of the conflict in Ukraine in 2014, the number of hate incidents based on SOGI in non-government controlled areas (NGCA) of Ukraine and Crimea has increased and intolerance has become more acute. In Crimea, laws criminalizing “propaganda of same-sex relationships” are in effect and similar legislation has been enacted in the NGCA of Ukraine.

Because of this hostile environment and direct threat to life, many LGBTI persons residing in Crimea and NGCA of Donetsk and Luhansk regions have had to flee. However, as discrimination based on SOGI is widespread throughout Ukraine, LGBTI IDPs continue to face discrimination in GCA. LGBTI IDPs, thus, face double discrimination in accessing labour markets, housing, social services and health care institutions. This, in turn, puts LGBTI individuals at higher risk of experiencing social isolation and may impact on their psychosocial well-being.

Primary country

Ukraine

- Content format:
  - Situation Report

- Language:
  - English
  - Russian

- Theme:
  - Health
  - Protection and Human Rights
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Tab 31
Zoryan Kis was sitting on a bench in the centre of Kiev with his boyfriend on his lap when a group of teenagers came up to them, asked if they were “patriots” and doused them in pepper spray.

Friends rushed to help but the reaction to their public display of affection was clear - they were not welcome.

Kis and his partner, both LGBT activists, had decided to stage the moment to test how far Ukrainian attitudes towards the gay community had come since the historic Euromaidan protests of 2014.

With the subsequent ousting of pro-Russian president Viktor Yanukovych - who was known to court president Vladimir Putin’s favour by emulating his infamous “anti-gay laws” - the LGBT
community was optimistic that attitudes would change.

However, two years on many have since found that persecution and prejudice continues, and that the freedoms called for by the protesters in Kiev’s independence square have been unevenly applied in post-revolution Ukraine – particularly when it comes to sexuality.

In the western city of Lviv local authorities announced earlier this month they could not protect a festival organised by an LGBT organisation, allowing the hotel where the event was about to take place to become surrounded by far-right activists in masks shouting “kill, kill, kill”. The organisers were forced to cancel the event and leave the city over fears for their safety.

**The Maidan narrative**

“The situation can lean either way,” says Kis, explaining that with the Maidan protests now playing a key part in the narrative of the “new Ukraine” the LGBT community - despite being on the frontlines of the unrest - has struggled to find its place.

He says this is partly because pro-Kremlin media was attempting to portray the pro-EU protests two years ago as a tantrum by LGBT people yearning to join “Gayropa”. His fellow activists decided not give them further ammunition by flying the rainbow flag.

Today, Kis is not sure if that was the right decision. With images of the “heroes of the heavenly hundred” - the protesters who were killed during the uprising - displayed in squares and schools across the country, many in the LGBT community now feel they have been written out of the story.

“What we hear from our opponents is ‘you were not there at the Maidan first’,” says Kis, an implicit question about whether the LGBT community is “really Ukrainian”, he adds.

But for many protesters like Kis, gay rights were at the heart of Euromaidan. Members of the gay community turned out alongside thousands of other Ukrainians because they wanted changes to democracy and improvements to human rights legislation – which they hoped closer association with Europe would bring.

“For me Ukraine not signing the Association Agreement [under Yanukovych] also meant that it would become part of the so-called Russian world. One of the values of the so-called Russian world is state sponsored homophobia,” says Kis.
The new pro-European government under Petro Poroshenko went on to sign the Association agreement leading to small improvement on the issue of gay rights, Kis says.

In November the government passed an amendment to the labour code making it illegal to fire someone on the basis of their sexuality. Ukraine also hosted its second ever LGBT march, which despite being attacked by far right activists was also successfully protected by the country’s police force.

Support from countries such as Germany, Poland and Sweden has been essential for most reforms in post-revolutionary Ukraine, but the difference between the popular anti-corruption measures and improvements to LGBT rights is that the former have strong local support.

The labour code amendment was a prerequisite for visa free travel in the EU, and last summer’s march might not have taken place if western organisations had not put pressure on the reluctant police force to protect it.

Recent polls also suggest attitudes amongst Ukrainians are yet to shift. A recent study conducted by the Kiev International Institute of Sociology found that just 4.3% of Ukrainians hold “a positive view” of gay people, with 45.2% believing there should be restrictions on gay people’s rights down from 49% in 2011.

But in spite of this, Kis says he has hope in his society’s capacity for change. He recalls a moment from the Maidan that fuels this optimism. After LGBT activists decided not to demonstrate under their own banners, far-right protestors infiltrated the square waving rainbow flags to stoke unrest. Instead of falling for it, a member of the Maidan self-defence forces shouted as the group came closer: “Everyone keep calm! I know the Ukrainian gays are not part of [this] and this is pro-Russian bullshit.”

“I think it was the first time I’d heard ‘Ukrainian’ and ‘gay’ in one sentence,” Kis says. “It was a sign to me that Ukrainian identity can embrace also gay Ukrainians.”

A version of this article first appeared on Coda Story. You can read more from their investigation into the new east’s LGBT crisis here, or follow them on Twitter

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Topics
- Ukraine
- New East network
- LGBT rights
- Europe
- Vladimir Putin
- Viktor Yanukovych
- Petro Poroshenko
- analysis
Tab 32
VIOLATION OF LGBTI RIGHTS IN CRIMEA AND DONBASS: 
THE PROBLEM OF HOMOPHOBIA IN TERRITORIES BEYOND UKRAINE’S CONTROL
Violation of LGBTI Rights in Crimea and Donbass: The Problem of Homophobia in Territories Beyond Ukraine’s Control. The Human Rights Report. ADC Memorial with the support of the Center for Civil Liberties. 2016.

ADC Memorial and the Center for Civil Liberties would like to thank all the people who helped them gather information by speaking about their lives and sharing their experiences and impressions: through your courage, trust, and support for human rights work, you have made an important contribution to the writing of this report. We would especially like to thank the NGOs Insight and Gay Forum Ukraine.

*On the cover is the picture of USSR matchbox label*
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INTRODUCTION

Discrimination on the grounds of sexual orientation and gender identity (SOGI) continues to be an issue in today’s world, despite the fact that in recent years this topic has started to reverberate for the first time: same-sex marriage has been legalized in more than 20 countries, and more and more states are enshrining it in their laws. Meanwhile, however, same-sex relationships are still punishable by death in some African and Asian countries, and a number of states stipulate life imprisonment for LGBTI people. Society’s outsized reaction to the emancipation of LGBTI people frequently takes the form of outbreaks of homophobia. Perfect examples of this are the homophobic laws that have been adopted in the Russian Federation and that have unfortunately spread to territories controlled by the Russian government, including in neighboring countries.

In these circumstances, it is particularly important to understand what is happening in regions of Ukraine that are under de facto Russian control. This question has not been examined in any great depth by any human rights group. In fact, the situation for LGBTI people in Crimea has only ever been mentioned once—in a 2015 report by the Ukrainian NGO Nash Mir (Our World). The Anti-Discrimination Coalition, which includes Crimea in its work, has not dealt separately with the violation of LGBTI rights there, and, like many other human rights structures, the Crimean Human Rights Field Mission does not address the LGBTI situation in Crimea in its informational materials because it has trouble obtaining verifiable information and developing regular contacts in this sphere. Russian human rights organizations (for example, the Russian LGBT Network) do not investigate the situation for minorities in Crimea, since they do not include Crimea in their (purely Russian) activities. Thus, the LGBTI problem in Crimea has not been really investigated and does not receive the amount of attention it deserves.

As we look at the situation of LGBTI people in Crimea and Donbass, it is important to understand the changes that have occurred there over the past two years. The critical phase of the conflict between Russia and Ukraine began in the first half of 2014. Numerous experts classify this as a hybrid war,1 where military actions combined with informational propaganda led to the secession of Crimea and parts of Donetsk and Luhansk oblasts from Ukraine. These actions have had more than just political consequences—civilians have suffered more than anyone else, and the situation has particularly deteriorated for vulnerable groups that experienced difficulties prior to the conflict. People who have faced discrimination on the grounds of SOGI face an especially dangerous situation.

In early 2014, Russia inserted troops into Crimean territory and later declared it Russian territory under a special law (No. 62 of 18 March 2014 “On the Accession of the Republic of Crimea to the Russian Federation and on the Formation of New Constituent Entities of the Russian Federation—The Republic of Crimea and the Federal City of Sevastopol”). This was a critical moment for residents of Crimea, which was declared a “constituent entity” of the Russian Federation along with the city of Sevastopol. The international community did not recognize this annexation, and on 27 March 2014, the UN General Assembly adopted a resolution2 supporting Ukraine’s territorial integrity. The majority of UN member states (100 out of 193) voted to adopt this resolution, and 11 countries (Armenia, Belarus, Bolivia, Venezuela, Zimbabwe, North Korea, Cuba, Nicaragua, Russia, Syria, Sudan) voted against it, thus recognizing Russia’s annexation of Crimea.

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1 http://www.svoboda.org/content/transcript/26731166.html
2 http://www.consultant.ru/document/cons_doc_LAW_160618/
Beginning 18 March 2014, Russian laws began to be applied de facto in Crimea. These laws included the homophobic norms of administrative law that had been condemned by the international community.

In 2013–2014, Ukraine experienced historic events (Euromaidan, which called for greater integration with Europe, mass protests against corruption, etc.) that led to a change in power, the flight of the former president Yanukovich, and the arrival of new leaders. Southeastern Ukraine was ambivalent about the new reality: many people spoke out against the events in Kiev, criticized the Ukrainian government, and lent their support to the rhetoric of separatism. In February 2014, the Verhovna Rada attempted to repeal the law "On the Principles of State Language Policy" of 3 July 2012 no. 5029-VI, which granted Russian the status of "regional language," a move that was viewed in an extremely negative light by residents of southeastern Ukraine. Even though this hasty decision was revoked just two days later, it provoked a growth in anti-government and separatist attitudes in the Russian-speaking regions, where residents were apprehensive about the possible loss of their language rights.

In a situation provoked by Russia's propaganda campaign and direct support, parts of eastern Ukraine ended up under the control of self-proclaimed republics (DNR and LNR): military actions were launched in Donetsk and Luhans'k oblasts, and on April 6 protesters seized the administration building in Donetsk and adopted a "declaration on the sovereignty of the DNR." In Luhans'k, the building of the Ukrainian security service was seized on April 6, and the "LNR Republic" was proclaimed on April 28. This all took place in a situation of de facto war, where government troops faced both local separatist fighters and numerous "volunteers" from Russia, who were under the direction of active Russian soldiers.

The self-proclaimed republics, however, were not recognized by Russia: besides themselves, the only entity to recognize them was South Ossetia, which is also not recognized by most countries.

The so-called DNR and LNR adopted their own constitutions and laws. Many of the norms in effect in these territories copy RF laws in whole or in part. At the same time, there are many relationships that are not regulated by law, and in fact Russian norms and Ukrainian procedural law are frequently in effect in the same branch of law at the same time. Even though these "laws" are not considered legitimate, people in areas of these oblasts that are not under Ukrainian control are forced to obey the new rules. Thus, it is extremely important to analyze both the norms of Russian law and the "laws" of the self-proclaimed republics in the context of examining the problems LGBTI people face in Crimea and Donbass.

It must of course be acknowledged that homophobia exists in Ukraine as well, in spite of the persistent efforts of the human rights community and the appearance of anti-discriminatory norms. According to research conducted by the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe), from 2014–2016 the index reflecting compliance with LGBTI rights in Ukraine remained extremely low (in the range of 10–13 percent). There are regular manifestations of violence against LGBTI people both at public events and against individuals identified by their outward appearance. Homophobia, which had previously existed in Ukrainian society, intensified in eastern Ukraine with the start of conflict there, and the military actions supported by Russia did little to improve the situation. To begin with, the appearance of armed people developed into a free-for-all that threatened the life and well-being of people from vulnerable groups. As a result of anti-European rhetoric, widespread homophobia, and the transfer of power to armed people, shootings and torture on the grounds of SOGI became a reality throughout the territories of the self-proclaimed republics of Donetsk and Luhans'k. Violence against LGBTI people became the norm and was encouraged by representatives of government structures.

Another order of circumstances that arose in these territories as a result of their "secession" from Ukraine included a worsening economic situation and the inability to purchase food and other necessary products. For transgender people, a particular problem was the lack of medication required for hormone therapy. Also, transgender residents were denied humanitarian aid because their documents did not match their appearances. Finally, entry into and departure from these territories became not only more dangerous, but also more expensive and several times slower.

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4 http://zakon5.rada.gov.ua/laws/show/5029-VI
In Crimea, many small businesses and pieces of real estate were not restructured in accordance with the requirements of Russian law. As a result of this, and also of the blocking of Visa and MasterCard payment systems, many people lost their jobs. Residents of Crimea state that buildings that could have been rented previously are frequently abandoned, making it difficult to find locations for LGBTI events or offices for NGOs working in thematic areas, especially against a background of the sharp rise in homophobia.

All of the circumstances listed above have led to a significant deterioration in the situation for LGBTI people in Crimea and Donbass. This situation is worse in comparison not just with Ukraine, but even with Russia due to lawlessness, political changes, economic problems, and the presence of armed formations.

However, even in these difficult circumstances, people have been able to find the strength in themselves to remain in their homeland and even gain the acceptance of people close to them. For example, a medical worker from Luhansk recounted how colleagues who knew about his orientation started to respect him for staying after the start of the war and continuing to provide people with medical assistance. In another case, a gay man living in the so-called LNR reported that people he knows who work for the republic’s administration are aware of his orientation but respect him and do not persecute him. Finally, a woman from Crimea, whose orientation became known to her relatives shortly before the annexation, spoke about how her relatives first threatened to kill her for being a lesbian, but then came to recognize that in doing this they were ceding to the influence of propaganda calling on people to reject European values, including LGBTI rights. Two years later, this woman's sister asked for her forgiveness and accepted her. Many people interviewed spoke about how the opinions of their family members changed over time, with some family members even acknowledging that they had fallen under the influence of propaganda, including homophobic propaganda. Some LGBTI people have participated in the war, even though they fully recognize the risk of “exposure” among armed people. There have been instances of this in the so-called LNR and DNR, and also in Ukraine. One gay man admitted that he was fighting on the side of Ukraine because he and his partner decided that the first one to be called up would go to fight. None of his fellow soldiers know about his orientation, so he knows his comrades will help because of their team spirit. If they did know about his orientation, however, their relationship would change. Even though this man cannot come out right now, he is ready to participate in gay parades side-by-side with veterans groups when the war is over. These and many other cases describe the complexity of the situation surrounding the conflict between Russia and Ukraine.

It is particularly alarming that Russia’s interference in the internal affairs of another country has caused the formation of so-called grey zones and has greatly increased the risk that the conflict in Donbass will continue to simmer. A situation where these territories remain beyond the control of Ukraine is disturbing both in terms of continued violations of human rights and in terms of the worsening situation for LGBTI people. In this respect, a particular cause for concern is the harsh reaction Russian authorities had to Ukraine’s statement of its intention to “retake Crimea and Donbass”: without concealing their support for separatism in eastern Ukraine, senior RF officials did not allow even for the thought that “Russia’s territorial integrity” could be violated and that Crimea might not be recognized as one of its regions. “Separatist leanings” displayed by Crimean residents who do not recognize the annexation is punishable by criminal prosecution and years in prison.

Below we will attempt to examine the realities of life for LGBTI people in this new legislative environment. The situation of people remaining in these areas is complicated by armed conflicts, persecution of dissenting views and the overall authoritarian environment, the power of armed people, homophobic violence, and an atmosphere of fear and terror. All of this will lead to a rise in denunciations against LGBTI people in Crimea and the parts of Donbass that are not under Ukrainian control.

7 Interview with S., Luhansk Oblast
8 Interview with A., Luhansk Oblast
9 Interview with M., Crimea
10 http://upogau.org/ru/ourview/ourview_3308.html
Chapter 1
THE SPREAD OF HOMOPHOBIC LAWS IN ANNEXED CRIMEA AND EASTERN UKRAINE

Russia and Ukraine have historically had similar legal norms relating to same-sex relationships. Recently, however, these norms have taken different directions: laws in Ukraine are generally becoming less discriminatory, while laws in Russia and their application are becoming more homophobic in nature.

Accordingly, the situation for LGBTI people has deteriorated in both annexed Crimea, where Russian laws and enforcement practices are now in effect, and in the so-called DNR and LNR, whose laws usually mirror Russian laws and are sometimes even more discriminatory.

Even though the Minsk Protocol labels the DNR and the LNR as “certain areas of the Donetsk and Luhansk regions of Ukraine,” approved laws in these territories differ from Ukrainian laws. The authorities of the so-called DNR and LNR nominally follow laws adopted by the “republics” themselves that frequently copy Russian laws, with a mix of Ukrainian norms that were previously in effect in the Donetsk and Luhansk regions of Ukraine (there are also laws that do not have any direct analogues in Ukraine or Russia, for example DNR Law No. 23-INS “On Special Legal Regimes” of 24 April 2015). However, in practice DNR courts continue to use Ukrainian norms of procedural law. The possibility to conduct cases in this way was enshrined in Resolution of the DNR Council of Ministers No. 9-1. The first version of this resolution was adopted in June 2014. Given the absence of a legal framework in the DNR and the need to regulate legal relationships, this resolution established that courts could, at their own discretion and in the absence of DNR laws, “apply the laws of Ukraine or the laws of other states insofar as they do not contradict the Declaration of Sovereignty of the Donetsk Peoples Republic or the DNR Constitution.” However, this clause was amended in early January 2015. The current version of this resolution establishes the absolute precedence of Ukrainian laws in effect “in the territory of the DNR before the DNR Constitution entered into force” to the extent that they do not contravene the Constitution.

In general, justice in these so-called republics is administered haphazardly. The over 160 prisoners held in illegal prisons in these territories are testimony to this (there are no police officers or prosecutors, “people’s courts” are held sporadically and spontaneously, “field commanders” or members of the administrative staff of the DNR and LNR make decisions on an arbitrary basis). The population is poorly informed of current laws and rules. According to one member of the LGBTI community in Luhansk, “when laws are adopted in a normal country, the press writes about them, there’s a constitution, some kind of register. We had all of that, but now it’s all based on rumors”.

11 https://www.facebook.com/events/26367163706645/permalink/266891303654231/
13 http://www.gb-dnr.com/normativno-pravovye-akty/204/
14 http://jfp.org.ua/rights/analityka/reports/coalition
15 From this point onward, quotes are from interviews conducted by ADC Memorial with members of the LGBTI community recorded in December 2015–March 2016. The relevant region is given in parentheses (D - Donetsk Oblast, L - Luhansk Oblast, C - Crimea). With certain exceptions, the informant’s information is not given due to safety concerns. Complete recordings of the interviews are kept in ADC Memorial’s archives.
General constitutional norms of equality

In general, most legal acts in Ukraine and Russia establish a ban on limiting the rights of an individual based on a certain ground. The fundamental law of the state, the Constitution, proclaims that everyone is equal before the law and the court in both Ukraine (articles 21 and 27 of the Constitution) and Russia (Article 19 of the Constitution). Even the constitutions of the so-called DNR and LNR contain similar norms (Article 13 of the constitutions of both republics), which were copied from the RF Constitution. It is true, however, that none of these normative acts list SOGI as grounds for inequality or use the term “discrimination.”

Neither Russian nor Ukrainian laws have norms that are explicitly homophobic or that would prosecute same-sex relationships as such. In Soviet times, criminal liability for “sodomy” was on the books in all Soviet republics, and in the almost 60 years of its existence (Article 154, and later Article 121 of the RSFSR Criminal Code) almost 60,000 people in the RSFSR alone were sentenced for same-sex relationships.16 This article was frequently used as a tool of repression against dissidents.17 Even though after 1991 the criminal codes of the RSFSR (Article 121) and the USSR (Ukrainian Soviet Socialist Republic) only stipulated punishment for “sodomy” and “lesbianism” combined with violence or threats of violence, these terms continued to be perceived in a negative light. The formulations “sodomy” and “lesbianism,” which have historically had a negative connotation in the criminal laws of both countries, are still used in Russia (Article 132 of the RF Criminal Code) and are reminiscent of the notorious Article 154 (Article 122) of the RSFSR Criminal Code. In Ukraine’s Criminal Code, however, these words were replaced with the formulation “violent unnatural gratification of sexual desire” (Article 153 of the Ukrainian Criminal Code), which is of course still not quite right.

A return to the Soviet practice of prosecution for same-sex relationships can be observed in the DNR and the LNR. Even though for the most part their laws copy Russian and Ukrainian laws, where there is no ban on same-sex relationships, and even though Article 14 of their constitutions establishes each person’s inalienable right to life and bans torture, violence, and harsh treatment, a proposal was made in the LNR in September 2014 to introduce the death penalty for homosexual sex. This initiative was not approved, but it cannot be excluded that this failed “legal norm” has not been applied in practice.18

Witnesses to the events of 2014 who were interviewed by ADC Memorial stated that people in the DNR and LNR were prosecuted for same-sex relationships:

“Flyers were put up all over Gorlovka: ‘Homosexuality is an abomination and must be prosecuted under DNR laws’” (D).

“Homophobic norms and punishment for sexual orientation were introduced into the draft of the Constitution [DNR]” (D).

“There was an article for LGBTI people, people were shot during the first wave [the period of the spring and summer of 2014, when armed people seized power and there were frequent acts of arbitrary violence]” (L).

16 Valery Chalidze (The Advocate, December 3, 1991) and Sergey Shcherbakov (Collected Materials of the Sexual Cultures in Europe Conference, Sexual Cultures in Europe, Amsterdam, 1992)
18 Based on interviews conducted by ADC Memorial with LGBTI people living in the DNR and LNR, December 2015–March 2016.
“A ban on non-traditional sexual orientation was enshrined in the DNR ‘Constitution’.”

The ban on same-sex relationships was later removed from the DNR “constitution,” and this article is not present in the current version of this document.

Currently, Article 48 of the DNR and LNR “constitutions” (versions of 14 May 2014 and 24 September 2014 respectively) establishes that: “human and civil rights and liberties may be restricted […] only to the extent required for the protection of the foundation of the constitutional system, morality […].” This norm mirrors the text of Article 55 of the RF Constitution.

**Ukraine’s new anti-discriminatory law and the lack of an analogous law in Russia**

With the exception of the Constitution and several normative acts establishing the basic principles of equality for all citizens, Russia lacks any special anti-discriminatory law.

In Ukraine, however, Law No. 5207-VI “On Principles of Prevention and Combating Discrimination in Ukraine,” has been in effect since October 2012. In May 2014, normative act No. 1263-VII introduced additions to this law and defined the terms of direct and indirect discrimination. According to Article 1 of the law, discrimination is defined as “decisions, actions, or inactions aimed at restrictions or preference in relation to an individual and/or group of individuals… if these restrictions or preferences make it impossible for human and civil rights and liberties to be realized and exercised on equal grounds.” The law established the principle of non-discrimination in the laws of Ukraine regardless of “certain grounds” (Article 2). Even though the adoption of this non-discriminatory law must be viewed as a positive step, it is unfortunate that the list does not include discrimination on the grounds of SOGI.

Clause 105.1 of Ukraine’s “Action Plan to Implement a National Human Rights Strategy for the Period up until 2020” envisages adding a ban on discrimination on the grounds of SOGI to the list of grounds, introducing the concept of victimization, and regulating a ban on multiple discrimination and discrimination by association. According to this document, these changes were to have been developed in the first quarter of 2016, but no information about this has been made available to the public yet. Therefore, methods of protection against discrimination envisaged in the law like the abilities to appeal decisions and discriminatory actions or inactions and to receive compensation for material and emotional damages caused as a result of discrimination (articles 14 and 15 of the law) unfortunately do not apply to LGBTI people in Ukraine.

**RF administrative laws: laws on “propaganda” and “harmful information”**

In Russia, homophobic norms entered federal law with the adoption in 2013 of Federal Law No. 135-FZ (similar regional laws emerged prior to this), while amendments were made to a number of normative acts at the same time. Law No. 436-FZ “On Protecting Children from Information Harmful to their Health and Development” was supplemented with wording about

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20 http://dnrsovvet.su/zakonodatelnaya-deyatelnost/konstitutsiya/

21 http://lug-info.com/documents/one/12

22 http://www.constitution.ru/10003000/10003000-4.htm

23 http://zakon3.rada.gov.ua/laws/show/5207-17

24 http://search.ligazakon.ua/l_doc2.nsf/link1/T141263.html

harmful information “promoting non-traditional sexual relations.” At the same time, Article 6.21 “Propaganda of non-traditional sexual relations among minors” was added to the RF Code of Administrative Offences.

These homophobic norms of Russian law spread to Crimea at the time of its annexation and, somewhat later, to the DNR and LNR. The DNR law “On Protecting Children from Information Harmful to their Health and Development” No. 79-INS of 2 October 2015 mirrors Russia’s law No. 436-FZ of the same name.26 Under Article 5 of both laws, information “rejecting family values” and “promoting non-traditional sexual relations”27 cannot be distributed to minors. The current version of a similar LNR law does not mention these kinds of bans,28 but draft law No. 146-PZ/15 of 6 November 2015 “On Amendments to the Law of the Luhansk People’s Republic ‘On Protecting Children from Information Harmful to their Health and Development,’”29 proposes additions related to “propaganda of non-traditional sexual relationships.”30

The term “promotion of non-traditional sexual relationships among minors,” which is enshrined in the RF Code of Administrative Offences (CAO), is intended to describe actions “expressed in distribution of information that is aimed at the formation among minors of non-traditional sexual attitudes, attractiveness of non-traditional sexual relations, misperceptions of the social equivalence of traditional and non-traditional sexual relations, or enforcing information about non-traditional sexual relations that evokes interest to such relations.” An individual prosecuted for committing a violation under Article 6.21(1) of the RF CAO faces punishment in the form of a fine in an amount ranging from 4,000–5,000 rubles, while legal entities face a stiffer fine in the amount of 800,000 to one million rubles or suspension of activities for a period of 90 days.31 Committing any of these actions with the use of the media is treated in part 2 of this article, while parts 3 and 4 address the commission of these actions by a foreign citizen.

Even though the self-proclaimed republics lack important norms necessary for regulating various spheres of relationships, these absurd bans on gay propaganda and so forth were adopted in the DNR and LNR. In March 2016,32 the LNR adopted its Code of Administrative Offences. This document copies the RF CAO, including Article 6.18, which sets liability for violating the law to protect children from “harmful” information, and Article 6.22, which matches Article 6.21 of the RF CAO and sets liability for distributing propaganda of non-traditional sexual relations among minors. Additionally, in the LNR “foreign citizens” must pay a large fine for committing these actions: at 50,000 rubles, the upper limit for this fine is 10 times higher than the Russian limit. Even though the DNR uses Ukraine’s Code of Administrative Offences (in accordance with Resolution of the DNR Council of Ministers No. 2-22 of 27 February 2015),33 which does not contain any provisions on “the propaganda of relations,” it has still established punishments for these actions. Clause 5–8 of Article 24 of the DNR Law “On Protecting Children from Information”34 (which matches Article 6.21 of the RF CAO word for word) establishes liability for “propaganda of non-traditional sexual relations among minors.”

The formulations used in Russian homophobic laws is extremely vague. Under this norm, prosecution is stipulated for “distributing information” for the purpose of “the formation among

26 http://www.consultant.ru/document/cons_doc_LAW_108808/9083b03e61777d3fe172fb3ef707a10e10688262/
28 https://nslnr.su/zakonodatelstvo/normativno-pravovaya-baza/1093/
29 https://nslnr.su/upload/iblock/a16/146-PZ-15_06.11.15_О_внесении_изменений_О_защите_детей_от_информации_принимаюшей_вред_их_zdor.pdf
30 https://nslnr.su/zakonodatelnaya-deyatelnost/zakonoproekty/2094/?sphrase_id=69735
31 http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=197587
32 http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=273733/?sphrase_id=83571
33 http://supcourt-dnr.su/postanovlenie-soveta-ministrov-doneckoy-narodnoy-respubliki-o-vremennom-poryadke-
minors of non-traditional sexual attitudes.” But Russian law does not contain such a concept as “non-traditional sexual attitude,” so the objective element of this action is ambiguous, which means that courts interpret this norm arbitrarily.

Higher courts have repeatedly commented on these questionable norms: in its decision No. 151-O-O of 19 January 2010, the RF Constitutional Court denies that these norms are discriminatory: “Such limitations do not in any way fortify measures to ban homosexuality or formally condemn it and do not contain any grounds for discrimination.” Ruling of the Judicial Division for Administrative Cases of the RF Supreme Court No. 1-APG 12–11 of 15 August 2012 established that not all public actions can be viewed as propaganda and indirectly recognized the right to discuss LGBTI issues in the open: “The ban on gay propaganda does not prevent exercise of the right to receive and distribute information of a general and neutral nature on homosexuality, or hold public events following the procedures stipulated by law, including open public debate on the social status of sexual minorities, without enforcing a homosexual attitude towards life among minors as individuals who are not capable of assessing this information independently due to their age.” In its judgment in the case “Alekseyev v. Russia” of 21 October 2010, the European Court for Human Rights noted that there is no scientific evidence of the negative consequences of mentioning of homosexuality, or of having open public debates about sexual minorities’ social status.

However, in practice this law is used as a tool of repression against organizations and individuals who robustly express their rejection of homophobia. The consequences of the adoption of homophobic laws created a threat to virtually any public LGBTI actions. Thus, any actions taken in this field can be deemed propaganda due to the vague and ambiguous nature of the law. Even people who are not LGBTI can be charged with violating the “gay propaganda” law:

In January 2014 in Khabarovsk, A.A. Suturin was convicted under Article 6.21(2) of the RF CAO of publishing the article “History with Gayography” in a newspaper. This article described how the geography teacher A. Ermoshkin was fired from his job due to his sexual orientation and in disregard of the norms of labor law and the RF Constitution. A professor at the Department of Special Psychology and a doctor of pedagogical sciences “explained that, as a member of the public expert council under the children’s rights Ombudsman for Khabarovsk Krai, she participated in the study... publication... which, in her opinion helps draw the attention of adolescents to this problem, and, since they do not have a mature sexual identity because of their age, it is possible that this might raise doubts about their own sexual identities. She believes that this publication committed a violation of freedom to choose sexual identity.” The court was critical of Suturin’s arguments that “the publication did not contain any promotion among minors of non-traditional sexual relations and that the goal of the article was to call society’s attention to discrimination and violation of the law” and sentenced him to a fine in the amount of 50,000 rubles.

The so-called “promotion among minors of homosexuality” has also become a reason to carry out repressions against civil society: almost all the leading NGOs in Russia working on LGBTI rights have been entered in the foreign agent register. Others have been forced to work in a more closed format to protect themselves from administrative prosecution resulting in large fines or suspension of activities. Since the activities of LGBTI activists in public space—debates, viewing and discussion of films, criticism of homophobic laws—may be interpreted as “propaganda,” the possibilities for activists advocating for LGBTI rights have dwindled.

The situation stands differently in Ukraine, where NGOs are not persecuted and have a voice they can use to criticize legislation. The “Action Plan to Implement a National Human Rights Strategy for...”

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25 http://www.garan.ru/ia/opinion/havanskij/479268/#ixzz47srkAWb7
26 http://www.gay.ru/misc/docs/0/92_913558.pdf
the Period up until 2020,"" which has a number of clauses aimed at expanding anti-discrimination laws, was the result of work done by civil society. Also, an anti-discrimination coalition has been active in Ukraine over the past several years. Its goal is to protect the rights and interests of vulnerable categories of people and to further and develop anti-discrimination laws.

**Criminal laws: the problem of protecting victims of homophobic violence**

In both Russia and Ukraine, hate is practically never considered as a motive during the classification of violent crimes committed against LGBTI people, and in these situations these people are especially vulnerable.41 Even though Russian law lacks a *corpus delicti* for inciting hatred against LGBTI people, Article 282 of the Criminal Code does provide for classification on the basis of social group. A similar classification is contained in Article 328 of the DNR Criminal Code and Article 343 of the LNR Criminal Code. Article 161 of Ukraine's Criminal Code, which establishes liability for inciting enmity and hatred, contains no direct mention of discrimination on the grounds of SOGI and does not stipulate classification on the basis of social group. Since 2012, police officers and investigators have been required to enter information on statements about crimes, including a brief description and the relevant articles, in the Ukrainian register of pretrial investigations. However, they usually leave out information on hate motives on purpose—they try to avoid reflecting this in their paperwork and investigating hate crimes. Instead, as is the case with Russian practice, the case is classified as hooliganism, which results in a lighter punishment and a total lack of information on hate crimes based on homophobia.

Even though it is virtually impossible when classifying crimes to prove that LGBTI people belong to a social group that incites hatred on the part of aggressors, the defendants themselves sometimes make a statement to this effect. In the case of the murder of the journalist D. Tsilikin, which occurred in Russia in April 2016, the suspect admitted he killed Tsilikin because of his hatred for gay people. There are also more pragmatic calculations: the killers of a gay person in Kiev in 2015 stated they specifically picked an LGBTI person to assault because society does not accept gay people, which means that gay people will not appeal to the police for help.42 One of the measures included in the Ukraine’s "Action Plan to Implement a National Human Rights Strategy for the Period up until 2020"43 envisages establishing liability for hate crimes committed on the basis of a number of characteristics, including sexual orientation and transsexuality. The plan proposes adding this text to a number of Criminal Code articles.44 There are no proposals to make similar changes to Russian laws in the near future.

Decisions issued by both Russian and Ukrainian courts generally do not take the motive of hatred for sexual minorities into account, which results in an increasingly vulnerable situation for LGBTI people and a sense of impunity for people who commit homophobic violence.

**Laws regulating family relationships**

Current Russian and Ukrainian laws do not permit same-sex marriages. Under Article 21 of Ukraine’s Family Code, marriage is a “family union between a woman and a man, registered with a bureau of vital records.” The parties to a marriage are considered to be a woman and a man, a

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40 http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html
41 Interview with O. Guz, expert at the NGO Insight
42 Ibid.
43 http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html
44 Article 67(3), Article 115(2), articles 121, 122, 126, 127, 129, and 293
husband and wife (Article 7(3) of the Ukrainian Family Code). Article 12 of the RF Family Code specifies that “to enter into a marriage the voluntary consent of the man and the woman entering into it is necessary.”

In practice, it is not possible to enter into a same-sex marriage in Ukraine or in Russia, even though it has been attempted. In cases where a marriage was officially registered, the people getting married had different genders listed on their documents. For example, in 2014 a biological woman was able to marry a transgender woman because, according to her documents, the latter was still a man (there is a risk that this marriage certificate will be declared invalid after the male documents are exchanged for female ones). A similar marriage between a transsexual woman and a biological woman was registered in Ukraine in 2015.

Norms of Ukraine's Family Code are in effect in the territories of the so-called DNR and LNR. The question of developing its own Family Code was raised in the DNR in the fall of 2015, but a draft was never created. A draft of the LNR Family Code, which was adopted in July 2015, mirrors the RF Family Code in many ways, namely Article 12, which is identical to the corresponding article of the RF Family Code that defines a man and a woman as the participants in marital relations. In October 2015, deputies of the People’s Council introduced amendments to the draft law stipulating an explicit ban on same-sex marriage and the adoption of children by foreign citizens in same-sex marriages. These amendments cannot be found on the official website of the LNR People’s Council, even though articles about them in the media are accompanied by statements of LNR government representatives to the effect that “Same-sex marriage will be explicitly banned. It is immoral and incorrect.”

In July 2015, the Provisional Regulations on Rules for Registering Vital Events entered into effect in the so-called DNR. These regulations envisage the procedure for entry into marriage by a man and a woman (articles 3.31, 3.32) and stipulate that an application for state registration of a marriage can only be submitted on behalf of a man and a woman (Regulation No. 7 of the Provisional Regulations). A similar document adopted in the LNR — LNR Resolution No. 02-04/403/15 of 22 December 2015 “On Handling the State Registration of Vital Events in the Luhansk People’s Republic” — approved provisional rules for registering vital events, which regulate the procedure for entry into marriage after “a woman and a man” submit an application (Article 1, Chapter 4). This is exactly the same as the procedure envisaged in the DNR’s Provisional Regulations on Rules for Registering Vital Events. This norm is copied from Article 14(1) of Law of Ukraine No. 2398-VI of 1 July 2010 “On the State Registration of Vital Events.” These provisional regulations of the DNR and LNR differ from one another, although they do have some similar clauses borrowed from the abovementioned Ukrainian law. The norms of RF Law No. 143-FZ of 15 November 1997 “On Vital Events” look somewhat different. Only Article 28(2) of this law, which relates to the recording of last names, indicates that a husband and wife must be the participants in a marriage.

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45 There have been at least three attempts in Russia—in 2005, 2009, and 2013.
47 http://news.sites.ua/Украина/575668/ФОТО__В_Киеве_зарегистрирован_первый_нетрадиционный_брак
48 Information from the law company Advokat Donetsk, advokat-donetsk.com.
49 Interview with E.V. Tuzhilkina, head of the Department of Vital Records, LNR, https://xxivek.net/article/40784
54 http://pravocenter.com/zakonodatelstvo/1016-o-gosudarstvennoy-registraci-aktov-grazhdanskogo.html
Even though current Ukrainian laws regulating family relationships remain limited in terms of LGBTI rights, the adoption of the “Action Plan to Implement a National Human Rights Strategy for the Period up until 2020” as a result of the advocacy efforts of NGOs and activists is without question a positive development. Clause 105.6 of this plan envisages the introduction of anti-discriminatory norms, including the development of a draft law on same-sex marriage by the summer of 2017.

Unfortunately, it does not appear that similar norms will appear in Russian anytime soon. On the contrary, against the background of the state’s encouragement of homophobia and its failure to apply ideas of equality on the basis of SOGI, draft laws are being proposed that would place even greater limits on LGBTI rights. These include “bans on coming out” (introduction of administrative liability for the “public expression of non-traditional sexual relations”, 2015) and deprivation of parental rights for those who “have non-traditional sexual relations” (proposed addition to Article 69 of the RF Family Code, 2013). Russia has also criticized Ukraine’s proposal to legalize same-sex marriage, and authorities in Crimea have expressed their homophobic position separately.

Labor law

Labor relations are a sphere that does not contain direct bans on the grounds of SOGI, but the reality is that LGBTI people frequently face discrimination when searching for employment or in certain positions.

For a long time, Russian and Ukrainian labor laws only contained general bans on discrimination in the sphere of labor. Recently, however, Ukraine has seen positive changes in the law: since November 2015, Article 2-1 of the Ukrainian Labor Code (Code of Labor Laws) has directly banned any discrimination “in the sphere of labor, namely violation of the principle of equal rights and opportunity and a direct or indirect limitation of the rights of workers based on race, skin color, political, religious, or other beliefs, gender, gender identity, sexual orientation, ethnic, social, or foreign origin, age, state of health, disability, suspicion or presence of HIV or AIDS, family and material situation…”

These amendments were finalized after letter No. 10-644/0/4-14 of 7 May 2014 of the Supreme Court of Ukraine for Civil and Criminal Cases was issued. In this letter, the Court clarified that “in order to properly ensure equal labor rights for citizens during the resolution of disputes arising in the sphere of labor relations, we must bear in mind that the list of grounds on which no preference or limitation can be placed on the exercise of labor rights is not exhaustive.”

RF laws proclaim only general principles of non-discrimination in the sphere of labor corresponding to Article 26 of the International Covenant on Civil and Political Rights, which establishes the equality of all persons before the law and prohibits “any discrimination.” The position of the RF Constitutional Court is that: “In its decisions regarding the labor and social rights of citizens, the Constitutional Court of the Russian Federation has repeatedly noted that compliance with the principle of equality, which guarantees protection from all forms of discrimination, signifies, inter alia, a ban on introducing such differences into the rights of individuals belonging to one and the

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57 http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html
58 http://www.interfax.ru/russia/476299
60 https://lenta.ru/news/2016/03/11/bluelight/
same category for which there is no objective or rational justification.” But unlike the Ukrainian Labor Code, the RF Labor Code (Article 3) does not contain a direct ban on discrimination on the grounds of SOGI (even though it does list other grounds for discrimination).

Existing general norms establishing equal rights are not applied to protect people from discrimination on the grounds of SOGI in the sphere of labor: in recent years many instances of violations of the labor rights of LGBTI people have been documented in Russia, along with refusals to hire them and illegal dismissals.

For example, LGBTI people have trouble getting hired for jobs requiring a medical examination: homosexuality was classified as a “psychological illness” in Russia until 1999, and many medical institutions are not prepared to remove diagnoses recorded in documents issued prior to 1999 and declare the candidate mentally healthy.

There are also examples where LGBTI jobseekers have been arbitrarily denied employment:

In July 2015, D. Oleinik was refused a job because of his sexual orientation. The employer, who understand from postings on social networks that Oleinik was gay, stated that “the ideology of the program and the management is such that we adhere to a traditional point of view on a number of issues.” A court did not find this discriminatory rejection to be illegal.

The situation is much more complicated for teachers who work with children and young people (including teachers at institutions of higher learning whose students are under the age of 18). Homophobic activists bully them by compiling a dossier on them and submitting this to the city administration and the head of the educational institution. In recent years teachers have been persecuted by the aggressive “activist” Timur Isayev (real last name Bulatov), whose illegal actions have already caused several people to lose their jobs. Increasing homophobic propaganda in the media has also played a negative role and turns parents against LGBTI teachers.

In the summer of 2013, O. Bakhayeva, a schoolteacher from Magnitogorsk, was forced to resign because of the homophobic bullying she was subjected to for her social media posts. The principal stated that Bakhayeva had to “disappear from all LGBT groups, stop adding this information to her wall, and stop participating in discussions on this topic,” and to “choose what is more important — the profession of teacher or activist opinions.” A statement was filed against Bakhayeva at the prosecutor’s office, and an unknown woman asserted that her minor son was subjected to “propaganda of non-traditional sexual relations” when he read his teacher’s social media posts.

In September 2013, LGBT activist A. Ermoshkin, a schoolteacher from Khabarovsk, was subjected to bullying. The “Social Movement against the Propaganda of Sexual Deviation” (MPSD) appealed to the Khabarovsk Krai Ministry of Education and Science: these “social activists” were outraged that “school principal N.S. Polyudchenko has no intention of firing this gay activist because he is a good teacher.” Numerous complaints had their effect on the school administration, and Ermoshkin was forced to sign a statement that he was resigning voluntarily. The statement was backdated. When Ermoshkin tried to complain that he was not able to retract his statement, the court decided that an audio recording of his conversation with the principal, who urged Ermoshkin to backdate his statement, did not qualify as sufficient evidence.

64 http://comingoutspb.com/upload/iblock/8ab/8ab4975b7c17329fa4f08d2fbe3e7b4.pdf
65 https://www.facebook.com/straights.forequality/posts/40526122908700
66 https://vk.com/club56667484?w=wall-56667484_40
67 http://www.gayrussia.eu/russia/9712/
In 2014, at the initiative of the prosecutor’s office and the Federal Security Service Directorate, teachers O. Klyuyenkov and T. Vinnichenko were fired from their jobs at Arkhangelsk Northern Federal University for their work with the LGBTI NGO Rakurs. Vinnichenko was told that if she wanted to work at the university, she would have to stop participating in any and all social activities. Klyuyenkov was fired for allegedly skipping work, but the real cause for his dismissal was pressure applied to the university’s administration.

In December 2014, a music teacher at a special school in Saint Petersburg was fired after homophobes reported her to the district and school administrations. The ground for her dismissal was her sexual orientation — this was labeled “an immoral deed making it impossible for her to continue her job functions” (Article 81(8) of the RF Labor Code). A court supported the employer’s position and stated that its decision was justified due to “immoral and unethical behavior in the music director’s private life,” which was allegedly recorded in photographs that had been uploaded to the internet.

Professional activities that do not show any bias against LGBTI people have also become grounds for dismissal. In the summer of 2015, D.D. Isayev, the head of a commission on sex change and the head of the Department of Clinical Psychology, was fired from Saint Petersburg State Pediatric Medical University after a bullying campaign resulted in an inquiry by the prosecutor’s office and pressure on the rector. Later, this medical commission working on transgender issues as dissolved.

Even though employers never give sexual orientation as an official cause for dismissal, in reality sexual orientation is a reason for being passed over for a job or for dismissal. Many LGBTI people are forced to conceal their orientation in fear of being fired. As a result of discriminatory practices, the rights are violated not just of LGBTI people themselves, but also of a wider circle of people that includes staff members at LGBTI organizations and activists advocating for non-discrimination on the grounds of SOGI and working on issues of the LGBTI community.

Russian labor laws that are imperfect in terms of non-discrimination of LGBTI people and the accompanying homophobic practices are now being implemented de facto in Crimea and also in the DNR and LNR, where laws regulating labor relations mirror Russian laws. In March 2015, the LNR’s own Labor Code took effect, replacing the Ukrainian Labor Code. Even though Article 3 of this Code formally prohibits discrimination in the sphere of labor, like its analogous article in the RF Labor Code, it does not mention SOGI as grounds. In the DNR, labor laws are limited to a series of adopted laws that do not make any provision banning discrimination. Meanwhile, the DNR Labor Code is still in the stages of development and will apparently mirror the RF Labor Code, at least in regards to discrimination.

In conclusion, it appears the LGBTI rights will be expanded in Ukraine: an anti-discriminatory approach, including on the grounds of SOGI, has been added to recent Ukrainian laws regulating labor relations; in the area of family law, a deadline has been set for developing a draft law on same-sex partnerships (by the summer of 2017), and an anti-discrimination law has been adopted, even though it does require some tweaking. In Russia, on the other hand, years of efforts by civil society and experts to create a comprehensive anti-discrimination law have remained fruitless.

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68 http://www.lgbtnet.org/ru/content/grazhdanskiy-aktivizm-kak-prichina-dlya-uvolneniya-prepodavateley-severnogo-arkticheskogo
69 https://www.zaks.ru/new/archive/view/140299
70 http://comingoutsbp.com/upload/iblock/8ab/8ab4975b7c17329fa4f08d2fbec3e7b4.pdf
The discriminatory norms of Russian laws spread to Crimea from the moment of its annexation, and these norms are mirrored or even tightened in the laws of the so-called DNR and LNR. Residents of these territories, where more progressive Ukrainian laws should be in effect, cannot assert their rights in accordance with the law to combat discrimination.

RF, DNR and LNR laws, which do not aim to protect people from discrimination on the basis of SOGI, are not the only causes for concern—the homophobic practices that have spread with these flawed laws are also extremely worrying.
Chapter 2.
THE SITUATION OF LGBTI PEOPLE IN CRIMEA AND DONBASS

This chapter describes the situation of LGBTI people in Crimea and Donbass based on the materials from interviews conducted by ADC Memorial with experts and LGBTI people from Crimea and Donetsk and Luhansk oblasts from December 2015 to March 2016 (many of these people were forced to leave their places of residence for other regions of Ukraine). Except in certain cases, information about the source is not provided after excerpts from the interviews due to safety concerns. The region is referred to with the letters D (Donetsk Oblast), L (Luhansk Oblast), and C (Crimea). Complete records of the interviews are stored in the ADC Memorial archives.

THE SITUATION IN DONBASS PRIOR TO THE MILITARY CONFLICT AND IN CRIMEA PRIOR TO ANNEXATION

The situation for LGBTI people in Donbass and Crimea prior to Russia’s expansion into these territories was already quite vulnerable and the level in homophobia was quite high. People rarely displayed their sexual orientation or gender identity openly.

According to experts and LGBTI people interviewed, in Donbass it was difficult to openly display one’s homosexuality, and in general any “irregularity” was greeted with animosity.

“...even informal groups of Anime fans and cosplayers were harassed for being unusual. Most of the guys in those groups were gay, but no one spoke about this openly.” (L).

“It was impossible to display your orientation in public” (D).

“When you’re still in the closet, everyone puts up with you, you don’t bother anyone.”

Even though a famous “gay resort of the CIS” was located in Crimea, attitudes towards LGBTI people there were far from tolerant. According to people interviewed, open displays of homosexuality were more the exception than the norm and occurred only among women. However, respondents noted that a neutral attitude towards the fact that, for example, women were holding hands was based not on tolerance for LGBTI people, but on the fact that holding hands was not viewed as proof of a same-sex relationship between women. There was only one openly gay person among those interviewed in 2016, and this person did not know any other openly gay people in Crimea. Respondents from other cities in Crimea confirmed this: “I have never seen gay men on the streets, I don’t know anyone who’s out” (C).

In Donetsk and Luhansk oblasts, the level of openness was lower among women too. A respondent who fled Donetsk Oblast explained: “When my girlfriend in Zaporozhe took my hand, I hid it and said, ‘Don’t touch! People will get ideas.’ In Donetsk, I wouldn’t even allow myself to do that” (D).

“Our neighbors asked who we were, why were we living this way, why we were together. I didn’t say anything about how we couldn’t even allow ourselves to hold hands. Because the closet in the norm here.” (D).

“I would have never thought that I could speak openly [about my orientation]. I felt like this would be punishable somehow in Donetsk. It wasn’t like it was in Kiev there” (D).

73 Opinion of the expert Yu. Frank (NGO Insight) on the situation in Donetsk.
Feeling constant animosity, LGBTI people were forced to carefully hide their orientation, not just by refraining from living openly, but also by creating a “cover.” Gay people from Donetsk Oblast reported that speaking about their orientation “was simply not possible for many people: some people had connections, someone had a father somewhere. You lead a double life—some people had fictitious marriages, some people didn’t” (D).

Attempts by men to live more openly have resulted in threats to life and well-being. A gay man who later left Luhansk Oblast described incidents that occurred when he and his partner were walking hand-in-hand: “We were stopped and asked ‘How are we to understand this?’ I said that my leg was hurting and that he was helping me walk. I didn’t risk it again after that. I was sorry for myself and for the authorities” (L).

LGBTI people who did not live a secret life were subjected to harassment, scorn, and abuse: “The abuse and threats started when I was still in school. Shouts followed me when I walked around the city” (L).

A woman living in Donetsk spoke about how “people mocked me, said that I was a shameless lesbian.” At the gym, young men would point her out, saying, “Look, there’s a lesbian” (D).

Buyers regularly threatened a young female store worker: “What, are you with your girlfriend? Can I be your third? I would love to hold both of you down” (D).

Respondents stated that their labor rights had been violated in the form of illegal dismissals and rejections of applications for work:

“Speaking openly [about my orientation] would have guaranteed a conflict and problems. Some of my friends were able to turn their back on me. Some people are frightened by this, shocked, either someone in the collective or someone from management. If you worked at a metallurgical factory, you could be fired” (D).

“In 2012, a gay person was refused a position. He had almost all his papers in order, but one woman said she had seen him at a theme party, and she told the director that he was gay. The director objected, saying that he needed a good specialist, but then he ended up not hiring this person” (C).

People interviewed reported numerous hate attacks against LGBTI people. These were generally committed by “regular” local residents with no particular political views of ideologies:

“The young people, they took me into the corner, beat me” (D).

“They’re just plain-old thugs. They say homophobic slurs, they don’t like how you look” (D).

“It’s harder for gay men, because they’re surrounded by a thug culture” (C).

Homophobia mixed with racism was the cause of a number of attacks committed against gay foreigners in Donbass and Crimea.

“This Arab, they started messing around with him, asking why he wasn’t hanging out with women, how many women he’d had. There’s a very negative attitude towards Arabs in Donbass, they get beaten up all the time. It was Airborne Forces Day, the paratroopers wanted to show off. The Arab was wounded, the police were summoned, but they said “It’s Airborne Forces Day, what did you expect?”

A gay man who was beaten in Crimea said that his attackers shouted homophobic and racist slurs. “I felt them hit my neck with a stick, they beat me and called me a nigger (C).”

The victims rarely appealed to law enforcement for protection out of fear for their safety if the true motives for the attacks—their sexual orientation or gender identity—became known.

Transgender people are in a particularly vulnerable position because it is difficult for them to hide signs of their identity. An expert from a human rights LGBTI organization described the difficulties transgender
people face in society: “You have a greater chance of being beaten, rejected, and fired.” Transgender people interviewed for this report asserted that “the level of transphobia is quite high” (D).

Several transgender people forced to flee Donetsk Oblast complained that they were not accepted by society or even their own families:

“I wasn’t even able to go get diagnosed, because all the top doctors know each other and my father [also a doctor] would have found out within five minutes” (D).

“I got a job in Donetsk. I came out to my mother. She helped me quit my job, and then came to an agreement with the department head that I would be given a false diagnosis that would prevent me from transitioning. We appealed this in Kiev” (D).

People interviewed believed that one of the causes of homophobic behavior was lack of information, especially in small towns. They noted that neither Donbass nor Crimea have large-scale awareness projects for questions about SOGI. According to an LGBTI person from Donetsk, “no one here has ever even worked on this, has worked on providing some more or less quality information. There just weren’t any specialists who could dispel homophobic myths. The saddest thing is that even young people repeat these stereotypical phrases and this is transmitted from mouth to mouth” (D).

**THE SITUATION FOR LGBTI PEOPLE IN CRIMEA AFTER THE ANNEXATION AND IN THE SO-CALLED DNR AND LNR**

In early 2014, the situation for LGBTI people in both Crimea and Donbass changed abruptly. According to one person, “the situation was on the brink, it was emotionally very draining” (D).

Many LGBTI people saw the annexation of Crimea as a tragedy because it signified the spread of the homophobic norms of Russian law and discriminatory practices to the area. The LGBTI community saw the day Crimea was officially declared a part of Russia—18 March 2016—as a line marking the end of their ability to live openly:


One informant from Crimea described that a result of this was “that the LGBTI community became more secretive after the ban on same-sex relationships came out” (C).

According to people interviewed, Crimean society changed under the influence of Russian homophobic propaganda:

“A large group of people started to get worked up and treat [LGBTI people] aggressively because of this propaganda. Everyone started using veiled speech, started fearing that someone would find out that something was being organized somewhere. Again, thanks to the TV, thanks to Milonov, this topic was raised and homophobia started to grow” (C).

A main component of homophobic propaganda became the juxtaposition of “traditional values” with “European pseudo-human rights.” An informant from Crimea stated that “At the start of Maidan, posters appeared reading ‘Europe is same-sex families.’ I was even afraid to take a picture. My sense of self-censorship was activated” (C).

Anti-European homophobic rhetoric continued to spread in Crimea after the events of the spring of 2014. Sources reported that “even in [our small town] there were small posters: ‘We won’t have another Maidan like in Kiev; We don’t need Gayrope.’”

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34 Interview with Yu. Frank of the NGO Insight
Sources from Donbass also reported heightening homophobia in society as the result of well-directed propaganda: public opinion began to express negative feelings about European values, the most odious of which was declared to be freedom of sexual orientation and gender identity. According to one person from Donets, “slogans about Slavic values naturally influenced everyone. These values were drummed into everyone’s heads, and even pro-Ukrainian or pro-Russian people who were neutral about the LGBTI issue started saying: “No, just not Gayrope!” And once they notice something about you, once they guess about your sexual orientation, their relationship naturally starts to change” (D).

A source in Luhansk also reported that society was changing under the influence of homophobia: “Television has worked great miracles: they reported about everything, they showed everything, and now everyone understands right away who you are” (L).

The situation in Crimea since the spring of 2014

In Crimea, which has been poisoned with homophobic propaganda, aggressive groups have moved from threats to violence with the encouragement of the homophobic authorities.

Nationalists from Russia began to appear in Crimea right before the referendum. According to sources, “these groups used violence against foreigners” (C). International students were warned that it was unsafe for them to be in the city. One of them reported: “We were told not to go outside alone and to always take our passports with us (C). Since the people who commit racist attacks are usually the same ones who commit homophobic attacks, many LGBTI people “were scared to be in the city” (C). We know of some LGBTI people who suffered from these attacks. According to one man, in the spring of 2014 his “friend was caught on his way home. He was beaten, punched, the attackers shouted homophobic slurs. He had to stay in the hospital with a head injury and broken ribs. Nobody ever found anyone. Nobody even looked” (C).

The level of homophobia in Crimea dropped after the summer of 2014, when nationalists from Russia left the area. One source from Crimea said that “before the referendum, people didn’t pay attention [to open displays of SOGI], it was normal to kiss a woman. But now people notice things, they start getting upset and shouting homophobic slurs” (C). The “imposed trend of homophobia” (C) noted by people interviewed resulted in more frequent hate speeches and new attacks. LGBTI people in Crimea asserted that they were “frequently beaten on the streets” (C). Members of the LGBTI community who have remained in Crimea report that intolerance of gay men is greater: “The aggression starts right away when they see two guys together, they usually don’t react like that to girls, but they throw themselves at men and beat them (C).

People interviewed recounted several typical stories that describe instances of violence against gay people.

[In mid-2014], “my boyfriend and I were walking in the park. He took my hand. A group of people came up to us. They started fighting, screaming homophobic words. I became more frightened after that” (C).

[In the spring and summer of 2015] “a gay couple was taking a walk, these idiots decided to beat them because they saw them holding hands. This couple was thinking about leaving Crimea because they were apprehensive about how people would start reacting to LGBTI people here. They left Crimea after this attack” (C).

[In October 2015 in a park] “a couple of young people were following us. They could see us embracing. Then there were six of them and they attacked us. They pushed A. and he fell into the river. I helped him out of the water and took him to the hospital. I was very cold. He was freezing and his hands were shaking. He had some bad bruises and cuts on his shoulder. When the doctor asked what had happened, we said that he had fallen into the river himself. When the police came, we didn’t know what to say. We ended up having to say that it was an accident” (C).
Women also frequently encounter manifestations of homophobia in Crimea. One woman from Crimea recounted an event from the spring of 2016: “people came up to me at work and started to offend me, they confused me with a guy and said homophobic words (C). Two lesbians living as a family were repeatedly addressed with homophobic slurs and were taken to be gay men. Hate speech quickly grows into violence against these women. As one victim reported, in March 2016, "I rented a room in a dorm in [a Crimean city]. Some guys who knew about my orientation and didn’t like it approached the landlord. They forced their way onto our floor, one thing led to another, and I was hit in the face” (C).

**Violence against “unusual looking” people who could be LGBTI (Crimea, DNR, LNR)**

LGBTI people are not the only ones who encounter manifestations of aggression. People who, in the opinion of others, resemble LGBTI people in some way or could be LGBTI also face violence. This problem occurs in both Crimea and Donbass. Crimean residents assert that “now even guys with unusual hairstyles are the objects of homophobic slurs” (C).

Sources described typical cases of homophobic aggression related to the victims’ external appearance. For example, in Crimea in April 2016 P. was attacked because “he was wearing an earring. This guy noticed and started with him: ‘What? Are you one of them? What are you? A fag?’ P. answered: ‘What difference does it make? That’s personal.’ The guy started beating him up” (C).

One source spoke about the immediate homophobic reaction people in Donetsk had to her friend’s brightly colored pants: “He was called a fag five times in 10 minutes” (D).

With the appearance of armed people in Donetsk in the spring of 2014 “anyone who somehow didn’t look normal was beaten.”76 A witness from Donetsk Oblast described how he “saw people beating a boy with dyed hair. They beat him because he was somehow not dressed right. They classified this as gay. I’ve heard at least five similar stories: someone wasn’t dressed right, someone looked at someone else the wrong way, someone was wearing an earring. Everyone tried to look as ‘normal’ as possible until they got out of there.”77

According to an expert, “there [in the DNR] they can beat you and assault you because it seems to someone that you’re homosexual” (D).78

**Violence by organized groups of homophobes (Crimea, DNR, LNR) tracking LGBTI people through social media**

Most of the attacks described in Crimea were committed by “regular” residents who were prejudiced against people of a different SOGI. But there is another group of homophobes that tracks LGBTI people on the streets and online. An example of this is the so-called movement Occupy Pedophilia, which has been active in Crimea, and LGBTI people remaining there say that “attempts were made to track and find people through social networks”(C). In particular, gay people were set up on false dates and beaten and humiliated when they arrived. Frequently the attacks were even recorded on video.

There was one case when a gay man was tracked and attacked near his home. He and his partner left Crimea after this.

One source living in Crimea spoke about an incident during a false date that was made online: “There were five aggressive homophobes in the apartment. They undressed him, took him to the shower, beat him, forced him to lick the toilet bowl, to drink vodka, and they recorded all of this on a camera. He was a foreigner. He didn’t know what to do. Then they uploaded this video online. This traumatized him greatly” (C).

76 Interview with Yu. Frank from the NGO Insight.
77 Interview with Yu. Frank from the NGO Insight.
There is also information that similar groups exist in the DNR and LNR. During dates arranged by these groups, victims may be beaten or handed over to armed people:

“There were rumors that Occupy Pedophilia was operating at a new level in the LNR. Cossacks were supposedly involved in this. Two or three people wrote me through Vkontakte, hinting they wanted to meet for sex. I didn’t even respond to this purely out of a sense of self-preservation. So I haven’t had any sexual contact in over a year, but I’m alive” (L).

LGBTI people noted that some members of the Muslim community had displayed homophobic aggression: “They started to react very aggressively... they attacked LGBTI people” (C). One woman living in Crimea said that she “spoke with a Crimean Tatar who said that the guys were trying to meet people on social networks using fake pages so they could track LGBTI people surreptitiously” (C). When he learned that this woman was a lesbian, he started to threaten her over the phone and online. In the summer of 2015, he wrote her: “I will find you, cut you up, and kill you, I will rape your girlfriend” (C).

In the current situation of lawlessness and impunity, all residents of the so-called DNR and LNR face the risk of aggression from armed formations, but these fighters pose a special and absolutely real threat to LGBTI people. According to one witness, this was a “territory of anarchy, they can do whatever they want with you, the risks grow to the level that they can just take you and shoot you” (D). Most people interviewed stated that their lives and well-being would be in danger if they returned to the DNR or LNR: “My parents stopped inviting me because they’re scared for me. I won’t go there because I’m scared for my own well-being” (L). In addition, the homophobic actions of armed fighters provoke homophobic aggression in people who previously had a neutral attitude towards LGBTI people.

There are several reasons why information about violence against LGBTI people in Donetsk and Luhansk oblasts is so scarce. The primary reason is the threat of death if fighters learn about a witness’s sexual orientation or sympathy for LGBTI people. According to LGBTI people remaining in Luhansk Oblast, “any activity that even tangentially alludes to LGBT is dangerous” (L); “they’re scared that they’ll be stabbed around the corner and that will be that” (D). An informant from Donetsk stated: “I lived each day in fear for my life. They dug a trench at the exit of my house, they were gathering to meet the Ukrainian army. They were wasted, drunk, vile-smelling, with automatic weapons. I thought before I said anything. You could lose your life like that” (D). Many LGBTI people remaining in Donbass have stopped having any communication whatsoever with other members of the community, with the exception of their closest friends. While secret meetings of LGBTI people were possible in Crimea, they were not possible in the DNR and LNR.

Another problem was the lack of electricity and communication lines from the spring to the fall of 2014: “Say I knew for a fact the V. was beaten, that he was taken off to a basement, but I couldn’t communicate this to anyone because we didn’t have any communication lines” (D).

A final reason for the scarcity of information is the psychological difficulties that a person experiences after living through violence and degrading treatment. As one witness to this situation said: “Who wants to brag about that?” (L).

Nevertheless, there is information about the violence and harsh treatment that LGBTI people have suffered at the hands of armed people. One informant who left Donetsk asserted that “my friend witnessed how one gay person was shot and buried in some vegetation behind the Yasinovatsky checkpoint” (D).

A witness from Donetsk Oblast who travels periodically to the DNR recounted how illegal formations tracked LGBTI people and took them “prisoner.”

“How did they catch people? If you’re gay, that means you’re a fan of Europe. Ukraine wants to be part of Europe, so that means you’re for Ukraine. Some people are caught easily on the street, and some people inform on others, tell where they live. Then a car drives up to the
building, they wait in the entry, than take the person, and that’s it. One person was taken in late November 2014, near the cathedral, on the street, where people gather in the evening. Another person was informed on. Armed people grabbed a young boy when he was smoking. Instead of punishing him, they told him: ‘Bring us two people.’ And he gave up his two brothers. They were taken at different times” (D).

A source who left Donetsk said that if armed people learned about a person’s orientation, they took that person off to “a basement, they put him there to scare him, to get ransom for him, to get free labor. They debased and humiliated him there in that cellar” (D).

Former residents of Donetsk reported that “if there was no ransom paid, people were sent to the trenches” (D).

“To the trenches—that means you’re cannon fodder. There are checkpoints with snipers, they send these people there to dig trenches. That’s how these people left [died]. A person could come back from the trenches after a couple of months, frozen, starving. They were generally released after this, but they were no longer people, they were broken inside and outside” (D).

“I had a friend, he had an operation on his kidneys. Three months later he was taken to the basement because he was informed on. He was held in some sort of basement, where he was fed like a dog, in some bowls that they shoved at him with their feet. The prisoners were treated terribly. They beat him with a metal stick and humiliated him because he was gay. He said he would have died if they had hit him on his kidneys. When they used homophobic slurs against him, his brother, who had also been informed on, learned about his orientation. Maybe they harassed him sexually too, I don’t know. I don’t think any of us would actually talk about such things. He spent a month and a half there starting in late October or early November [2014]. You had the feeling they were just trying to exterminate such people” (D).

According to sources, FEMEN activist S. Nemchinova was subjected to persecution: “She is openly gay. There were attempts to persecute her, but she was able to avoid them. One person on patrol took her passport and found out her address, but she escaped to friends and lived with them for a month. They dressed her up as an old woman when they drove her out. Her wanted poster was put up on poles…” (D).

People interviewed noted that some armed formations were notable for their extreme homophobia: “There were tons of groups, each one had its own laws” (D). A source from Luhansk Oblast reported that “Chechens were at Nikitovka, the Russian Orthodox Army was at Peski, Oplot was at Yaslivatsky, Cossacks were at Gorlovka. They were the strongest in the south of the oblast (Krasny Luch, Rovenki, Antratsit, Sverdlovsk, part of Krasnondon). Even before the war, all the gay people tried to leave these districts as quickly as possible” (L).

People interviewed also asserted that LGBTI people served in the ranks of armed formations of the DNR and LNR:

“That there are gays in the militia—we know about that.”*

“Naturally, they conceal this. It’s also really easy to get a bullet in the back from your own people” (D).

“Some guys [gays] joined the DNR. They’re there with their machine guns, their uniforms, it’s pretty, it looks good. I saw something about two of them on Facebook, but I don’t know how many there are” (D).

“An LGBT person I knew even fought for this republic, so to speak. They killed him. He hid his orientation” (D).

Because she needed money, one young woman “joined the DNR, but then they just took her and beat her so badly that she couldn’t leave her house for two weeks. She wanted to leave for Ossetia, but one of the DNR people was from there himself. He found out and beat her. If they had found out the she was gay as well, they would have just shot her” (D).

* Interview with Olga Olshanksaya, Shelter project coordinator for the NGO Insight.
The people interviewed asserted that if any members of the armed formations had found out that one of their members was gay, that person would have been “used as cannon fodder” (D).

According to sources who used to live in the DNR or LNR, all the LGBTI people remaining in these territories have no choice but to hide their orientation and their lives are in constant danger. All the people interviewed said that the greatest risk was from fighters. The power of these armed gangs means that criminals can operate with impunity and victims become increasingly vulnerable, especially considering the absence of a functioning legal system.

**Homophobic propaganda spread by the authorities in Crimea, the DNR, and the LNR**

Representatives of government structures in Crimea and the self-proclaimed republics have repeatedly expressed their homophobic views. According to Yu. Frank, an expert at the NGO Insight, “homophobic speeches have been given by DNR and LNR officials, by members of the militia, there were publications, video recordings.” Here, for example, is a statement made by the head of the so-called DNR Alexander Zakharchenko: “...this generation is being raised on democracy, which implies that a family can have two fathers or two mothers. To me, this is categorically unacceptable.” Even more bigoted is this statement by the deputy minister for political affairs of the so-called DNR: “A culture of homosexuality is spreading... This is why we must kill anyone who is involved in this.”

Crimean leaders have stated outright that violence must be used against LGBTI people. V. Ilichev, a deputy of the Simferopol city council issued a call to “shield children from gays,” “to shut off the oxygen supply to people with a non-traditional orientation,” “to hit them right in the eye.” Protecting children is the pretext for promoting openly homophobic views. For example, the Crimean leader Sergey Aksenov stated: “Government bodies will not allow the promotion of anything that contradicts the moral values of the Crimean people and arouses revulsion and disgust in the majority of Crimeans. There’s no discrimination here at all—we’re not trying to intrude on their personal lives: let them live how they want. But we must shield people, particularly young people, from actions aimed at destroying the moral health of our nation.”

Tentative attempts to hold public LGBTI events have aroused particular antagonism on the part of the Crimean authorities. The Crimean vice-premier D. Polonsky recommended that LGBTI people “set off for freedom-loving Gayrope and walk calmly through the streets of European capitals, which are teeming with tolerasts.” S. Menyailo, governor of Sevastopol, said that as long he holds the position of governor, he intends to “protect the true values of the Russian people. We will not allow gay parades in our glorious hero city.”

Speeches made by government representatives also contain clear threats against LGBTI people. For example, S. Aksenov stated in this regard that “Crimea doesn’t need people like this, and they will never hold any public events. The police and the self-defense forces will quickly... explain to them what orientation they should have.”

Local residents cannot help but be influenced by the homophobic rhetoric employed by government representatives. The fact that homophobia is not only not condemned by the authorities

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80 Interview with Yu. Frank of the NGO Insight
83 https://tvrain.ru/news/stohotvoreniye_deputat-408417/ Dozhd’ TV channel
86 http://echo.msk.ru/blog/amountain/1754460-echo/ Ekho Moskvy Radio, S. Menyailo, governor of Sevastopol
but also actively supported by them instills a feeling of impunity in homophobes and encourages them to commit new acts of violence against LGBTI people.

**Fear of openness. “Double life.” Firings.**

All the people interviewed noted that the homophobic propaganda and rhetoric of the authorities, "ordinary" people’s growing hatred of LGBTI people, and the risk of violence and even death have all forced members of the LGBTI community to hide their sexual orientation and gender identity more than before.

“No one says ‘LGBT’ in public. You can’t speak about this around other people” (C).

“I used to be more open on the streets and in public places, but I’m not now” (C).

“You can only see people walking with their arms around each other in Simeiz, and then only in the evening” (C).

“Many lesbians used to be open, but now almost everyone tries to hide her orientation” (C).

“Anyone who's unhappy with this, anyone who wants to live more openly, emigrates” (C).

“Deep down you understand that you could really suffer if you’re not careful. So I take more precautions.” (L).

“People tried not to broadcast their orientation, they only talked with people in their circle; they left when this started to become dangerous for their lives.”

“If I came out to my parents, I would either be killed or sent to the nuthouse with a diagnosis of schizophrenia” (transgender woman, D).

People interviewed said they felt apprehensive around outsiders who knew about or guessed at their orientation and that this feeling intensified around armed fighters. Many started to fear their colleagues, neighbors, and relatives, because they were the ones who most frequently voiced homophobic threats, including threats to tell the militia about their orientation.

There have even been cases where homosexual people were evicted by their roommates: “...I lived in a communal apartment in Donetsk, and at one point my roommates said, ‘We’ll hand you over to the DNR fighters.’ And one roommate said: “Get the hell out of here”” (D).

There is evidence that LGBTI people themselves have informed on their acquaintances in an attempt to hide their own orientation out of concern for their personal safety. According to one source, “if the threat of discovery is hanging over them, they’ll give up their own, point their fingers at them. People who were betrayed were sent to 'the hole,' which is the basement of the state security building in Donetsk” (D).

Lesbians face the risk of violence if they refuse to have relations with men, especially if this is due to their orientation. A lesbians who fled Donetsk reported that: “Even the most ordinary neighbor, who lived across from me, joined the militia. He used to get offended if you didn’t notice how handsome he was, but later you had to pay attention to him, otherwise—‘I have a gun’” (D).

A gay person who lived in Luhansk Oblast said: “We have inherited memory in our veins, after all, there was recently a criminal prosecution, and we all remember that very well. As soon as these actions started it became clear that there was no joking with these people” (L).

To avoid suspicion, LBGTI people who have remained in Crimea and the self-proclaimed republics have stopped communicating with other members of their community and frequently fake or actually enter into heterosexual relationships. According to people who fled Donetsk, “many guys [gays] started meeting with women, and women [lesbians] started seeing men. And they all knew everything. If they hadn’t done this, they would have been shot” (D).

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*Interview with Yu. Frank from the NGO Insight*
Sometimes people who are both LGBTI pretend to be in a heterosexual relationship. One lesbian from Crimea reported that her girlfriend went out with a gay man “for cover”: “These gay friends we had were having problems with their parents. We went out with them as if we were two couples. Our parents spoke with each other and didn’t suspect anything” (C).

Right now, many LGBTI people in Donbass and Crimea are entering into heterosexual marriages under pressure from society and their family. A gay man living in Crimea spoke about marriages he knew were “for cover” that have taken place over the past two years: “Five or six young people got married because they had to. The mother was pressuring, the father was pressuring. Why upset your parents? Two of these couples already have children.” An activist from Crimea noted that: “There are people who get married to mollify their parents. Some got married because their parents would never understand. V. (a gay man) and S. (a lesbian) want to raise children, but they each have their own personal lives and share the child. People who are a bit younger are in a different situation: one dad promised his son that he would give him an apartment after he got married. His lesbian friend decided: ‘I’ll help my friend, and things won’t be bad for me either’” (C).

People forced to live a double life experience tremendous stress. In spite of any “covers” they have, there is still a risk that their sexual orientation or gender identity will become known. If this happens, the results can be terribly tragic and range from psychological trauma caused by a break with their parents or the betrayal of close friends and family members to violence committed by armed formations and homophobes, evictions, and deprivation of the ability to see their own children.

Another cause for concern is that LGBTI people may be dismissed from their jobs if their employers learn about their SOGI. Many LGBTI people are warned of the possibility of losing their jobs by their close friends and family: “you won’t be able to work, and if people find out worse things will happen than losing your job” (C). A source from Luhansk Oblast that “if they learn [about your orientation] at work, you’ll probably lose your job. There have been precedents for this” (L). A gay person living in Crimea reported that “everyone leads a hidden life. These laws add pressure to the atmosphere, the situation. Before you could pretty much openly say who you were and no one had the right to fire you or do something else to you. Now they can” (C).

Some of the first people to experience homophobic hysteria and its consequences were people who could not conceal their SOGI: “If I had tried to come out as transgender, I would have been fired right away” (D). According to an expert, a transgender person from the so-called DNR “was forced to resign. Their management changed and the new owners were Russian. They said: ‘You understand, we’ll have problems, it’s better for you to leave on your own.’ He was scared that there would be physical violence at work. He heard something about someone threatening him.”

Teachers and education workers are another group that is in an exceptionally dangerous situation, especially considering the Russian practice of applying homophobic norms against “propaganda” and the spread of these laws to Crimea and the so-called DNR and LNR. An egregious example is an incident that took place in Crimea in 2014, when “students saw their university professor on the street holding hands with his partner. They attacked him, undressed him, and started asking him homophobic questions and taking pictures of him. Then we was fired just because of the person he chose to love” (C).

In Donbass, the danger for teachers is not just connected with dismissal, but, to a greater extent, with the high risk of violence. LGBTI people working in education explained that in Crimea “teachers are being baited online. We have deleted all our information on social networks. We have moved to a closed regime” (C). Dismissal for sexual orientation, even if there is no prosecution for propaganda, means that teachers will not be able to work again in education.

Government workers in these territories face the same repressions that teachers do. Right now, this kind of work has prospects and is stable in both Donbass and Crimea, so people really do not want to lose their jobs. According to sources who have remained in Crimea, “government agencies get

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89 Interview with V., Crimea.
90 Interview with Yu. Frank from the NGO Insight
the best funding right now. Government workers are obviously living better. Everyone can see how small business is dying. Most freelancers are without work. This makes people dependent on the government” (C). A lesbian from Crimea recounted: “My acquaintances who work for the government are all single [LGBTI women who refuse to communicate with the LGBTI community], because they are desperately scared that they will be fired and then they’ll lose everything: a stable salary, social guarantees, a job with a future” (C). Some of the potential sources in Crimea refused to be interviewed because they feared that their orientation would become known at their places of employment in government agencies.

**LGBTI people have stopped socializing as much in fear of violence and repressions**

One of the most important problems in Donbass and Crimea is the difficulty LGBTI people have communicating. Members of the LGBTI community have been forced into hiding—informants from Crimea assert that “it is only possible to meet in secret places, and only when it is dark” (C). One place where gay people in Simferopol were able to meet was destroyed by unknown people presumed to be homophobes (C). In the so-called DNR and LNR, meetings were possible only at home and with extreme caution. A gay person living in the so-called LNR reported: “I try not to go outside at all. And if it were only me. Luhansk shuts down at 7PM. The streets are empty, even though the curfew is 10PM” (L).

LGBTI people have started to feel apprehensive about socializing with unknown people, not just in real life, but online as well. They fear that they will be spied on and persecuted by unofficial aggressors and groups, as well as by government representatives, who could apply homophobic norms against them.

A founder of the Vkontakte group “Simferopol LGBT” said: “At first there were a few posts...now, after one and a half years, nothing has changed” (C).

“They monitor Facebook, we try not to write anything there” (C); I used to be able to post about [LGBTI] topics, but I can’t do that now” (C).

“I try not to post anything honest on Facebook, especially since some of my friends have positions in the propaganda sphere of the LNR” (L).

Lesbians from Crimea fear “guys who monitor social networks” (C).

Participants in a video on society’s reaction to a gay parade were forced to restrict access to this video, “because they were afraid of the repercussions of Russian law” (C).

“Maybe there’s a man sitting there in epaulets. You come to meet him and he beats you, blackmails you, etc.” (L).

“My sister said to me: “But you survived somehow in Soviet times, you hid,” But in Soviet times, I was still able to meet people, and now I can only set up a date with someone online. So I get there, and maybe someone’s waiting for me” (L).

“Maybe they won’t shoot me. They might ask for ransom, make fun of me, send me to perform hard labor with no pay” (L).

According to sources, the fact that members of the LGBTI community had varying political views led to irrepressible conflicts and made further interaction impossible. LGBTI people are afraid of surveillance, denunciations, violence and harassment, even on the part of members of their own community:

“When the lights came back on, we were all afraid to talk to anyone. My next door neighbor, I know he’s gay. I’m bored, he’s bored, he said: ‘Come over, let’s hang out and have some tea.’ Well, will I really go over to his house? How do I know what his position is? We will of course talk about how everyone is doing, but I’m half-Ukrainian. Maybe he will call his friends and say: ‘There’s a pro-Ukrainian, and they’ll come to me at night and arrest me’” (L).

“Meeting friends from the Facebook group in real life is just not possible. You just can’t shake the feeling that a person might be an agent who was planted to monitor the group” (L).
“We corresponded, but we were never able to meet. We have been pro-Ukrainian for a long
time. But now there’s no one to talk with. You’re for Ukraine, I’m for Ukraine, let’s get together,
but he always refuses. Because LGBT people who are pro-Ukraine have twice as much fear of
meeting anyone at all” (L).

“A guy online set up a meeting with me. I said: ‘So, it’s dangerous to meet there, Russian soldiers
are there.’ He wrote: “Oh, so you’re a Ukrop [pro-Ukrainian]? Why don’t you take a hike to your
Ukropia? You’re a fascist, I’ll stab you to death when I see you.’ So how can you say that you
can meet with someone?” (L).

“Even if an actual gay person wants to meet, I’ll meet him and then he’ll start going on about
the great Luhansk People’s Republic. What will I do with him?” (L).

[A gay person who supports the separatists] “recognized me from a photograph on another site
and started threatening me because I support Ukraine. I decided that I wouldn’t meet or
socialize with anyone” (L).

LGBTI people in Donbass and Crimea are more isolated than ever. People interviewed stressed that
“an important way to survive these kinds of situations is to have people you can speak honestly
with, people who have been checked out so you can unburden yourself” (L). But this is precisely the
opportunity that most LGBTI people in the DNR and LNR are missing. Meeting with other LGBTI
people could have various negative consequences ranging from homophobic slurs to violence. The never-
ending pressure on LGBTI people leads to psychological difficulties, depression, nervous breakdowns,
which were observed as this research was being collected. The following statement made by an informant
in Crimea characterizes the situation well: “You’re haunted by paranoia that someone is following you.
I feel how much energy I spend trying to get myself out of this panicked state” (C).

The situation of transgender people

The situation of transgender people, whose appearance and documents do not always match, is cause
for particular concern. These people are constantly risking their lives and well-being. For example, in
the DNR and LNR, officers regularly check IDs, particularly those of men, and documents are required
to cross the line of demarcation. This means that transgender people have had to remain in the conflict
zone: “I couldn’t go anywhere because of the discrepancy between my appearance and my documents.
I had no opportunity at all. Regular patrols started in the city, there were lots of soldiers” (D).

People who had valid documents in Crimea were supposed to obtain RF passports. Obviously,
though, this is impossible to do when appearance and documents do not match. In a situation like this,
many people choose to remain without documents, which can have tragic results: “I had to show my
new registration, who I was, what I do. But what can I show them? The documents of a woman? They
would have just called the patrol officers and I would have been taken in.”

There have also been documented cases of the arbitrary arrest of transgender people: “This boy from
Khartsizsk, he’s transgender. His documents identify him as female, but he looks like a man. He spent
three months sitting at home with his mother. He went out once—and soldiers grabbed him. Maybe
his acquaintances, his neighbors gave him up. He left with assistance from the UN.”

A transgender person forced to remain in Donetsk described the danger and poverty that he had
to live with. “I had to run away several times. I had confrontations with patrol officers. There was
an exchange of fire. They shot because I was running. I was scared that if I stopped,...they could
pick me up. People were disappearing. I ran, I sat in a filthy, stinking ditch. In the middle of the
night, when I was already freezing, dirty, I crawled out and went home taking small lanes and
alleys. There was a second confrontation...they started asking me: ‘Show us your documents.’ One
of them was able to hit me in the stomach with the butt of his gun, breaking some of my ribs...I ran

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91 Interview with M. from Donetsk Oblast conducted by the NGO Insight.
92 Interview with Olga Olshanskaya, Shelter project coordinator for the NGO Insight.
away without even understanding the situation. I could feel blood flowing...it was very difficult to run, I had a sharp pain in my abdomen. I understood that my ribs were broken. But, again, I couldn’t go to the hospital” (D).

There was even a case when a transgender person in the so-called DNR was denied humanitarian aid: “Registered people were given rations. OK, they were small. OK, it was only once a month. But I was not able to receive them. I had to show...my passport. They said: ‘What, are you joking? Bring a girl and she can receive it.’ They starting looking at me with closer attention: whose documents are these, where did you get them, you probably stole them, where is this girl? I had to run away somehow” (D).93

Some transgender people started the process of changing their gender and documents before the war, but are unable to continue this process in Crimea, the DNR, or the LNR:

“If it hadn’t been for these events in eastern Ukraine, I would have done the operation, and, of course, I would have changed my documents without any problem. But terrible things started happening, and the DNR checkpoints went up. They started checking documents” (D).

“We couldn’t behave the way we wanted, we couldn’t start treatment openly. So we were treated in secret” (D).

“There are virtually no medicines, forget about hormones (D).94

“V., who had been receiving hormone therapy since 2012, was getting ready to transition. She stayed there and went into denial [stopped taking hormone therapy], because, first of all, it was dangerous, second of all, it was expensive, third of all, there wasn’t enough medication. Finally, she used to work out, but she stopped because she could be taken [armed people could detain her] for her sexual orientation” (D).

Transgender people in the Donbass region suffer serious psychological difficulties from the horrors they have lived through:

“The first...shooting, when I went down [into the bomb shelter] in desperation, for the first time in my life. And these whisperings started: who am I, what am I. I sat there in the corner like a baited animal” (D).95

“I had no job, my passport didn’t match my appearance, I planned to commit suicide” (D).

[A transgender woman who arrived from the DNR for several days] “had perpetual fear in her eyes. This was a totally different person. She had become so closed, so tense, she was scared to say anything at all. It was really a deep depression. She came to Kiev to breathe some fresh air, but she had to head right back. These people are fundamentally alone because they can’t show their individuality there” (D).

The situation for LGBTI children and children from LGBTI families

LGBTI children have been extremely vulnerable since the annexation of Crimea and the formation of the so-called DNR and LNR. They have no way of receiving suitably prepared information about “non-traditional” sexual orientation: propaganda demonizes LGBTI people, there are no specialists qualified to provide information or psychological assistance to these children, and their parents rarely have the right skills to help these children and may even be in the grips of the prejudices conveyed in the media. In the opinion of one source, “the formative years are much more complicated and difficult for this generation. But now it’s an entirely different situation when they say on television that LGBT people must be burned, their hearts must be torn out, like Kiselev in his columns” (L). An informant from Crimea recounted how “The

93 Interview with m. from Donetsk Oblast conducted by the NGO Insight.
94 Ibid.
95 Ibid.
parents of a minor female named K. prevented and forbid her from talking with a girl, they took away her phone. So she ran away from home. Thanks to psychologists from an NGO in Kiev for returning her home” (C).

Government representatives have declared organizations for LGBTI children outside the law, thus depriving children of the right to receive the information and support they so desperately need. For example, on 28 April 2016 the round table “Threat to Traditional Families—Children-404” was held in Simferopol. Meanwhile, Children-404 is the only project in the Russian Federation aimed directly at LGBTI children. It has continued its activities online in spite of numerous bans.

Teachers and psychologists who have built trusting relationships with children cannot make up their minds to speak about LGBTI problems with them because of the risk of being prosecuted under homophobic laws on “gay propaganda among minors.” According to one respondent, “children just have nowhere to go. There is no center like the one I want to set up. And an adolescent isn’t going to raise this topic himself. How can children manage this situation? They can’t. They remain by the wayside. They need good psychologists, and we have them. But they won’t take this on in their offices” (C). According to a teacher from Crimea, “teachers are torn between their duties as human beings and teachers and the administrative code” (C). People interviewed spoke about the lack of any real mechanisms to help children: “Even if a child tells a psychologist about this, because of the laws, the psychologist can only show sympathy” (C).

The ability of teachers and psychologists to help children is limited even when a child’s life or well-being is in danger:

“When a child is bullied, a teacher can’t stand up for him, that will be propaganda” (C).

“There is suicide among LGBTI children. Children get information from peers or from the media. And it says online that if you’re not a certain way, that’s bad. As the saying goes, where there’s propaganda, there’s pressure on these children, who somehow don’t feel quite right and don’t know where to go with this. The question of personal identity is not reflected anywhere” (C).

People interviewed predicted that the situation for LGBTI children will worsen: “They’re transmitting this idea of a strict norm, and if anyone doesn’t fit into it, they will remain alone with themselves. So we get suicides and all the rest of it. Adolescents don’t have positive role models. This kind of child will look for an organization, a group of friends, a gathering of other adolescents who will understand him. I’m not talking about some human rights organizations. He will find something not very good [drugs, promiscuity], because he doesn’t have any other options. So then he’ll have to hide it even more. And then LGBTI children will be associated with fringe scenarios because they don’t have any support” (C).

In the DNR and LNR, there is such a wall of silence around this issue that even members of the LGBTI community do not have any information about the situation for minors.

Children from LGBTI families also face difficulties. Two gay men living as a family spoke about how they sensed “warning signs” of the growing homophobia and of the dangers for their son as the child of LGBTI parents. They said that there were being treated differently by friends and neighbors: “People write denunciations of their neighbors just to show how patriotic they are... These are all signals for us. They tell us that we may become the target of attacks” (C). Even the most run-of-the-mill situations are fraught with dangerous consequences for LGBTI children: “you have to describe your family at school. You end up lying because you can’t tell the truth. This is terribly painful for a child” (C).

**Limited opportunities for LGBTI activism**

Prior to the military conflict, Donbass and Crimea lacked virtually any specialized NGOs working to protect human rights on the grounds of SOGI, although activists did operate in these areas.

The Luhansks-based human rights center Our World, founded in 1998, moved to Kiev several years ago, thus putting a stop to its work in Luhansks. According to one expert, “In recent years I
haven't heard about anything going on there. Activism was the only thing holding things together."

Existing human rights organizations in Crimea were not active in supporting LGBTI people, and the only thematic NGO mentioned was Gelios: “they provided psychological help, organized parties at their office. The organizers left exactly when Russia arrived because people were starting to point fingers at them” (C). Members of the community turned to NGOs in Kiev and Kharkov for help when they needed it.

With the arrival of Russian power, LGBTI people were not only deprived of any support from NGOs, they also found themselves living in fear of homophobic actions by pro-Russian groups. In comparing the situation before and after the annexation, Crimean activists noted: “The situations were totally different before and after: before you could connect with human rights defenders, but now it’s all different, now they can hunt down social activists” (C). In Donbass, there was some activism in regards to LGBTI rights before the war, but this kind of activism became impossible after the war began. According to one source in Donbass, “before the war started, there was a YouTube channel Voices of LGBT. This was like a little piece of the European world, where we would be accepted. But it ended as quickly as it started because of the situation. The project had to be cancelled because it was too difficult to work” (D).

The change in power also meant that NGOs could not find premises to rent due to the conversion of property. For example, an HIV prevention organization in Yalta has not been able to find an office for over a year. NGOs must have a lease agreement to open a settlement account, so this organization—the only organization that has held events in support of LGBTI people—cannot obtain funding or operate, including on technical grounds. An activist from this organization reported that: “The head of the Social Services Center for Family and Youth said: ‘I would advise you not to try to apply for state support for LGBTI issues at first’” (C).

Places were LGBTI people could gather informally have ceased to exist. For example, in June 2014 armed bandits vandalized the Babylon night club (also known as California) in Donetsk, and visitors were beaten and robbed. According to one informant, “in the middle of the night, around 3 or 4 AM, people ran in in military uniforms, fighters with automatic weapons, screaming ‘lie on the floor.’ They took everyone’s money, memory cards (from their phones), in case someone was recording. The most amoral thing they did was when they took everyone out onto the street, they arranged them in a line, turned on their video cameras, and ordered everyone to kiss. If you don’t want to, we’ll shoot you. Anyone who can’t run away in the next 10 seconds gets a bullet in the back. After that all these kinds of establishments shut down. People tried to come up with something, to lease some space, but nothing worked out. All you can do there is be silent. It’s terrifying” (D).

According to informants, the establishment Kunderbunt in Donetsk closed because of threats of violence against LGBTI people: “When organizers started to understand that this was utter lawlessness, that there were no laws whatsoever, that the police were on the DNR’s side, that they [the aggressors] would be treated with impunity, there were no more cultural events” (D). Informants said: “There was no question of any parties. Lots of young guys arrived. They walked around the city in balaclavas, carrying bats” (D).

In Donetsk, the art space IZOLYATSIYA, which supported artists and activists fighting for LGBTI rights, was ransacked. According to one member, “We had several projects about LGBT rights with Masha Kulikovskaya. Her sculptures were on our territory. One was the distinctive figure of a woman cast from the artist’s body. The people who had taken the territory started destroying it right away. It probably offended them. Masha’s performance connected with these sculptures was held at the Saatchi Gallery, and DNR fighters left some feedback on it.”

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96 Interview with A.M., a coordinator at the Our World center.
97 http://novosti.dn.ua/details/228117/
98 https://www.lgbt.org.ua/ru/news/show_1520/
100 Interview with A., IZOLYATSIYA Foundation, Donetsk
Indeed, criticisms of M. Kulikovskaya’s performance appeared almost immediately on the online media outlet Russkaya vesna, and the article was tagged with “homosexuality and propaganda” and “perverts.”¹⁰¹ Kulikovskaya attracted the attention of armed people representing the DNR not least for the fact that she registered a same-sex marriage in Sweden in early 2014. This information spread quickly not just through so-called Novorossia, but also through Crimea, where this artist lived. Now Kulikovskaya cannot travel to Crimea because she fears for her life. She said: “I see a real connection between Crimea and Donetsk. There’s very little tolerance for me there. There’s nowhere to run from that peninsula, there are many people who said something they shouldn’t have and ended up in the sea, dead.”¹⁰²

Witnesses to the seizure of ISOLYATSIYA recounted how “people with weapons came in and showed us a paper stating that the territory had to be handed over for DNR needs, to store humanitarian aid from Russia. Humanitarian aid—that’s actually weapons and prison space where sentences are carried out. It’s not just a place where people are confined and tortured, it’s also a place where people are killed. The Ukrainian journalist Dmitry Petekhin served time at IZOLYATSIYA. Actually, they made a prison in the basements where we had our exhibits. Journalists from Kiev served time there, they were tortured. Now all of that is basements and bomb shelters.”¹⁰³ According to M. Kulikovskaya, “DNR fighters shot people to death in the garden where the sculptures stood. Someone I know served three months there in the cellar. He was tortured and sent to perform forced labor: pick up the cigarette stubs and clear the garden of dead bodies. He saw parts of my sculptures in the garden.”¹⁰⁴

Kulikovskaya learned from journalists for the television station Dozhd’ that the person in charge of shooting her sculptures explained that this was “their performance.” “That’s how they showed what would happen to people who did not support the events in the DNR,” she explained.¹⁰⁵

In Crimea, the only places LGBTI people can talk informally are thematic parties, but sources say that there are fewer and fewer chances to get together: “Everyone is on their guard, they’ve gone into hiding, and nothing is going on” (C). People have also encountered difficulties renting space for meetings, which is what happened with Q-bar: “the building was directly across from the Rada. The club didn’t advertise itself a gay club, but everyone knew that the owners were gay” (C). “Someone whispered to the city’s new leaders that a gay bar was right under their noses. Then the bar had a visit from fire inspectors and the tax authorities. The establishment was fined and issued an official reprimand. That’s when the managers understood that they were no longer welcome in the city.”¹⁰⁶ The owners left Crimea, primarily because they feared for their child’s safety.

Other gay-friendly places closed in other parts of Donbass and Crimea:

“Before the war, everything was much simpler, much more open. We had places where we could meet in the open, and clubs, cafes” (D).

“It became really hard to make contacts once the cafes closed. I can’t correspond with young people online, it’s a different time. It was easier to meet people at cafes” (C).

“We [organizers of LGBTI parties] had the same place for several years, but now it’s closed and we’re looking for a new one” (C).

In Crimea, the search for meeting spaces is made all the more difficult by the intensifying homophobia (“everyone knows that Russia doesn’t like LGBTI people. No one wants to connect with LGBTI people. Only desperate people who have nothing left to lose agree to work” (C)) and for technical reasons (“no paperwork connected with real estate has been reissued, so even though there are lots of empty spaces, there’s nowhere to hold an event” (C)).

¹⁰¹ http://rusvesna.su/news/1448637105
¹⁰² Interview with the artist M. Kulikovskaya.
¹⁰³ Interview with A., IZOLYATSIYA Foundation, Donetsk
¹⁰⁴ Interview with the artist M. Kulinkovskaya.
¹⁰⁵ Ibid. See also the report by Dozhd TV: https://tvrain.ru/teleshow/i_tak_dalee_s_mihailom_fishmanom/territorija_izoljatsii_kak_donetskie_separatisty_zahvatili_sovremennoe_iskusstvo-371586/
¹⁰⁶ http://www.gay.ru/society/phobia/time-predstaviteli-gey.html
There is now only one meeting place for LGBTI people that is still operating in Crimea, but it is advertised neutrally as “a café for leisure activities” (C). The owners noted that the number of LGBTI people visiting the café plummeted in the summer of 2015. One source reported that the café organizers “started having problems after the referendum: people from Ukraine were scared to come perform. Everyone was told that they might not be allowed to leave, that they would be killed at the border (C). The number of “regular” tourists has also fallen: a vacation in Crimea has become too expensive for Russians, and people don’t visit from Ukraine for safety reasons and because of the political views. Nevertheless, the LGBTI community in Crimea greatly values this club.

Compelled departure of LGBTI people from Crimea

Many LGBTI people have felt compelled to leave Crimea and the so-called DNR and LNR. An important consideration for choosing a new place of residence became the homophobic laws in effect in Russia: “many LGBTI people left for Ukraine so that could live in better, safer conditions. They left for a better life” (C); “some people left for Ukraine from Dzhankoy and Simferopol because they understood that these Russian laws would set the masses against us, that people would treat us with more aggression” (C).

The mass departure of LGBTI activists from Crimea was in many ways conditioned by the government’s repressive policies: by 2014, public events supporting LGBTI rights, which had until recently been possible, where totally banned.107 The well-known activist M. Khromova, who organized a number of actions, fled Crimea in 2014. The fragmentation of the LGBTI community and the lack of mutual support were also reasons for leaving. As a source remaining in Ukraine noted, “people who previously tried to something separately from one another found that it was easier to work together. I don’t think many people would have left” (C). According to members of the community, it is now extremely dangerous to speak openly about LGBTI rights and get involved in activism in Crimea.

One difference for the LGBTI community in Crimea is that this community is now fairly isolated from NGOs in both Russia and Ukraine. Ukrainian LGBTI people frequently condemn people who stayed in Crimea. Sources conveyed the words of LGBTI people from Ukraine: “they say, I’ll never come to Crimea again because now you’re Russia, you betrayed a nation” (C). Respondents from Crimea asserted: “Many people from Ukraine don’t want to communicate with us as if we were traitors. But no one actually asked us” (C). As one lesbian from Crimea stated: “if a person wants to leave, then he will. If he stays in Crimea, that means he supports the Russian government” (C). Ties between Crimean LGBTI people and Ukrainian people are also weakening because it has become harder for Ukrainian citizens to visit Ukraine: visits are not welcomed by the Ukrainian government or by pro-Ukrainian activists (who are frequently conservative and even homophobic). There is even evidence that people returning to Ukraine from Crimea have met with violence at the border.

On the other hand, Crimean LGBTI people “do not want to make any contact with Russia [Russian NGOs], they’re scared. Because the situation became even worse with Russia’s arrival. They’re just scared that someone might find something out, that they might be arrested” (C). Meanwhile, Russian LGBTI organizations do not recognize Crimea’s annexation and do not believe it is possible to conduct human rights work there.

Problems LGBTI people face trying to leave the conflict zone

Most of the LGBTI people interviewed fled DNR and LNR territories because of the combat. Danger threatened the lives of all the people who escaped from the war:

[They attacked] “even the cars and busses carrying children, that didn’t stop anyone” (D).

107 http://rus.azatutyun.am/media/video/25387619.html
“The most frightening was when we were on the train. We understood that they were blowing up the track bed. You thought maybe you should have gone on foot” (D).

“The most important thing was to get there. There was no time to be afraid. You had to react to the situation in time: when they said shut up, you shut up” (L).

During inspections at militia checkpoints, there was a risk of violence, arbitrary detention, denials to enter Ukraine, and blackmail: “When they pull people out of the bus, well, nothing good can come of it. They’ll send you to the trenches or, if they see they can get money out of you, they will, they’ll shake you down until they shake it all out. And there is only one law — the machine gun” (D).

People attempting to leave tried to make sure that they didn’t have anything with a Ukrainian symbol on it, and they tried to take as little with them as possible to hide that they were leaving the DNR or LNR for good. One respondent who fled Donetsk recounted the following: “Once, in front of me, an old woman tried to intercede on behalf of one man. She said to them in Ukrainian: ‘What are you, little boys?’ And they said ‘Shut your mouth, bitch.’ And I spoke in Surchik. I thought, I’ll just shut my mouth with my Ukrainian” (D).

Some of the people interviewed used the services of carriers. The cost of their trip was higher, but the connections they had made it more certain that they would get through the checkpoint quickly. There is also evidence that militia members were given bribes by people trying to cross the demarcation line. One person interviewed asserted that some bus companies regularly present “payments” at checkpoints. According to this informant, the bus company “pays the militia at a checkpoint a dollar amount every month, plus they [the militia members] write up a list of what they need. Namely, this is expensive liquor and technology that must be bought. And such a list appears twice a month, when there’s a scheduled run. If something on the list is missing, then no one gets through” (D).

Transgender people have particular difficulties departing from DNR and LNR territories because documents are checked both at DNR and LNR checkpoints and when entering territory controlled by Ukraine. It can be very dangerous if the photograph on the document does not match the appearance of the person leaving. One transgender person interviewed reported that before his departure, “my appearance was nothing like the photographs on my documents. They could have said I was a spy, they could have shot me, they could have sent me to the cellar” (D). When possible, transgender people tried to look like their photographs as much as they could by changing their clothes and hair and using makeup.

In some cases, the only way to get a person out of the conflict zone is by using a middleman. This is how one transgender person was saved: “International organizations reached an agreement with the DNR to allow a convoy of its cars to escort an OSCE car, and that is how they brought him to our border. Our people were given advance notice” (D).

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108 Interview with A., a volunteer who helped a transgender person leave DNR territory.
LGBTI people who moved to Ukraine face the same difficulties as “regular” temporarily displaced persons, including fraud on the housing rental market and reluctance of landlords to rent to displaced people. According to one source who moved from Donetsk Oblast, “there are landlords who have no problem renting to anyone as long as they are decent people and able to pay. But there are other landlords who adamantly refuse and don’t want anyone with a Donetsk registration” (D).

There is also the problem of a negative attitude towards displaced persons even within the LGBTI community. An informant who moved from Luhansk spoke about his interactions within a circle of LGBTI people: “They had a negative attitude towards displaced persons. They didn’t offend me, but they asked uncomfortable questions which I was supposed to answer for everyone” (L).

However, it is admittedly more difficult for LGBTI people to find housing and jobs: activists from the NGO Insight spent a long time looking for a place to have a shelter (“Again, when they learn that the displaced people are from the zone of the anti-terror operation and are LGBTI on top of that, [they refuse]”). A member of the LGBTI community who came to Kiev from Luhansk changed jobs in the restaurant business more than 20 times—he was fired without pay as soon as his employers learned of his orientation (L).

Transgender people continue to face problems finding work and renting housing because their appearances do not match the photographs on their documents. This situation is complicated not only by financial difficulties, but also by the fact that the commission that adopts decisions on sex changes is temporarily not meeting in Kiev in connection with changes in the law and procedures.

Many times, LGBTI people who have left decide to start working at non-governmental initiatives to assist displaced persons in need. One person interviewed explained that: “The first thing I did after I moved was to go volunteer at a hotline for displaced people. I got the idea that I wanted to help people who had lived through experiences similar to mine.” (D).

LGBTI displaced persons say that there is not enough psychological help available aimed specifically at them: “No one asked: Are you a displaced person? Maybe you need something? I don’t have anyone to talk to, anyone to hang out with. Do you think anyone talked to me?...” (L).

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109 Interview with Olga Olshanksaya, Shelter project coordinator for the NGO Insight.
CONCLUSIONS

Thus, the main problems LGBTI people from the conflict zone (known in Ukraine as the zone of anti-terrorist operations and by the separatists as the DNR and LNR) and the Crimean peninsula are as follows:

- **homophobic legal norms in effect within the territories of these entities:**

  In Donetsk and Luhansk oblasts, as in Crimea, more progressive Ukrainian laws were in effect prior to the events of 2014. Over the past two years these laws have undergone significant changes aimed at overcoming discrimination against LGBTI people. After the annexation of Crimea and the proclamation of the DNR and LNR either Russian laws with homophobic norms or even more discriminatory norms came into effect in these territories.

- **violence, threats, and summary punishments inflicted by armed gangs and homophobic groups:**

  Armed formations in the DNR and LNR unquestionably present a danger to local residents. But given the homophobic hysteria, LGBTI people in particular have become targets for armed criminals. Consequently, their lives and well-being are under threat every day. In Crimea, hate crimes against LGBTI people and activists by organized homophobic groups have been registered.

- **consequences of violence and lawlessness in the form of the persecution of LGBTI people by people close to them—neighbors, colleagues, relatives:**

  LGBTI people experience regular homophobic attacks by people close to them. This means that there is absolutely no way to live openly and it forces LGBTI people to continue living in fear. Members of this community face not just violent actions, but psychological pressure and the threat of dismissal and eviction as well.

- **difficulties leaving for other regions of Ukraine:**

  Many LGBTI people cannot freely leave for other regions of Ukraine due to the risks connected with passing through demarcation zones. People can be prevented from leaving the conflict zone, and they can also be taken prisoner or treated with violence. Crimean border guards have treated some Ukrainian citizens with aggression and violence upon their return from Crimea.

- **lack of support for LGBTI children and children from LGBTI families:**

  The situation of LGBTI children and children from LGBTI families is particularly alarming. Instead of educating the population in these territories about SOGI issues, government authorities spread homophobic propaganda. Any deviation from the “norm,” including being LGBTI, is condemned by society and declared unnatural. Because new homophobic norms classify any discussion of SOGI problems by teachers as “gay propaganda,” minors have been deprived of any real opportunity to ask adults for help and support. Children face rejection at home, at schools, and from their peers, which can be accompanied by depression, nervous breakdowns, and suicide. Children from LGBTI families risk bullying, rejection, and violence.

- **vulnerable situation of transgender people:**

  The problem of discrepancies between transgender people’s documents and appearance is particularly acute. It is very hard for these people to get a job, rent housing, or receive benefits. People who began the transition process cannot complete it in their new places of residence due
to lack of funds, medicine, and competent doctors. In some situations, it is not possible to hide gender identity. Transgender people are forced to lead a secret lifestyle because they fear they will be subjected to threats and violence.

- **activities of LGBTI activists and LGBTI rights defenders in Crimea and the so-called DNR and LNR:**

Under conditions where the authorities promote homophobia, there are no longer any NGOs protecting LGBTI rights in Crimea, the DNR, or the LNR, and holding any actions to protect LGBTI rights is out of the question. Many activists and members of this community have been forced to flee their places of residence. LGBTI people who have been able to flee the conflict zone for places of relative safety are still subjected to biased treatment as both displaced persons and on the basis of SOGI: it is hard for them to find work, housing, and friends. Displaced people must invest massive efforts in creating conditions for life in other cities. At the same time, they are frequently condemned for fleeing the territories of the self-proclaimed republics.
RECOMMENDATIONS

To the governments of Russia and Ukraine:

Revoke all the homophobic norms of RF laws;

Find the laws of the so-called DNR and LNR invalid, return these territories to Ukraine’s legal system;

Educate members of the Russian and Ukrainian law enforcement and judiciary communities about LGBTI rights, including by holding seminars and training sessions on recognizing and investigating hate crimes against LGBTI people;

Conduct, without delay, effective and fair investigations and trials of hate crimes against LGBTI people;

Prosecute people who have committed hate crimes against LGBTI people in Crimea and Donbass;

Ensure that human rights defenders have ready access to Crimea and Donbass, create the opportunity for collecting human rights information in safe conditions;

Create conditions for transgender people to complete transitioning, including in Crimea and Donbass, ensure that they can obtain IDs unhindered;

Provide free psychological help to LGBTI people who have fled the territories of Crimea and the so-called DNR and LNR and to those who remain there;

Ensure that Ukraine citizens can enter and depart Crimea freely by guaranteeing their security when they cross the border;

Ensure that Ukraine carries out its Action Plan to Implement a National Human Rights Strategy for the Period up until 2020 in accordance with the deadlines set forth in it, paying special attention to improving anti-discriminatory laws.

To international organizations:

Devote special attention to the situation for LGBTI people in Crimea and the so-called DNR and LNR, conduct regular monitoring of the situation with LGBTI rights, with a particular focus on the situation of LGBTI children and children from LGBTI families;

Assist transgender people with departing the territories of Crimea and the so-called DNR and LNR, devote particular attention to the situation of transgender people who have been deprived of the chance to complete their transitions and remain without valid IDs.
Soap sculptures «Homo bulla» by Maria Kulikovska, a Crimean artist supporting LGBTI rights, in the art-space «ISOLATSIA» (Donetsk, 2010-2014). On the 9th of June, 2014, armed militants of the self-proclaimed republic DNR took and ransacked territory of «ISOLATSIA». Later a jail was organized there, then a military base and a place for execution and storage. The sculptures were shot down. (More information on pp. 31-32.)
Tab 33
Publicity about a young gay man tortured in Russian-annexed Crimea has focused attention on a rapidly dwindling LGBT community.

Natalie Vikhrov

Published Oct. 23, 2018 4:47AM ET
SIMEIZ, Crimea—The buxom drag queen hikes up her sequined emerald gown and reaches into the crowd to pull a man onto a makeshift stage.

“Stand there, handsome,” she says and then coaxes two more volunteers on stage before announcing that they are now taking part in a striptease contest.

As Ricky Martin’s “Livin’ La Vida Loca” begins playing from the speakers, the pants start coming off.

Drag shows like this used to be a regular fixture at a small handful of venues around Crimea. Now, this bar in the small resort town of Simeiz is the only place left where a drag queen can shimmy to dated Western pop. Locals say it’s the last gay bar on the peninsula. And it may not last much longer.

According to human rights
in 2014 the situation for the LGBT community has deteriorated badly. Over the past four and a half years of occupation, Russian-state-sponsored homophobia has led to a rise in violence, closures of gay-friendly venues and the demise of activism—crippling the peninsula’s queer community.

In the oppressive climate, the Simeiz bar provides LGBT people with a getaway where they feel they can be open, still, with displays of affection without fear of persecution.

But this venue has suffered under Russia, too. For more than two decades, it was a renowned destination for the gay community, its shows drawing hundreds of tourists from across the former Soviet Union and beyond. On a warm Saturday night last August, perhaps 50 people were there to watch the show, and there was about the whole evening a sense that an era of openness, of freedom, was coming to an end.
Back in 2013, which seems a long time ago now, Sasha and Volodya decided to move to Ukraine’s Crimea. For a couple of years they had run the gay-friendly Hotel Friends in Sevastopol, even though they were based in Moscow. But finally the oppressive atmosphere generated by President Vladimir Putin’s homophobic policies, which played on and exploited the worst instincts in Russian society, were just too much for them to bear.

Sasha and Volodya spent their winter holiday in Kiev during the revolutionary Maidan protests. “To us it seemed that everything was more free there,” Volodya, 39, told The Daily Beast. Slim, with brown hair and a warm smile, he does most of the talking.

Both Russia and Ukraine decriminalized same-sex relations in the early 1990s, but the situation for LGBT people has been deteriorating in Russia in recent years, while Ukraine took measures to improve LGBT rights after the EuroMaidan revolution.

The situation there is not ideal—many still choose to conceal their sexual orientation and gender identity—but it’s definitely better.

Outside a Kiev gay club in 2014 the pair watched
queen for photos, and thought back to Moscow.

“In Kiev, they can go outside, stroll along the Khreshchatyk [main street] in heels and no one will do anything” Volodya said. “In Moscow, they would be throwing stones at them.”

The couple had always planned to emigrate from Russia. They were tired of traveling from Moscow to Sevastopol and thought the pro-European sentiment would spread to the peninsula. On March 12, they signed off on the final purchase agreement for their apartment in the suburbs of Sevastopol.

Less than a week later, Moscow staged an illegal referendum to annex Crimea from Ukraine and the pair found themselves back under Russian jurisdiction. Since then, tens of thousands of people have left the peninsula, most of them Crimean Tatars and ethnic Ukrainians. But they also included members of the LGBT community. Human
people who remained went underground.

Moscow’s occupation meant Russian laws would now be imposed in Crimea, including the highly controversial “anti-gay propaganda” legislation, which was adopted by the government in 2013 to ban “the promotion of non-traditional relationships” to minors.

Rights groups condemned the law, saying it fostered prejudice against the LGBT community. But Crimea’s Russia-controlled authorities only fueled the Kremlin’s state-sponsored homophobia. Following the occupation, that September the peninsula’s de facto leader, Sergei Aksyonov, announced that Crimea didn’t need gay people and they would not be allowed to hold public events. If they tried, he said, the police would quickly explain to their supporters what orientation they should have.

Sasha and Volodya briefly considered moving to Ukraine’s seaside city of Odessa or Kiev. But they had just poured their money into a home and an extra rental property on the peninsula. And, of course, there was also their hotel.

Before the annexation, their business came from Ukraine, Russia and Belarus. After, almost all their clientele became Russian. And the Russians supported the
they came to our hotel and we said we wanted to live in Ukraine, they’d say ‘you’re separatists’—as a joke,” Volodya recalled. “But in every joke there is a grain of truth.” Then, in 2017, most of the Russians stopped coming, too.

The final blow to their business came when the couple decided to put on a Ukrainian-themed New Year’s gathering.

“We started getting threats,” said Volodya.

They cancelled the party. But about a month after New Year’s the phone calls started again, warning them to shut down their hotel. Volodya said the callers identified themselves as local journalists and had their personal information—including Sasha’s real name, which he hadn’t used in some 20 years.

The implications were sinister. If journalists tracked down their personal details, they could dig up information about their guests, more than half of whom weren’t open about their sexual orientation and included high-ranking figures. Fearing for their guests, the couple shut down the hotel.

According to a 2016 report, Violation of LGBTI Rights in Crimea and Donbass, by Anti-Discrimination Center Memorial and Kiev-based Center for Civil Liberties.
social attitudes “changed under the influence of Russian homophobic propaganda” and the community “became more secretive” in Crimea. It notes several cases where homophobic locals would lure members of the LGBT community to meet with them, only to humiliate them and beat them up. As homophobic norms were spreading across the peninsula, support services were disappearing. According to the report, Crimea only had one NGO on the ground that worked with the LGBT community and its organizers left when Russia came. Russian LGBT groups, meanwhile, haven’t expanded their operation to Crimea because they don’t recognize its annexation, the report states.

Before March 2014, Ukraine’s mainland-based NGO representatives would regularly travel and work with the community on the peninsula. But after Russian-manned checkpoints appeared on the Ukrainian-Crimean border, it became harder for human rights groups to do their jobs.

“Crimea for us... used to be just another region of Ukraine that we worked with,” said Oleksandra Romantsova, deputy head of the board at the Center for Civil Liberties.
would be able to monitor the situation but after August we understood that... with a Ukrainian passport you are not able to work as a monitor on the peninsula.”

Last year, Romantsova was banned from entering the Russian Federation, and consequently the peninsula. She said rights groups have also lost connections with LGBT people in Crimea because many here fear speaking to activists and monitors. The absence of NGOs combined with growing state-sanctioned homophobia has had ugly consequences.

Last month ADC Memorial documented the first case of torture of a gay man on the peninsula, dating back to the fall of 2014.

In a five-minute video, the man, who only identifies himself as Alexander, provides a harrowing account of being taken to his district police station, beaten and raped.

He said the officers handcuffed him, knocked out his teeth, bruised his ribs and left him with spinal problems. The 34-year-old said he also now suffers from post-traumatic syndrome.

While at the station, Alexander said he saw a list of names—including his. Some of the others he
He said amid the torture, the officers pulled out paperwork, forcing him to sign over ownership of his home. “They just shove the papers in front of face, beat you and say, ‘If you don’t sign, we’ll kill you. No one will even look for you.’ I tried to resist but what could I do?” he told The Daily Beast in a phone interview.

Alexander had lived alone then. His parents had died. So had a friend, after being similarly targeted by police a few months earlier. “They planted drugs on him and put him in jail. They say he committed suicide there. But I don’t believe that,” he said.

Alexander signed the papers and fled to Odessa, where a middleman helped him apply for a Polish visa. From there, he started making his way to the Netherlands, where he applied for asylum.

But in the Netherlands, Alexander’s application was rejected. In part, he said, because he didn’t have any proof of what had happened. “You need documents confirming that something happened. But I had nowhere to go. I just fled,” he said. “Under that system, you go [to the hospital] for battery and the medical staff are obligated to call the police. And who will come then? Those same police officers who beat me.”

He said he knows other...
successfully sought asylum in Europe with assistance from LGBT groups in cities like Kiev. “But Crimea had nothing like that,” he sighed.

ADC Memorial’s Inessa Sakhno said while LGBT people are not the only group persecuted by authorities on the peninsula, they are an especially easy target. “This group is less protected because they don’t turn to police or rights groups and don’t organize protests because it’s unacceptable to talk about these things,” she said.

When Ruslana arrived to work in Crimea in 2016, she found there was nowhere for the queer community to go. Together with another girl, she decided to throw what they referred to as a “thematic” party, but struggled to find a venue.

“As soon as they learned about the theme of the party, they refused us straight away,” she said. “Even those that needed money still refused. They told us it would ruin their reputation. They didn’t want others to think this was a gay establishment.”

She later started telling owners they were putting on a private event for girls to get a venue.

But not everyone in the LGBT community feels persecuted
deep in the suburbs of Sevastopol, Dasha and her partner are in the middle of unpacking their new flat.

Assertive, with a deep voice and her dark hair pulled back, she tells me she’s not concerned about the gay propaganda law. “I haven’t come across [problems with law enforcement] despite the fact that I’m not sitting here in the dark. I can walk around hand in hand with her,” she said, rummaging around the small kitchen for mugs. “Of course, we’re not having sex on the hood of a car in the middle of town.”

At the same time, she says society here was more accepting of two women together than two men. “The attitude towards men is significantly worse than towards women. Again, that’s that Soviet mentality. They’ll watch foreign girls-on-girl films and that’s cool, but guys rubbing genitals is bad,” she said. “The guys don’t say anything, they hide. Even within their friends group. It’s harder for them.” Later, this sentiment is echoed by drunk men loitering around the gay bar in Simeiz. They buy tall cans of beer from an adjoining convenience store and throw around the Russian word for “faggot,” occasionally eyeing the bar but refusing to go in. Inside, rows of wooden tables and benches lead to a veranda, where a group of 20-
somethings chase shots of vodka with wine at the bar.

Although its reputation is known, the venue doesn’t openly advertise itself as a gay bar. In daytime, only the wall at the end of the service counter, painted in bold rainbow stripes with the bar’s coat of arms in the centre, hints at its status.

At the stroke of 1:00 a.m., a booming voice comes over the loudspeaker and the drag show begins. The atmosphere is lively but the bar looks half empty.

“Before, we’d get anywhere from 150 to 450 people coming for a show,” Denys Kratt, the bar’s former art director and leading drag artist, later tells me in the Ukrainian city of Kharkov. Kratt’s alter ego Zhanna Simeiz had been a big name within Crimea’s drag scene since the mid-2000s.

The 44-year-old spent the busiest months of the tourist season living and working on the peninsula. Sporting an undercut and top knot, Kratt fondly talks about days spent at the beach followed by champagne-fuelled nights in Simeiz.

“It was where we spent our youth, some of the merriest and some of the best years,” he said.

When Russia annexed the peninsula, Kratt lost more than just his job. “The people there were all one big family, the people.”
everyone knew each other, caroused, had a good time,” he said. Like many Ukrainians, Kratt hasn’t returned to the peninsula since the annexation.

And although he fears Crimea won’t be de-occupied in his lifetime, he does hope to one day come back to the place that was once his second home. I ask him what that would look like.

“The trains from Kharkov to Simferopol will start up again... I’ll drive up to my friend’s dacha, we’ll open up the rusted gate there, run to the shops, buy a bottle of Sevastopol champagne—Zolotaya Balka—in hryvnias [Ukrainian currency]. We’ll go up to [the bar], celebrate and cry,” he smiles.

“And of course, I’ll pack the dress in the suitcase.”
A number of charities are doing tangible work to clean up oceans, re-grow forests, and protect endangered animals from climate change.

The issue of climate change drove the news cycle this year, from the Climate Strike and Greta Thurnburg’s United Nations speech, to the Green New Deal. And for those looking to support green charities that make tangible change happen on the ground, there are a number of non-profit organizations that are doing great work in the climate space.

In the spirit of Giving Tuesday, donating to climate-focused charities may also be a great way for your gift to keep on giving—a gift to the Earth, a gift toward sustainability for the near future, and a gift to future generations.

**Reforestation**

We're still years away from effective technology to recapture greenhouse gasses
one of the most powerful, and
natural, ways to capture
carbon. It has the potential to
remove two-thirds of the 300
billion metric tons of carbon
that humans have released
into the atmosphere since the
Industrial Revolution.

One Tree Planted is a non-
profit that works to have one
tree planted for every dollar it
receives from donations. It
chooses specific projects and
reaches out to communities
all around the world to get
trees planted while also
creating long-term benefits
for locals who may be
involved in the effort. The
organization also works with
the World Resources
Institute to give money to
vetted reforestation projects
and organize volunteer
events.

“The real impact goes beyond
the tree,” Diana Chaplin, One
Tree Planted's marketing
director, said. “Our projects
have unique stories.
Reforestation can contribute
to clean water, food security,
or habitat restoration and
that’s often woven into that
project.”

One Tree Planted is matching
every donation it receives
between Black Friday and
Giving Tuesday. Other
organizations that work
towards reforestation efforts
are The Nature
Conservancy and Trees
for the Future.
It is estimated that eight million tons of plastic trash end up dumped into our oceans every year, and 80 percent of ocean pollution comes from land-based resources. Much of the litter is then consumed by seabirds and marine mammals, causing over a million bird deaths and over 100,000 mammal deaths every year. Agricultural run-off, chemicals from pesticides, and untreated sewage also finds its way into the oceans.

**Clean Ocean Action** is a nonprofit that focuses specifically on the well-being of waterways in the New York and New Jersey area. Spencer Munson, the group's resource and event coordinator, says 84 cents of every dollar donated going to projects to aid the water quality of the oceans and waterways in and around the two states.

The growing organization has been able to host large “beach sweeps”—or volunteer ocean cleanup days—and to monitor water quality for harmful pathogens. It also works as an ocean industrialization “watchdog” to stop initiatives like fossil fuel proposals from going forward, Munson said.

“Consider donating to a small organization with a high reputation and who appropriately uses their funds,” Munson told The Daily Beast, noting the
well-known groups that work to clean up oceans are The Ocean Conservancy and the Surfrider Foundation.

**Recycling**

Almost two billion metric tons of CO2 were released into the atmosphere in 2015 thanks to emissions from plastics production. Carbon is released throughout the entire life-cycle of a plastic item: from extracting petroleum to make plastic resins, transporting the plastic good to the market, and incinerating and recycling the item after it's disposed of. With over 90 percent of plastic going unrecycled in 2018, recycling has been called one of the simplest ways to reduce the emissions that come from plastic use.

**The Container Recycling Institute** focuses on developing research and educating industry stakeholders to improve the collection and quality of the recycling system. Susan Collins, president of CRI, also said the group often worked with state entities to “help them create the best legislation around the recycling issue.”

Collins was also quick to point out the importance of reducing the use of plastics in reducing emissions. Another non-profit, 5 Gyres, works to stop plastic emissions at
the elimination of single-use plastics.

**Water and Food Security**

In 2013, it was estimated that 2 billion people in the global population experienced food insecurity and undernutrition had increased due to a number of pressures—one of them being “extreme climatic events.” It has also been suggested that major crop yields in Africa and South Asia could reduce by eight percent by the 2050s due to climate change factors, which could leave even more individuals malnourished and underfed.

**The One Acre Fund** provides a bundle of long-term services to help rural, smallholder farmers in sub-Saharan Africa provide food to their communities and earn money along the way. After providing farmers with seeds and fertilizer on credit, the organization trains the farmers on modern agricultural techniques and about the agricultural marketplace to help them turn a profit—helping ensure the farm’s lasting impact within their community.

In addition to helping small-scale farmers, **Action Against Hunger** also provides food, cash, and other resources to areas devastated by natural disasters and other emergencies. **Charity:**
partnered with reputable organizations to build over 44,000 community-owned water projects in 27 countries so far.

**Clean Energy and Green Cities**

Clean energy has long been a focus of policy makers as a means of reducing greenhouse gases that electricity production emits. According to the Environmental Protection Agency, 28 percent of U.S. greenhouse gas emissions came from the production of electricity—with about 63 percent of electricity coming from the burning of coal and natural gas.

**GRID Alternatives** is a nonprofit that aims to bring clean energy benefits and resources to low-income communities, with the aim of reducing residents’ energy bills and expanding the reach of energy alternatives. It installs solar systems exclusively in underserved neighborhoods and provide solar industry job training while performing installations. Sarah Bucci, the group’s senior marketing director, said the organization installed solar systems in over 15,000 households and provided job training to over 40,000 individuals.

“We’re working towards a just transition to clean
energy can tackle environment and economic justice issues in one fell swoop... We’re focused on people, planet, and employment.”

The Institute for Sustainable Communities also tackles global sustainability issues by focusing on helping cities, communities, and factories engage in more environmentally-friendly practices. In cities, ISC helps municipal governments cut emissions, educates leaders about sustainable practices, and provides funding for initiatives on the local level. The group also provides green infrastructure technologies, strategic funding, and connections with factories and larger cities to underserved communities.

Fighting Fossil Fuels

The majority of greenhouse gas emissions are carbon dioxide, and according to the EPA, the use of fossil fuels is the primary source of carbon dioxide being released into the air. 350.org—named after 350 parts per million, or the determined safe concentration of carbon dioxide in the atmosphere—says it cares about three things: getting money back from the fossil fuel industry and putting the funds towards an economy of...
with efforts like the Green New Deal; and organizing climate strikes against the fossil fuel industry.

Tamara Toles O’Laughlin, the North America director for the non-profit, says the group works worldwide to make companies, politicians, and banks pay for their role in the fossil fuel industry—both literally and figuratively.

“We’re not just talking about climate liability... We’re trying to cut the funnel of money to fossil fuels and re-divert it back to the community. We believe that the money that we’re spending could be put elsewhere,” O’Laughlin said, adding that 350.org works to “accelerate” efforts to enable communities to do green energy work and demand fossil fuel divestment.

According to O’Laughlin, about 80 percent of 350.org’s donations goes into their work. It also has an affiliated political action arm.

Endangered Animals

Animals have been the first casualties of human-induced climate change. The Bramble Cay melomys, native to Australia’s Torres Strait, officially became extinct in February—with the Queensland state government declaring that ocean flooding had caused “dramatic habitat loss” for
individuals.” A recent study also found that 99.8 percent of the 459 endangered species in the U.S. were at-risk to climate change factors, but “management agencies are inadequately assessing” those threats or “planning action” against those threats.

**Defenders of Wildlife**

works to protect endangered species on the national, local, and grassroots levels. The group says 97 percent of their donations go directly towards their efforts to maintain the integrity of the Endangered Species Act from attacks against the Trump administration, to help local field offices with education and promotion of the issues, and to organize events like rallies that raise public awareness.

The local field offices collaborate with state agencies to ensure safe wildlife crossings, while the non-profit’s lawyers work to promote conservation law and protections for endangered animals.

**West Sound Wildlife Shelter**, a nonprofit wild animal medical facility in Washington state, is also a worthy cause to directly help wildlife. The facility rescues and treats injured, sick, and orphaned animals before releasing the creatures back into the wild.
Tab 34
In the town of Simeiz – famous in the USSR for being a gay resort – it was possible to go to the legendary bar Yezhi (“Hedgehogs”) for a drag show until 2014. According to Svyatoslav Sheremet, head of the All-Ukrainian Association Gay Forum of Ukraine, about 10,000 gays, lesbians, bisexuals, and transgender people lived in Crimea before the annexation.

**Fear and loathing in Crimea**
In March 2014, LGBT people became one of the most vulnerable groups in the occupied peninsula. In Crimea, Russian legislation prohibiting the "propaganda of homosexuality" was implemented and the practice of persecution of LGBT people began. In the first months of the occupation, many members of Russian nationalist movements – known for their homophobia – came to Crimea.

Today, international human rights organizations and UN missions are not allowed to enter the peninsula, while the self-proclaimed de-facto government incites hostility towards LGBT people.

In September 2014, Sergey Aksenov – the head of the government of Crimea – threatened on Twitter: “If gays take to the streets, self-defense forces and police will react accordingly. There won’t be gay parades in Crimea.”

The Yezhi bar is still open in Simeiz – but for 5 years, not a single public LGBT event has happened in Crimea.

READ MORE: "Let Him Live Free." How Parents Accept Their LGBT Children in Eastern Europe

In April 2016, the Russian LGBT activist Nikolay Alexeyev began to send alerts about hate crimes to the de-facto authorities of Crimean cities. Rather than cooperate, the Crimean authorities advised them to get out of Crimea: "We can recommend going to a free 'Gayrope', and walking along the streets of European states in safety, where there is complete tolerance. There is no need to come to our heroic land and walk here with rainbow ribbons," Dmitry Polonsky quotes Criminform quoting Deputy Aksenov, the so-called “Minister of Communications and Domestic Policies of Crimea”. At the same time, the militants of the “Crimean self-defense” made public insults and actual threats to Alexeyev.

"The regiment of the people's militia of Crimea is ready to meet proponents of same-sex perversions, pack and post them to where they will all be happy - to the Maidan” said the press service of the "self-defense" of Crimea.
Alexeyev appealed against the refusal in Russian courts, and then to the European Court of Human Rights (ECtHR). A total of 360 such bans were adopted in Russia and Crimea. According to the bans in Russian cities, the ECtHR has already made two decisions in favor of the activists, but, as Alexeyev said in a comment to Hromadske, “there is no progress in the implementation of these decisions.” The ECtHR has postponed consideration of complaints about bans in Crimea due to geopolitical issues, he says.

In 2016, Anti-Discrimination Center “Memorial” together with the Ukrainian Center for Civil Liberties prepared a human rights report on violation of LGBT rights in occupied Crimea and Donbas. The text contains numerous cases of physical attacks, moral violence against LGBT people, as well as people with an “unusual look” which may classify them as members of the LGBT community. There are even cases of targeted hunting for gays.

One respondent, who lives in Crimea, spoke about the case of a fake date, arranged through a social network. “In the apartment, five aggressive homophobes were waiting for him. They undressed him, brought him into the shower, beat him, forced him to lick the toilet, drink vodka, filmed everything
Discrimination in Donbas

In the self-proclaimed “DPR” and “LPR” the situation is even worse. In the first edition of the “Constitution of the DPR” there was a direct ban on same-sex relationships: “Perverted unions between people of the same sex are prosecuted by law.” These lines were removed from the “constitution”, but persecution remained.

READ MORE: Chechnya’s LGBTQ Purges Continue Amid International Backlash Against Russian Authorities

Human rights activists cite numerous cases of reprisals against LGBT people: “A friend witnessed a gay man being shot and buried behind the Yasynuvatskyi post,” said a respondent from Donetsk. Often the persecution of gays in the self-proclaimed “DPR” and “LPR” was connected with mercenary motives: “People were brought to ‘the Basement’ for intimidation, ransom, and free labor,” respondents said.

Many LGBT people have already left the territories not controlled by the Ukrainian government in the east of the country. Transgender people have it even harder. Due to inconsistencies in appearance in the documents, they cannot leave. And social discrimination makes it almost impossible to find work, get social services, rent housing.

Oleksandra Romantsova, deputy head of the board of the Center for Civil Liberties, draws attention to the fact that Russian legislation has some progressive elements regarding transgender people. For example, there is a procedure for changing sex and obtaining new documents. But these norms are difficult to use, at least in the occupied territory - because of the attitude of the security forces and the authorities:

“There were people who remained in Crimea hoping that this opportunity would be greater and better than in Ukraine. And now they have left Crimea -
they are in mainland Ukraine. They say that everything that is positive in the legislation of the Russian Federation cannot be applied in Crimea,” says Romantsova.

Mainland Ukraine has room for improvement

At the same time, on the free territory of Ukraine, progress in the protection of LGBT rights is hardly prompt. The number of registered hate crimes is increasing, and in society, according to the annual report by the Commissioner for Human Rights, prejudice remains towards LGBT people, which can be promoted even by local councils. “There were signs of incitement to discrimination on the basis of sexual orientation and gender identity,” reads the 2018 report by Lyudmyla Denisova. In 2018, the ombudsman’s office opened 28 LGBT discrimination cases.

READ MORE: "We Are All Human". KyivPride 2019 (PHOTOS)

However, according to human rights activists: “In Ukraine, if you turn to the press, they will react. There are people in Ukraine who support the freedom and rights of the LGBT community. And you can get support, perhaps not from the whole society, but parts of it, for sure. In the occupied territories, people who are loyal or support LGBT people are not able to express support in public.”

TRENDING

Belarus’ Lukashenko Wants to Keep Swinging Between Russia and the West

TV Rain’s Mikhail Fishman Predicts Increasing Strain Ahead of 2021 Russia
Tab 35
The Qbar was always an awkward fit in the nightlife of Sevastopol. It was the only place in the Ukrainian city to host the occasional drag show, and certainly the only place where the all-male waitstaff wore booty shorts beneath their aprons. In other parts of Europe, and even many cities in mainland Ukraine, the camp décor would have raised few eyebrows. But Sevastopol is a macho place. It houses the Russian Black Sea naval fleet, and its streets are studded with the homes and memorials of veterans from Russian wars going back to the 18th century. So even before Russia decided in March of this year to annex the city from Ukraine along with the rest of the Crimean peninsula, the locals, both Russian and Ukrainian, looked at the Qbar with a bit of suspicion.

“For a long time they were afraid,” says Yegor Guskov, who ran the bar along with his partner, Bogdan Zinchenko, since it opened in 2007. Mostly out of a fear of the unfamiliar, the Ukrainian officials who worked next door at City Hall were “worried at first that someone would fondle them if they came inside,” he says. “But then they realized it was safe, and the food is really
good. So they started coming to eat.” By day the bar would be full of dowdy bureaucrats on their
lunch breaks; by night it was packed with lithe young men and women taking Sambuca shots and
dancing to Britney Spears. It filled a niche, and business prospered.

But like a lot of things about life in Sevastopol, all of that changed after the Russian annexation.
In response to this year’s pro-Western revolution in Ukraine, Russian President Vladimir Putin
sent troops to occupy the region of Crimea, many of them fanning out from the Russian naval
base in Sevastopol. The invasion quickly helped install a new set of leaders in the region, who
organized a slipshod referendum to call for Crimea to secede from Ukraine. When the vote
passed with an overwhelming majority – most of Crimea’s residents are ethnic Russians – Putin
signed a decree absorbing the peninsula into the Russian Federation. Its two million citizens
thus found themselves living under Russian law.

For the gay community in Crimea, the most worrying piece of legislation was the Russian ban on
“homosexual propaganda,” which Putin signed in 2012. Although the law is billed as an effort to
protect Russian children from learning about “non-traditional sexual relationships,” its critics
say the law encourages homophobia, signaling to Russians that gays are somehow inferior and
should not be allowed to insist on their equality in public.

Since March, the new leaders of Crimea have embraced these principles with gusto. The head of
the regional government, Sergei Aksyonov, said that the West’s liberal attitude toward gay rights
would be “intolerable and unacceptable” on his peninsula during a meeting with his ministers
last month. “In Crimea we don’t welcome such people, we don’t need them,” he said, referring to
homosexuals. If they ever try to stage a pride parade or any other public events, Aksyonov
warned that the local police and paramilitary forces would “take three minutes to clarify what
[sexual] orientation is right.”

That sort of discrimination began to hit home for the Qbar in April, after Moscow appointed a
retired officer of the Black Sea fleet to serve as the acting head of Sevastopol. Through their
patrons from City Hall, the bar’s owners learned that “someone had whispered to the new
leadership that they have a gay bar sitting right underneath them,” says Guskov. A series of fire
and tax inspections followed, hitting the bar with fines and official reprimands that made its
managers understand they weren’t welcome anymore.
At first they tried some cosmetic remedies. They removed the Ukrainian-language sign from their door and made the waiters put on trousers instead of their trademark denim shorts. They even took the letter Q out of the name of the bar, Guskov says, because the local officials said it looked like a symbol for sodomy. “We changed the format,” he says. “We tried to make it into a normal eatery.”

But none of that made them feel safe in the city they call home. Not only are the pair among the most open of Sevastopol’s chronically closeted gays, but Guskov and Zinchenko have a two-year-old son, Timur, from a surrogate mother. The chance that some technocrat could question their custody of Timur, plus their desire to have more children, convinced them that it was time to leave Crimea behind.

In August, they joined the quiet stream of émigrés – thousands of them, even by conservative estimates – who have left the peninsula and moved to mainland Ukraine since the annexation. The largest groups have been from Crimea’s ethnic minorities, primarily Muslim Tatars and ethnic Ukrainians, who have both raised alarms over repression and discrimination since their towns and cities became a part of Russia. But the region’s gay men and women have also been moving away, as much out of protest at the annexation as out of a fear of becoming the targets of a state-backed campaign of homophobia.

Guskov believes that campaign won’t be long in coming. “When it became clear that Russia needs to prepare for isolation from Europe, it needed to smear the Europeans somehow, and the simplest is to spread this idea of perverted, decadent Gayropeans,” he says, using the derogatory term for Europeans—‘Gayropeytsy’—that has entered the Russian vernacular. “So this witch hunt at home is needed as a tool to smear opponents abroad,” he says.

In Crimea, adds Zinchenko, the warning signs are easy to see. If elderly neighbors were happy before to coddle Timur and offer his parents advice on how to raise him, now the Soviet tradition of the “donos” – denouncing an acquaintance to the police – has started to return, he says. “People are writing these accusations against their neighbors just to show how patriotic they are, how loyal,” he says. “These are all signals for us. They show that we can become a target.”

That suspicion is what forced Guskov and Zinchenko to give up their business in Sevastopol, pack up their things and moved to Kiev. Along the way, the New York City-based photographer Misha Friedman joined them to document their journey, which he felt was emblematic of the transformation that Crimea, and the rest of Ukraine, have undergone since the annexation.
“They just struck me as a normal happy family,” the photographer says. “They just got caught up in the politics of bigotry.” As they make their new home in the capital, they’re thinking of opening up a new Qbar, which will have to deal with a lot more competition in Kiev’s vibrant gay scene. But this seems like a minor worry compared to the risks they faced in the new Sevastopol.

Read next: What the Vatican Really Said About Homosexuality
Tab 36
‘We keep her status to ourselves’: Experiences of stigma and discrimination among HIV-discordant couples in South Africa, Tanzania and Ukraine

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‘We keep her status to ourselves’: Experiences of stigma and discrimination among HIV-discordant couples in South Africa, Tanzania and Ukraine

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Abstract

In HIV-discordant relationships, the HIV-negative partner also carries the burden of a stigmatised disease. For this reason, couples often hide their HIV-discordant status from family, friends and community members. This perpetuates the silence around HIV-discordant relationships and impacts on targeted HIV prevention, treatment and counselling efforts. This article reports on experiences of stigma and discrimination among HIV-discordant couples in South Africa, Tanzania and Ukraine. During 2008, HIV-discordant couples who had been in a relationship for at least one year were recruited purposively through health-care providers and civil society organisations in the three countries. Participants completed a brief self-administered questionnaire, while semi-structured interviews were conducted with each partner separately and with both partners together. Interviews were analysed using thematic content analysis. Fifty-one couples were recruited: 26 from South Africa, 10 from Tanzania, and 15 from Ukraine. Although most participants had disclosed their HIV status to someone other than their partner, few were living openly with HIV discordance. Experiences of stigma were common and included being subjected to gossip, rumours and name-calling, and HIV-negative partners being labelled as HIV-positive. Perpetrators of discrimination included family members and health workers. Stigma and discrimination present unique and complex challenges to couples in HIV sero-discordant relationships in these three diverse countries. Addressing stigmatisation of HIV-discordant couples requires a holistic human rights approach and specific programme efforts to address discrimination in the health system.

Keywords: HIV-discordance, stigma, discrimination, couples, South Africa, Tanzania, Ukraine

Résumé

Dans les couples sérodiscordants pour le VIH, le partenaire séronégatif porte aussi le fardeau de la stigmatisation lié à la maladie. C’est pourquoi, ces couples sérodiscordants cachent souvent leur état sérologique à leur famille, à leurs amis et à la communauté. Cela perpétue le silence qui entoure les relations sérodiscordantes et a un impact important sur les efforts de prévention et de traitement et sur les conseils psychologiques en rapport avec le VIH. Dans cet article, il est question de la stigmatisation et de la discrimination vécues par les couples sérodiscordants en Afrique du Sud, en Tanzanie et en Ukraine. Au cours de l’année 2008, des couples sérodiscordants qui étaient dans une relation depuis au moins un an ont été intentionnellement recrutés par l’entremise de dispensateurs de soins de santé et d’organisations de la société civile dans les trois pays mentionnés. Les participants à l’étude ont répondu à un bref questionnaire autoadministré. Des entrevues semi-structurées ont été menées avec les partenaires, ensemble et séparément, et leur contenu a fait l’objet d’une analyse thématique. Cinquante-et-un couples ont été recrutés, dont 26 en Afrique du Sud, 10 en Tanzanie et 15 en Ukraine. La plupart des participants avaient divulgué leur séropositivité à quelqu’un d’autre que leur partenaire, mais peu de couples vivaient ouvertement leur sérodiscordance. Les expériences de stigmatisation étaient fréquentes et comprenaient les potins, les rumeurs, les injures et le fait pour le partenaire séronégatif d’être considéré d’emblée comme étant séropositif. La discrimination vécue provenait aussi des membres de la famille et des dispensateurs de soins de santé. La stigmatisation et la discrimination présentent des enjeux uniques et complexes pour les couples sérodiscordants dans les trois pays. Pour répondre à ces enjeux, il faut une approche globale basée sur les droits de la personne ainsi que des programmes ciblant spécifiquement la discrimination dans le système de santé.

Mots clés: sérodiscordants pour le VIH, stigmatisation, discrimination, couples, Afrique du Sud, Tanzanie, Ukraine

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Introduction

The HIV pandemic continues to be a major global public health priority (UNAIDS & WHO 2013). South Africa, Tanzania and Ukraine, the three study countries, differ in their HIV epidemiological patterns and modes of transmission (UNAIDS & WHO 2013). Both South Africa and Tanzania experience generalised epidemics with primarily heterosexual transmission (UNAIDS & WHO 2013). HIV prevalence among persons aged 15–49 years is estimated to be 17.9% in South Africa and 5.1% in Tanzania (UNAIDS & WHO 2013). In contrast, Ukraine experiences a concentrated epidemic with transmission mainly occurring through injecting drug use, and it has an estimated HIV prevalence of 0.9% (UNAIDS & WHO 2013).


Research on HIV-discordance has been dominated by biomedical studies on the epidemiology of discordance and factors related to HIV transmission (Freeman & Glynn 2004; Guthrie et al. 2007; Hugonnet, Moshia, Todd, Mugeye, Klokke & Ndeki 2002; Lingappa et al. 2008). In recent years, there has been an increased focus on the psychosocial aspects of HIV-discordance (Persson & Richards 2008; Rispel, Cloete, Metcalf, Moody & Caswell 2012; Rispel, Metcalf, Moody, Cloete & Caswell 2011). Notwithstanding the increased focus on the psychosocial aspects of HIV-discordance, studies have tended to focus on the reproductive decisions of sero-discordant couples (Cook, Hayden, Weiss & Jones 2014; Cooper, Harries, Myer, Orner & Bracken 2007; Cooper, Moodley, Zwegershal, Bekker, Shah & Myer 2009; Rispel et al. 2011; Withers, Dworkin, Harrington, Kwenza, Onono, Bukusi, et al. 2013). There is a dearth of studies on stigma experienced by couples in a sero-discordant relationship. Addressing stigma as part of the global HIV response remains a priority for national (SANAC 2011) and international (UNAIDS & WHO 2013) funding, policy development and programmes.

The departure point for much of the scholarly work on stigma remains Goffman’s classic study (Goffman 1963), leading to a subsequent proliferation of research on conceptual refinements of stigma, the nature, sources and consequences of stigma, and demonstrations of the impact of stigma on the lives of the stigmatised (Brickley, Le Dung Hanh, Nguyen, Mandel, Giang le & Sohn 2009; Cloete, Simbayi, Kalichman, Strebel & Linda 2008; Earnshaw & Chaudoir 2009; Frye, Fortin, Mackenzie, Purcell, Edwards, Mitchell, et al. 2009). Although dynamic and multi-dimensional, often occurring within the context of unequal power relationships, different types of stigma have been identified, such as: internalised stigma; perceived stigma or the subjective awareness or fear of stigma; and enacted stigma or overt discrimination (Mall, Middelkoop, Mark, Wood & Bekker 2013; Parker & Aggleton 2003; Steward, Herek, Ramakrishna, Bharat, Chandy, Wrubel, et al. 2008; Thomas 2006; Weiss, Ramakrishna & Somma 2006).

In 2007, the Global Network of People Living with HIV (GNP+) commissioned an exploratory study on the psychosocial aspects of HIV discordance to inform their advocacy programmes. This paper discusses experiences of stigma and discrimination among 51 HIV sero-discordant couples in South Africa, Tanzania and Ukraine, who were recruited through health-care providers and civil society organisations and who had been in a relationship for at least one year.

Methodology

In this study, HIV stigma refers to the ‘socially shared knowledge about the devalued status of people living with HIV (PLHIV), manifested in prejudice, discounting, discrediting, and discrimination directed at people perceived to have HIV and the individuals, groups, and communities with which they are associated’ (Steward et al. 2008: 1226).

The study was conducted in South Africa (Johannesburg and Cape Town), Tanzania (Dar es Salaam) and Ukraine (Kiev, Rivne and Ivano-Frankovsk) during 2008. The choice of study countries was determined largely by practical considerations, namely the location of the researchers; a convenient means of recruiting sero-discordant couples within a short time period and access to an appropriate in-country research ethics committee to provide ethics approval for the research. The population of interest was couples in long-term sexual relationships, in which one partner was HIV-positive, and the other HIV-negative. To be eligible to participate, the HIV-discordant couples were required to be in a relationship for at least one year, with known HIV-discordant status for at least 1 year previously, and both partners were required to be 18 years of age or older. Participants were not required to be legally married, to be living with their partner or to be monogamous. No testing or documentation was used to confirm the HIV status of either partner.

The couples were recruited purposively through health-care providers and civil society organisations in the three countries. In each country, ethics approval was obtained from an appropriate local ethics committee. Potential participants were approached by either a health-care provider or a person who was already aware of the couple’s discordant status, in order to protect the privacy and respect the confidentiality of the individuals’ HIV status. Researchers contacted potential participants who had given permission to be contacted. Individual written voluntary informed consent was obtained from each partner. All couples approached agreed to be interviewed in Tanzania and Ukraine. However, in South Africa, an additional nine sero-discordant couples were identified but were not included in the study.
either because they could not be contacted or because one or both partners refused to participate.

Consent forms and measuring instruments were developed in English and translated into the predominant local languages. Participants were interviewed by trained fieldworkers in the language of their choice in their home or at a suitable, convenient venue. They completed a brief structured, self-administered questionnaire and participated in a semi-structured qualitative individual interview and a semi-structured couple interview. The self-administered questionnaire focused on demographic characteristics, history and duration of the current relationship, HIV-testing and health history of each partner, and involvement in HIV-related activities. The topics in the individual and couple interviews included: individual and couples’ experiences of being in a discordant relationship; experiences of stigma and discrimination, including social pressure faced by both partners to have only HIV-concordant relationships; and disclosure of HIV status and issues related to family members and friends from the perspective of both the HIV-positive and HIV-negative partners. Participants were asked about their experiences of stigma and whether they had ever been discriminated against because of their or their current partners’ HIV status. This approach recognises that social relations are lived and experienced through emotions (Parker & Aggleton 2003; Thomas 2006; Van-Devanter, Stuart Thacker, Bass & Arnold 1999). Each set of interviews took between two and three hours. A voucher, equivalent in value to US$15, was given to each couple at the end of the interview to thank them for their participation.

The self-administered questionnaires were coded, using a standard coding sheet and analysed using STATA® 10. In South Africa and Tanzania, information on stigma, discrimination and disclosure from the individual and couple qualitative interviews was extracted, coded and included in the quantitative analysis. The qualitative interviews from South Africa and Tanzania were translated into English, transcribed and analysed using thematic content analysis (Miles, Huberman & Saldana 2014). The steps consisted of: open coding using the participants’ own words and phrases and without preconceived notions or classification; examining language used by each partner or couple; categorising the information from all the interviews and finally theoretical coding in which open codes and categories were compared to generate an analytic schema and to interpret the findings (Miles et al. 2014). Only a summary of the qualitative interviews from Ukraine was available due to logistical difficulties with translating the interviews back into English.

Findings
Fifty-one couples were recruited: 26 from South Africa, 10 from Tanzania and 15 from Ukraine. The mean age of all participants was 34 years, with a range of 20–54. Fifty-three per cent of the HIV-positive participants were women. Couples had been in their current relationship for a mean period of six years. The vast majority of the couples were in heterosexual relationships, with only three homosexual couples, all of whom were located in South Africa. The Ukrainian participants were slightly younger, with a mean age of 29 years (range 20–39), compared with a mean age of 35 years among the South African participants and 37 years among the Tanzanian participants (Rispel, Metcalf, Moody & Cloete 2009). Seventy-three per cent (74/102) of participants were in employment, with 67% of HIV-positive participants in employment, compared with 78% of HIV-negative individuals (Rispel et al. 2009). The nature of these individuals’ employment varied greatly, from low-skilled occupations such as cleaning and driving, to highly skilled occupations such as senior civil servants, managers and lawyers. The majority of couples (83%) lived together (South Africa: 19/26, 73%; Tanzania: 10/10, 100%; Ukraine: 13/15, 87%), and 58% had formalised their relationship either through marriage or a civil union (South Africa: 14/26, 54%; Tanzania: 5/10, 50%; Ukraine: 11/15, 73%) (Rispel et al. 2009).

The majority of participants in Tanzania (60%) had experienced overt discrimination, compared with 21% in South Africa. Forty-three per cent of the HIV-positive participants had experienced discrimination compared with 24% of the HIV-negative participants.

Couples’ experiences of stigma included: dealing with gossip, rumours and name-calling, and ‘labelling’ (i.e. the assumption by others that the HIV-negative partner is HIV-positive); discrimination from family members and friends (including pressure to leave the discordant relationship); discrimination by healthcare professionals; and broader community and societal discrimination. These categories overlap but are discussed separately for the sake of clarity.

Gossip, rumours, name-calling and labelling
Participants reported stigmatising experiences of varying severity, as illustrated by the following quotes:

[Discrimination occurs] in a more subtle way. For example there are rumours that my partner wants attention, and that’s why he is having a relationship with an HIV-positive woman. My partner got calls from his ex-girlfriends who are questioning his choices. (HIV-positive woman, Couple 4, South Africa)

I quarrelled with one lady at work, who then discussed me with other colleagues . . . that I am sick with HIV . . . (HIV-positive woman, Couple 15, South Africa)

Family and community members have limited knowledge or understanding of HIV discordance and they also have to deal with a ‘positive by association’ perception following disclosure:

I told my family that I am living in [a] discordant relationship, even though relatives did not believe that I am [HIV-] negative, while my partner is [HIV-] positive. My friends are making me scared of staying with a positive partner. They are asking questions every day. (HIV-negative woman, Couple 3, Tanzania)

I experienced shock and disbelief from family and friends. Most could not understand the fact that I am [HIV-] negative and my wife is HIV-positive. (HIV-negative man, Couple 14, South Africa)
Discrimination from family members and friends

In those instances where couples had disclosed to family members and friends, they reported experiences of stigma and discrimination. Couples reported both subtle and overt pressure from families, especially those of the HIV-negative partners, and friends, to leave the discordant relationship.

I fought a battle with my family, I explained to my parents. My parents are protective, and they are worried that we will default...so they keep a watchful eye. We still battle to be together. (HIV-negative man, Couple 4, South Africa)

The family labels us and calls us stigmatising names. My wife’s relatives are the most stigmatising especially during festivals like marriage...We are given names like ‘walking corpse’. (HIV-negative man, Couple 7, Tanzania)

My mother once said that she knows about our misfortune [wife is HIV-positive] but we never talked about it after that. My brother probably guesses too, but we don’t discuss these issues with him either. (HIV-negative man, Ukraine)

Couples also have to deal with the perceptions of or pressure from friends who have been taken into confidence about the couples’ HIV-discordant status.

Yes, I have experienced discrimination...sometimes friends are saying: Why are you living with an HIV-positive woman? You are still young, you can get another woman. (HIV-negative man, Couple 1, Tanzania)

I disclosed to my best friend, and my mom. My brother and sister were totally against the relationship. My friend wanted to find out if I am certain of starting a relationship with a partner who is HIV-positive and if I understand the implications and consequences of being in such a relationship. (HIV-negative woman, Couple 17, South Africa)

Discrimination by health-care professionals

In Ukraine, discrimination by health-care professionals was a reported problem.

I needed serious surgery on my jaw. When I applied to medical professionals, the surgeons, informing them about my positive status, I was refused on the basis of all kinds of made-up reasons. (HIV-positive man, Rivne, Ukraine)

When I need medical assistance I try to apply to the AIDS centre. If they don’t have a medical specialist I need, I go to the clinic but I don’t inform them about my [HIV-] positive status. I feel better that way. (HIV-positive woman, Kiev, Ukraine)

Broader community and societal discrimination

In our study, couples reported discrimination, ranging from excessive questioning about the word “HIV” appearing on a participant’s organisational letterhead, to rejection by insurance companies.

One of the Ukrainian participants reported having difficulty in securing a car loan because she worked for an HIV service organisation.

There was such a moment when I was buying a car. I was paying a rather good pre-payment – 25% of total cost and when I presented an income statement – it was okay. I have a decent salary – it had the name of my employer. I received a phone call from the bank asking a lot of questions about the organisation I work for. I think it was connected with that, and because of that I was asked to present a number of additional documents they didn’t mention before, and find a guarantor, although with such big pre-payment the guarantor is not required. (HIV-positive woman, Kiev, Ukraine)

Some countries have policies barring entry by travellers who are HIV-positive. One HIV-positive woman interviewed in Ukraine reported that she had been refused a US travel visa because she was HIV-positive.

Disclosure of HIV status

Seventy-three per cent of the South African participants and 90% of the Tanzanian participants had disclosed their discordant-couple status. Among the HIV-positive participants in South Africa and Tanzania, 81% had disclosed their sero-discordant status to someone, compared with 75% of the HIV-negative participants. Nonetheless, very few were living openly as an HIV-discordant couple. Those who were living openly often felt empowered by disclosing publicly and thought that there was some advantage in living openly as there was no need for people to probe or spread rumours:

I was comfortable talking to my family and friends, because I know they care about me. I had to explain my situation to them about my love for this girl. I told them I fell in love with her soul. I was actually safe because I knew her status. (HIV-negative man, Couple 4, South Africa)

Other couples who were living openly as a discordant couple wanted to be role models and to encourage greater openness about HIV.

I decided to share due to fear of AIDS-related illness. I also wanted to be a role-model, so that anyone who is infected can be open and go for treatment, rather than going to traditional healers. (HIV-positive woman, Couple 7, Tanzania)

We came out on a local educational TV series about our HIV-discordant status. We discuss our discordant-couple status with everybody and anybody. (HIV-positive man, same-sex Couple 23, South Africa)

The interviews revealed the complexity of selective disclosure, that is, individuals and couples appear to make conscious choices regarding the person(s) to whom they disclose. The study found
that disclosure was limited to close family members, friends or to support groups (Table 1).

The decision to disclose selectively was often linked to the need for psychosocial support, as can be understood from the following comments:

I shared with a group of people living with HIV and AIDS because they share the common objective and I receive counselling support from the group. (HIV-positive man, Couple 5, Tanzania)

In Ukraine, closest relatives such as parents were informed in some cases, but couples chose to keep their HIV-discordant status confidential.

Practically no one in my family knows about my problem. Only close friends and my partner, the person I live with, know. I don’t hide it [HIV status] but I don’t think one should yell about it. (HIV-positive woman, Kiev, Ukraine)

In the case of non-disclosure (22% of participants), the fear of stigma and discrimination was the overwhelming reason for non-disclosure, evidenced by the testimonies of several participants:

We made a decision with my partner to keep her HIV-positive status to ourselves because of the stigma and discrimination attached to the condition. (HIV-negative man, Couple 10, South Africa)

I have decided with my partner not to disclose my status as my mother is hypertensive and is easily disturbed by minor issues. Additionally, I do not want to disclose my status to my two brothers and sister as they all abuse alcohol, and after their drinking spree, they will abuse me verbally. (HIV-positive woman, Couple 13, South Africa)

I have not shared with anybody about being discordant, only with my partner. (HIV-positive man, Couple 2, Tanzania)

This couple from Tanzania (see the previous quotation) explained that the reasons for not disclosing their discordant relationship were that they thought that family members did not have knowledge of HIV and of HIV-discordant couples. They also feared stigma and discrimination. The couple lived in a rented house, and feared that they might be evicted from their house and become isolated and labelled if people found out about the partner’s HIV-positive status. This was reiterated by another Tanzanian couple who said that they did not want to disclose to their family members and friends because they perceive them to have insufficient knowledge of HIV discordance, and the couple feared being stigmatised. The HIV-positive partner said that he did not want to disclose his status because he was still healthy, but said that he planned to disclose later when he became sick and bed-ridden.

One South African woman feared the consequences of disclosure to her mother, and to her HIV-negative partner’s family, whom she considered to be very religious. She explained it as follows:

My mother would be shunned and discriminated against. I am also concerned about the church and what they would say ... there are views of HIV as being promiscuous – the parents of my partner are old and very religious ... I am worried how it would affect them. (HIV-positive woman, Couple 5, South Africa)

Table 1. Participants’ reported disclosure of HIV-discordant relationship in South Africa and Tanzania (percentages in parentheses).

<table>
<thead>
<tr>
<th>Nature of disclosure</th>
<th>HIV-positive participants</th>
<th>HIV-negative participants</th>
<th>All African participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>No disclosure (i.e. only partner knows)</td>
<td>7 (19)</td>
<td>8 (25)</td>
<td>15 (22)</td>
</tr>
<tr>
<td>Some immediate family members of positive partner (e.g. sister, brother or parent) only</td>
<td>3 (8)</td>
<td>1 (3)</td>
<td>4 (6)</td>
</tr>
<tr>
<td>All immediate family members of positive partner (parent, sisters and brothers)</td>
<td>1 (3)</td>
<td>1 (3)</td>
<td>2 (3)</td>
</tr>
<tr>
<td>Some immediate family members of negative partner (e.g. sister, brother or parent) only</td>
<td>0 (0)</td>
<td>3 (9)</td>
<td>3 (4)</td>
</tr>
<tr>
<td>Immediate family members on both sides</td>
<td>2 (6)</td>
<td>3 (9)</td>
<td>5 (7)</td>
</tr>
<tr>
<td>Immediate family members and friends</td>
<td>19 (53)</td>
<td>13 (41)</td>
<td>32 (47)</td>
</tr>
<tr>
<td>Other (disclosed to friend, colleague, pastor/priest or support group members only)</td>
<td>4 (12)</td>
<td>3 (9)</td>
<td>7 (10)</td>
</tr>
<tr>
<td>Total</td>
<td>36</td>
<td>32</td>
<td>68</td>
</tr>
</tbody>
</table>

Notes: This information was obtained from individual qualitative interviews, and was not available for Ukraine. Only a summary report of the qualitative data was obtained from Ukraine.
Discussion

This study provides rich insight into the experiences of stigma and discrimination among HIV-discordant couples in South Africa, Tanzania and Ukraine. It is one of few studies focusing on couples and that explored the psychosocial dimensions of living in a HIV-discordant relationship, beyond an individual focus and/or a biomedical understanding of HIV discordance.

Disclosure of HIV status is generally thought to be an affirmative and empowering action that assists people in receiving support and understanding, and one that minimises psychological distress (Gillet & Parr 2010; Muhimbura, Ssegujja, Ssali, Tumwine, Nekesa, Nunnungi, et al. 2014; Sayles, Ryan, Silver, Sarkisian & Cunningham 2007). In contrast to other studies that focus on disclosure of HIV status to potential and current sex partners by HIV-positive people, our study focused on disclosure of the HIV-discordant relationship. The majority of South African (73%) and Tanzanian (90%) participants had disclosed their HIV-discordant couple status, but only selectively. This selective disclosure is not surprising, as decisions around disclosure are personal and influenced by many factors, including family dynamics, economic dependence, gender inequalities and power (International HIV/AIDS Alliance 2007). An Australian study found that disclosure may open up tensions, fears, scrutiny, unspoken concerns or unresponsiveness which tend to amplify feelings of difference rather than provide therapeutic release (Persson & Richards 2008). An American study found that HIV-positive people manage the anticipated identity challenges associated with status disclosure in several ways, including non-disclosure, timing the disclosure or selective disclosure to minimise the negative effects on identity (Frye et al. 2009). In both South Africa and Tanzania, the majority of the HIV-positive participants were women. Other studies have suggested that the disclosure of HIV infection is more likely to provoke stigma in patriarchal and sexist settings and that the negative consequences of HIV infection and disclosure are greater for women than for men (Castro & Farmer 2005; Nyblade, Pande, Mathur, MacQuarrie, Kidd, Banteyerga, et al. 2003; Talley & Bettencourt 2010). Selective disclosure was also found to be a coping mechanism in a multi-country study in Ethiopia, Tanzania and Zambia (Nyblade et al. 2003). It has been suggested that the emphasis on the ‘therapeutic value of disclosure obscures the complexities of HIV stigma as socially produced and lived’ (Persson & Richards 2008: 73).

Participants’ reasons for non-disclosure related to fear of stigma and discrimination, evidenced by the poignant testimonies from various participants. In Ukraine, participants chose to keep their HIV status to themselves, and not make it a topic for discussion. Other studies have also shown that disclosure of HIV status is particularly difficult (Cloete et al. 2008; Persson & Richards 2008) and that high levels of perceived stigma limit disclosure of HIV status (Steward et al. 2008). A Ugandan study that explored couples’ explanations for discordance, challenges and prevention strategies found that couples feared disclosing their discordant relationship, in part due to a fear that others would not understand HIV discordance (Bunnell, Nassozzi, Marum, Mubangizi, Malamba, Dillon, et al. 2005). A multi-country African study found that many participants feared that disclosure would lead to generalised stigma and result in more specific repercussions, such as blame for HIV infection and loss of family support (Nyblade et al. 2003). The emphasis on disclosure has been criticised and it has been argued that non-disclosure could be enabling, as it allows HIV-positive individuals a sense of ‘control’ over their lives and allows them to assume a ‘socially normative identity’ (Persson & Richards 2008).

The fear of stigma and discrimination expressed by participants was not unfounded. In our study, 60% of the Tanzanian participants and 21% of the South African participants had experienced some form of discrimination. Almost double the number of HIV-positive participants (43%) compared with 24% of the HIV-negative participants had experienced some form of discrimination, ranging from gossip, rumours, name-calling and ‘labelling’ to overt discrimination by family members and friends, and broader societal discrimination. In a few instances, strained relationships and blame for HIV infection surfaced in current relationships, as was shown in a Ugandan study that explored couples’ explanations for discordance, challenges and prevention strategies (Bunnell et al. 2005).

In our study, stigma and discrimination by families and/or friends expressed itself through the pressure on the HIV-negative partner to leave the relationship, seemingly linked to the fear of HIV transmission to the HIV-negative partner. Although HIV transmission within a discordant relationship is a real possibility, the fear of HIV transmission is exacerbated by the general lack of knowledge about discordance. The findings in our study are supported by other studies that explored the experiences of HIV-positive individuals. A study that examined HIV stigma and discrimination among more than 600 individuals in South Africa, Tanzania, Thailand and Zimbabwe found that blame and gossip were common (Maman, Abler, Parker, Lane, Chirowodza, Ntswisangw, et al. 2009). Factors found to contribute to HIV stigma included fear of transmission, fear of suffering and death, and the burden of caring for sick individuals (Maman et al. 2009). Similarly, a multi-country study in Ethiopia, Tanzania and Zambia found that insufficient and inaccurate HIV knowledge, together with fear of death and disease, perpetuate beliefs in casual transmission and lead to avoidance of people with HIV (Nyblade et al. 2003). A South African study on the development of an AIDS-Related Stigma Scale found an inverse correlation between high stigma scores and AIDS knowledge (Kalichman, Simbayi, Jooste, Toefy, Cain, Cherry, et al. 2005).

In Ukraine, some HIV-positive participants reported overt discrimination by health-care professionals, but this did not emerge as an issue in South Africa and Tanzania. Other studies have found that health-care workers are often the source of stigma or they could be stigmatised because they care for PLHIV (Greeff, Uys, Holzemzer, Makose, Dlamini, Kohi, et al. 2008; Holzemzer & Uys 2004; Jha & Madison 2009; Li & Liang 2009; Varaz Diaz & Neelands 2009). A study conducted in China among more than 1000 health service providers found stigmatising attitudes, similar to perceived social norms in the general population (Li & Liang 2009). Participants who were younger or
reported personal contact with PLHIV were more likely to report positive attitudes to PLHIV and a low level of discrimination intent at work (Li & Liang 2009). Stigma that emanates from health professionals is a serious concern as it can limit access to services (Varaz Diaz & Neilands 2009). A Nepalese study found that health professionals lacked knowledge and sensitivity in providing health care to PLHIV, and that stigma and marginalisation seem to interfere with doctors’ and other health professionals’ decisions to treat persons who they perceive to be at high risk for HIV infection (Jha & Madison 2009).

The limitations of our study include the limited sample size, the inclusion of only three countries, and only three same-sex couples (all of whom were from South Africa). A further limitation was the recruitment of couples through health professionals and non-governmental organisations that provide services to HIV-positive individuals. Participants are likely to have had better access to and greater use of services, and to be better informed than discordant couples in the three study countries in general. The highly selective nature of our study participants limits the generalisability of our findings. Important perspectives may have been missed, given the heterogeneity of the HIV pandemic in the three countries. Information on sensitive topics was self-reported, thus there is likely to have been some social desirability bias in participants’ responses.

The strengths of our study include the use of mixed quantitative and qualitative methods, and conducting qualitative interviews with each partner separately as well as both partners together, thus exploring the nuances and contrasting perspectives among partners. A further strength was the restriction of eligibility to participate in the study to known discordant couples who were in long-term relationships, as participants had had time to work through the challenges of disclosure to sex partners. The study also provided the opportunity to gain an understanding of couples’ decisions around disclosure and their experiences of HIV stigma and discrimination, as opposed to those of individuals.

Conclusion
The study findings underscore the need for a human rights approach in combatting stigma and discrimination; accelerating or enhancing existing anti-stigma programmes and strengthening existing health services.

Stigma and fear of discrimination can inhibit people from disclosing their status to families, employers or health-care providers, from accessing specialised health-care services or from taking appropriate steps towards positive health, dignity and well-being (GNP+ & UNAIDS 2009; Mawar, Sahay, Pandit & Mahajan 2005). Although implementation lags behind, stigma and discrimination reduction are now recognised as national and international funding, policy and programme priorities (SANAC 2011; UNAIDS & WHO 2013).

The study findings highlight a general lack of understanding about HIV-discordant relationships among family members and friends of these couples. Recent encouraging developments have included the introduction of the People Living with HIV Stigma Index to provide a tool to measure and detect changing trends in relation to stigma and discrimination experienced by PLHIV (IPPF, GNP+, ICW & UNAIDS 2008). Implementing the PLHIV Index nationally is one way to build an understanding of and commitment to reduce stigma and discrimination. Other efforts include social mobilisation programmes to accelerate anti-stigma programmes in the workplace, in faith-based settings, in communities and in the media to address stigmatising attitudes and discriminatory practices.

In general, the provision of couple-sensitive health services is under-developed, but a re-orientation of health services towards the needs of couples is both cost-effective and can overcome challenges of stigma, discrimination and disclosure (WHO 2014). As many HIV-positive people report considerable stigma and discrimination in health-care settings, training of health-care workers about HIV and HIV-related discrimination, and the establishment of codes of conduct, should help to overcome these problems (Holzemer & Uys 2004; International HIV/AIDS Alliance 2007; Jha & Madison 2009; WHO 2014).

HIV discordance should form an integral part of the global and national response to the HIV epidemic. National plans and programmes should be located within an overall human rights approach and should place greater emphasis on dealing with stigma and discrimination, which cannot be separated from the need for a supportive policy, programme and resource environment.

Acknowledgements
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References


Tab 37
Glossary of Key Terms

**Backloading/frontloading**: “Backloading” and “frontloading” refer to a practice whereby one syringe is used to prepare the drug solution, which is then divided into one or more syringes for injection. The drug solution is shifted from one syringe into another with the needle (frontloading) or plunger (backloading) removed. HIV, hepatitis, and other infectious agents can be transmitted if the preparation syringe has been contaminated.

**Buprenorphine**: A medication used in opioid substitution therapy programs. It is included in the World Health Organization (WHO) Model List of Essential Medicines.

**Harm reduction**: Refers to a set of interventions designed to diminish the individual and societal harms associated with drug use, including the risk of HIV infection, without requiring the cessation of drug use. In practice, harm reduction programs include syringe exchange, drug substitution or replacement therapy using substances such as methadone, health and drug education, HIV and sexually transmitted disease screening, psychological counseling, and medical care.

**Injection equipment**: Items such as syringes, cottons, cookers, and water used in the process of preparing and injecting drugs. Each of these can be contaminated and transmit HIV or hepatitis. The broader term “drug paraphernalia” comprises injection equipment as well as items associated with noninjection drug use, such as crack pipes.

**Methadone**: A medication used in opioid substitution therapy programs. It is included in the WHO Model List of Essential Medicines.
Needle or syringe exchange points: Programs that provide sterile syringes in exchange for used ones. In addition to exchanging syringes, needle exchange points often provide HIV prevention information and screening, primary health care, and referrals to drug treatment and other health and social services.

Shirka: The popular name for one of the most commonly injected opiate derivates used in Ukraine, a homemade preparation of acetylated or extracted opium. In the Odessa region, shirka refers to a homemade amphetamine derivate known elsewhere in the country as vint or perventin.

Substitution or replacement therapy: Substitution therapy is the administration of a psychoactive substance pharmacologically related to the one creating substance dependence to substitute for that substance. Substitution therapy seeks to assist drug users in switching from illicit drugs of unknown potency, quality, and purity to legal drugs obtained from health service providers or other legal channels, thus reducing the risk of overdose and HIV risk behaviors, as well as the need to commit crimes to obtain drugs.

Syringes or needles: The main components of a syringe are a needle, a tubular syringe barrel, and a plastic plunger. Graduated markings on the barrel of a syringe are used to measure the water or saline solution used to dissolve a solid substance into liquid form. Syringes and needles vary in size and do not always come as one piece; a syringe with the needle attached is often referred to as an “insulin syringe.” While disinfection of syringes is possible, public health authorities recommend a new sterile syringe for every injection.

Ties or tourniquets: Items used to enlarge or “plump up” veins to facilitate injection. Blood on a tie can also be a source of infection. Common ties include a piece of rope, a belt, a rubber hose, and a piece of bicycle inner tube.

Vint or Perventin: The popular names for an injected homemade amphetamine derivate.

Withdrawal: Clinical symptoms associated with ceasing or reducing use of a chemical agent that affects the mind or mental processes (i.e., a “psychoactive” substance). Withdrawal usually occurs when a psychoactive substance has been taken repeatedly and/or in high doses.

I. Summary
Ukraine stands at an important crossroads in its effort to contain its deadly HIV/AIDS epidemic. Ukraine is home to the worst HIV/AIDS epidemic in Europe and one of the fastest growing epidemics in the world. As many as 416,000 people—1.7 percent of all Ukrainian adults age fifteen to forty-nine—are estimated to be living with HIV/AIDS. Driven largely by injection drug use and sex work, the epidemic disproportionately affects people who live at the margins of society and who face a high risk of police violence and abusive treatment in the health care system. Unless immediate and concerted action is taken, these human rights abuses could undo many of the important and well-intentioned steps Ukraine has already taken to stop its HIV/AIDS epidemic.

This report is based on the direct testimony of 101 people living with, or at high risk of, HIV/AIDS in Ukraine. They represent a small fraction of those affected by HIV/AIDS in the country, yet their stories reveal a common theme: physical and psychological abuse and violations of due process by police, coupled with widespread discrimination by health care providers, leave already vulnerable individuals with no place to turn for HIV prevention and treatment services.

In interviews with Human Rights Watch, drug users and sex workers said that Ukrainian police subjected them to physical and psychological violence as a means to extort money or information from them. Drug users reported that police had planted drugs on their person, forced them to sign false confessions, or threatened them or their family members with violence, if they did not pay them or provide information to them.

Police abuse, sometimes rising to the level of torture, is a chronic and widespread problem in Ukraine extending beyond the context of HIV/AIDS. Yet drug users and sex workers are often the victims of such abuse, as their marginalized status makes them easy targets for police seeking to fulfill arrest quotas. Police use drug addiction as a tool to coerce testimony from drug users: when faced with painful withdrawal symptoms, drug users are especially vulnerable and more likely to submit to police pressure. And since drug users and sex workers are widely regarded as socially undesirable, police face little risk of censure for their actions.

Drug users said they were identified for arrest based on their efforts to obtain information and sterile needles from legal needle exchange sites, in direct contradiction to Ukrainian policies supporting needle exchange, and despite stated support for this from high-level police officials. Drug users and service providers gave accounts of police harassing, arresting, and severely beating drug users merely for possessing syringes at or near the syringe exchange sites. Police interfered with outreach workers’ efforts to provide HIV/AIDS information to drug users, sometimes by detaining or beating them. Where access to sterile syringes was impeded by police presence at the exchange, injection drug users would share and reuse syringes, placing themselves, their sex partners, and their children at significant risk of HIV infection.

Human Rights Watch also found that health care providers widely discriminated against people living with and at high risk of HIV/AIDS in Ukraine. People living with HIV/AIDS and injection drug users were turned away from hospitals, summarily discharged when their HIV status became known, or provided poor quality care that was both dehumanizing and debilitating to their already fragile health status. Ambulances refused to transport drug users and people living with HIV/AIDS. In some cases, care could be negotiated only through payment for services that should have been provided free of charge. Denial of care was identified by people living with HIV/AIDS, physicians specializing in AIDS care, and AIDS service workers as a particular problem for people seeking treatment at tuberculosis clinics. Tuberculosis is widespread in Ukraine, easily transmitted, and a major cause of death for people living with HIV/AIDS; refusal to treat people living with HIV/AIDS for tuberculosis threatens to jeopardize their lives and the health of thousands of other Ukrainians.
Access to health care for drug users was further impeded by official registration by health care and drug treatment providers, who provide drug user names to the police. Narcology centers, state facilities providing treatment for drug addiction, are required to record the names of drug users referred to them for treatment at the facility. Drug users said that they avoided seeking health care or drug treatment out of fear that health care workers would report their drug use to police or that information relayed to their employers would result in their dismissal.

Each of the abuses documented in this report threatens to be exacerbated by proposed changes in Ukraine’s drug policies, which would criminalize possession of smaller amounts of narcotics than are currently prohibited. The fear of arrest for trace amounts of drugs threatens to accelerate HIV infection rates by driving those most vulnerable to HIV infection away from HIV prevention services and by increasing incarceration rates for drug users. Prisons, in turn, pose serious health risks for drug users. There, many continue drug use, and HIV prevention and effective drug treatment are limited, heightening the risk of contracting HIV, while exposure to other infectious diseases (such as tuberculosis) can aggravate existing HIV infection.

Ukraine has taken a number of positive steps against its HIV epidemic, chiefly in the area of legislative and policy reform. The country’s national HIV/AIDS legislation, now recognized as a model in the region, was amended in 1998 and again in 2001 to incorporate human rights protections and evidence-based policies essential to an effective response to HIV/AIDS. These amendments include the abolition of mandatory HIV testing and guarantees of the right to HIV/AIDS information and to confidentiality of HIV/AIDS test results. Ukraine’s national AIDS law provides an explicit commitment to provide HIV prevention services for drug users, including the establishment of syringe exchange programs. Its national HIV/AIDS program has identified the implementation of a substitution therapy program linked with HIV prevention, care, and treatment programs as one of its main goals. The Ukrainian parliament also has recommended implementing substitution therapy to prevent and treat HIV/AIDS among drug users. In September 2005, Ukraine began to implement substitution therapy programs with buprenorphine for HIV-positive drug users in seven cities, with the goal of enrolling 200 people by the end of 2005 and 6,000 people by 2008.

These steps draw on international experience showing that targeted interventions for injection drug users such as the provision of sterile injecting equipment and opiate substitution therapy (often referred to as “harm reduction”) can be highly effective in preventing HIV transmission and other adverse consequences of drug use. It is a tragic and deadly irony that for most Ukrainians, these protections exist only on paper and are systematically undermined by chronic human rights abuse within the criminal justice and health systems.

As of January 2006, international donors had pledged more than U.S.$100 million to support Ukraine’s fight against HIV/AIDS. In 2004, with the support of the Global Fund to Fight AIDS, Tuberculosis and Malaria, and working closely with civil society, the nongovernmental organization (NGO) the International HIV/AIDS Alliance launched an antiretroviral program to treat people living with HIV/AIDS. Between April 2004 and December 1, 2005, more than 2,600 people began antiretroviral treatment under this program. While this program has been said to be the most rapid treatment expansion in all of Eastern Europe, it still reaches only a fraction of the 17,300 people in urgent need of antiretroviral therapy. The examples of widespread discrimination within the health care system documented by Human Rights Watch illustrate some of the obstacles that prevent Ukraine from realizing its goals of expanding antiretroviral treatment.

In pledging to provide harm reduction services to drug users, and in its efforts to expand access to antiretroviral therapy to people living with HIV/AIDS, the Ukrainian government has shown an important commitment to protecting the human rights of those living with and at highest risk of HIV/AIDS. But the Ukrainian government’s commitments at
the policy level will be undermined without immediate measures to ensure that they are realized in practice.

For Ukraine’s efforts to fight AIDS to be effective there must be political support to securing the rights to HIV/AIDS-related prevention and information from all parts of the government, not just the Ministry of Health. The Ministry of Interior, in particular, has a critical role to play. It must sanction or dismiss law enforcement officers whose abusive practices violate Ukrainian and international legal standards, and take immediate measures to ensure that law enforcement officers do not obstruct HIV prevention efforts. Ukrainian political leaders must speak out strongly in favor of HIV prevention, care, and treatment services for drug users and take urgent steps to hold accountable those responsible for committing abuses. They must also implement the broad protections already in Ukrainian law and policy, and thus give meaning to the range of human rights protections for people living with and at high risk of HIV/AIDS to which Ukraine has committed itself on paper. Donors who support HIV interventions in Ukraine should voice concern that their investments are being undermined by widespread human rights abuse against those living with and at highest risk of HIV.

II. Key Recommendations

To the Government of Ukraine

On HIV/AIDS

- End discrimination in health care services to drug users and people living with HIV/AIDS
- Respect the rights of people in Ukraine to complete, accurate information about HIV/AIDS and to obtain HIV/AIDS information and services without fear of punishment or discrimination.
- Provide training on HIV/AIDS, harm reduction, and drug use to all personnel in health care facilities.

On narcotic drugs and drug users
- Expand and enhance the scope of and support for humane treatment services for drug addiction, including in prison, according to international standards, which would include the prompt implementation of substitution therapy with methadone and buprenorphine.

- Reject the proposal by the Ministry of Health Committee on Narcotic Drugs Control to amend Ukraine’s drug classification tables to criminalize possession of very small amounts of certain narcotics, which would exacerbate the problem of HIV/AIDS among drug users.

**On law enforcement conduct**

- Cease and publicly repudiate the unlawful use of force and other ill-treatment by police and other agents of the state against drug users and sex workers.

- Cease and publicly repudiate interference by police and other agents of the state with efforts to provide harm reduction services.

**To the United Nations and Member States**

- Affirm the rights of all individuals to access to the full range of HIV prevention services, including syringe exchange and opiate substitution therapy, without fear of arrest or punishment, as part of the right to the highest attainable standard of health.

- Support amendment of the international drug conventions to call explicitly for the legalization and promotion of the full range of strategies to reduce drug-related harm, and to encourage states parties to adopt public health approaches to drug use, including expanded access to syringe exchange services and opiate substitution therapy.

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**III. Methods**

his report is based on a four-week field visit to Ukraine in June and July 2005. Two Human Rights Watch staff members conducted detailed interviews with one hundred and one people living with HIV/AIDS, injection drug users, and sex workers. These interviews took place in Odessa, Kherson, Mykolaiv, Dnipropetrovsk, and Kyiv regions, five of the regions hardest hit by HIV/AIDS. Interviews were open-ended and covered many topics. Interviews were conducted in NGO, government, and donor agency offices, and at mobile HIV/AIDS and harm reduction worksites. One Human Rights Watch staffer was provided translation assistance for interviews conducted in Ukrainian and Russian. The second staffer conducted all interviews in Russian. No incentives were offered or provided to persons interviewed.

Interviewees were identified largely with the assistance of Ukrainian NGOs providing services to people living with and at high risk of HIV/AIDS. These interviewees may therefore have had greater access to harm reduction and HIV/AIDS services than the general population of people affected by HIV/AIDS. The identity of these interviewees has been disguised with pseudonyms, and in some cases certain other identifying information has been withheld, to protect their privacy and safety.

Human Rights Watch also interviewed seven national- and regional-level health, law enforcement, and human rights officials; two local police officers; and seventy-five representatives of international health organizations, NGOs specializing in HIV/AIDS or human rights, and health care workers and hospital administrators. Olena A. Alekseeva, head of the Committee on Narcotic Drugs Control in Ukraine, declined to meet with Human Rights Watch.

All documents cited in the report are either publicly available or on file with Human Rights Watch.

IV. Background

HIV/AIDS in Ukraine

As many as 416,000 people—1.7 percent of the adult population age fifteen to forty-nine—were estimated to be living with HIV/AIDS in Ukraine in 2005. Ukraine had the highest HIV/AIDS prevalence rate in Europe in 2005, and was home to one of the fastest growing HIV/AIDS epidemics in the world. The spread of HIV/AIDS has been rapid and dramatic. Before 1994, fewer than eighty cases were diagnosed annually, mostly among foreigners infected
through sexual contact, but within a few years the number of newly reported cases rose dramatically.[6] In March and April 1995, more than 1,000 drug users were diagnosed with HIV in the southern cities of Mykolaiv and Odessa. By 1996, all twenty-five regional capitals reported HIV cases, and by 1997, Ukraine had more than 25,000 reported cases—more than one-half the cumulative total for Eastern Europe.[7]

An estimated 70 percent of all cases registered by the government between 1987 and 2004 were injection drug users.[8] Studies have reported HIV prevalence among injection drug users in several cities in Ukraine ranging from 14 to 74 percent, and have estimated that 8.5 to 9.6 percent of injection drug users nationwide are HIV-positive.[9] High rates of HIV also have been reported among sex workers and prisoners.[10]

Sex work in Ukraine increased with the social and economic upheaval resulting from the collapse of the Soviet Union, a phenomenon common throughout the region. Many sex workers inject drugs, or have clients or sex partners who are injection drug users. Many drug users exchange sex for drugs or money to support their habit. The overlap between sex work and injecting drugs heightens the risk of HIV transmission (through needle sharing as well as sexual transmission) and exposure to police violence and harassment. As many as 80 percent of street sex workers in Mykolaiv were estimated to be injection drug users, according to a 2000 report commissioned by the Joint United Nations Program on HIV/AIDS (UNAIDS).[11] In Odessa, HIV rates as high as 67 percent have been reported among sex workers who inject drugs, compared with 17 percent among non-injecting sex workers.[12]

According to official statistics, an increasing percentage of HIV cases in Ukraine is among women, and attributed to heterosexual transmission.[3] Research by the Ukraine AIDS Centre and UNAIDS has found that these trends result from changed HIV testing practices. Beginning in 1996, with the introduction of prevention of mother-to-child transmission programs, the number of pregnant women tested for HIV steadily increased, while with the cessation of mandatory testing[14] of injection drug users in 1998, the number of injection drug users tested decreased.[15] World Health Organization experts argue that to interpret an increase in heterosexual and mother-to-child transmission rates as evidence of a more generalized epidemic is premature, given that most heterosexual cases are among female partners of drug users, and that a substantial proportion of HIV-positive pregnant women are either partners of injectors, or injectors themselves.[16] Some evidence also exists that cases of HIV transmission among men who have sex with men are underreported, and that there has been a recent marked increase in HIV cases in this population.[17]

Ukraine has made important progress in the reduction of mother-to-child HIV transmission, with rates decreasing from 28 percent in 2001 to less than 10 percent in 2003, one of the lowest rates in Eastern Europe.[18] Research suggests that HIV-positive women who inject drugs may not benefit equally from programs to prevent mother-to-child transmission, however.[19]

The rapid spread of HIV/AIDS in Ukraine has coincided with an explosion in tuberculosis (TB) rates.[20] Because of their compromised immune systems, people living with HIV/AIDS are at increased risk of developing active tuberculosis.[21] Tuberculosis is a leading cause of death for people living with HIV/AIDS.[22] The situation is particularly critical in prisons: 7 percent (14,000) of Ukraine’s 200,000 inmates have active TB, and more than 40 percent of prison deaths are attributed to TB.[23] Multi-drug resistant tuberculosis (MDR-TB), which can result from inconsistent or partial treatment of TB, is also a serious problem and a challenge for the health system, as it is more difficult and more expensive to treat, and much more likely to be fatal.[24]
Widespread ignorance about the basic facts of HIV/AIDS is a serious problem in Ukraine, an issue that the government itself has acknowledged. The government reported that in 2004, only 14 percent of young people had a comprehensive understanding of HIV/AIDS. According to a 2002 study by UNICEF and UNAIDS, only 9 percent of young women could identify three methods of HIV prevention, and 79 percent harbored at least one major misconception about the disease, such as that a healthy-looking person cannot have HIV.

Lack of knowledge also contributes to widespread stigma and discrimination faced by people living with HIV/AIDS. A 2004 survey of 692 people living with HIV/AIDS in sixteen cities throughout Ukraine found that 42 percent of respondents reported violations of their rights related to employment, education, health care, or privacy because of their HIV status. More than 10 percent of respondents said that they had lost a job because of HIV, and 9 percent had had to change jobs. Seventy percent said that rights to confidentiality of HIV diagnosis had been violated, and more than one-third reported having been tested for HIV without their consent. Sixty percent of respondents reported that they were either unaware of their legal right to receive free medicines, or that this benefit was unavailable to them.

A 2004 study of forty previously pregnant HIV-positive women and fifteen health care providers found that nearly half of HIV-positive women said that they had been strongly encouraged to have an abortion by a health care provider; several women reported that they were not given a choice but told they must have an abortion. More than one-third of women reported that they were treated worse than HIV-negative women in labor and delivery settings; and more than half reported that health care providers assumed that they were injection drug users because of their HIV status.

Injection Drug Use and HIV/AIDS in Ukraine

It is estimated that there are 397,000 injection drug users (1.6 percent of the population between fifteen and forty-nine years old) in Ukraine. Nationally, the number of newly reported HIV cases among injection drug users continues to grow. Most injectors are young males. However, a significant proportion-23 percent-of injection drug users diagnosed with HIV in 2004 were females.

Risky injection practices, including the sharing and reusing of needles and other drug paraphernalia; the sharing of drug solution from a common container; and front- and backloading (squirting drug solution from one syringe into another with the needle or plunger removed), are also widespread. The use of blood in the preparation of injected drugs also has been reported. Homemade preparations of liquid poppy straw—an injected opiate solution commonly known as shirka—is the main drug used, but methamphetamine, including a homemade preparation of ephedrine called vint, are also injected and have become increasingly popular among drug users. Researchers report that the use of drugs in groups is common in Ukraine, and that a significant number of drug users acquire drugs through exchange of services, such as drug preparation, drug purchase and delivery, or sex. Research also suggests that women injection drug users are more likely than men to share injection equipment, inject drugs in a group, and exchange sex for drugs.

Targeted interventions for injection drug users such as the provision of sterile injecting equipment and opiate substitution therapy have proved effective in preventing HIV transmission and other adverse consequences of drug use. Often referred to as “harm reduction,” these approaches have been endorsed by the World Health Organization and UNAIDS as an integral part of HIV prevention and care strategies for drug users. Countries that have implemented harm reduction measures on a sufficiently large scale have successfully controlled large-scale HIV
epidemics among injection drug users and in the non-injecting population.[36] In Poland, for example, a strong national response, including syringe exchange and other targeted interventions for injection drug users, successfully contained the epidemic among injection drug users, and averted a more widespread epidemic in non-injecting populations.[37]

Public health authorities recommend that for people who cannot or will not stop injecting drugs, using a sterile syringe for each injection is the safest and most effective way to prevent HIV and other blood-borne viruses.[38] Ukraine’s national AIDS law recognizes this fact, providing an explicit commitment to provide HIV prevention services for drug users, including by supporting the establishment of syringe exchange programs.[39]

As of mid-2005, there were more than 250 NGO-run syringe exchange sites or points operating in Ukraine, reaching more than 70,000 injection drug users (almost a fifth of the estimated total of injection drug users in Ukraine).[40] In addition to providing sterile syringes, many sites also provide counseling and information, condoms, and referrals to other health and social services for drug users. There were also fifty-five government-run consultation points for injection drug users and other vulnerable groups, some of which also distribute syringes.[41] Some sites also provide medical care for drug users. Pharmacies, which can legally sell syringes to adults in unrestricted numbers, are also an important source of syringes for many drug users.

Access to effective drug addiction treatment is critical both to prevent HIV among injection drug users, and to support adherence to antiretroviral treatment for HIV-positive drug users. But drug users in Ukraine have limited options for effective drug addiction treatment and encounter significant barriers in their attempts to obtain it.

Substitution or replacement therapy, for example with methadone, is one of the most effective treatment options for opiate dependence. It has been proved to reduce drug use as well as criminal activity, overdose deaths, and behaviors such as syringe sharing, and to improve uptake and adherence to antiretroviral treatment for HIV-positive opiate users.[42] In light of this evidence, the World Health Organization (WHO), the United Nations Office on Drugs and Crime (UNODC), and UNAIDS have jointly recommended that substitution maintenance therapy, including with methadone and buprenorphine, be integrated into national HIV/AIDS programs, both as an HIV/AIDS prevention measure and to support adherence to antiretroviral treatment and medical follow up for opiate dependent drug users.[43]

Ukraine’s national HIV/AIDS program has identified the implementation of a substitution therapy program linked with HIV prevention, care, and treatment programs as one of its main goals.[44] The Ukrainian parliament also has recommended implementing substitution therapy to prevent and treat HIV/AIDS among drug users.[45] But because of significant opposition in some parts of government—most notably, the Committee on Narcotic Drugs Control, Ministry of Interior, and the Security Services of Ukraine—substitution therapy is largely unavailable in Ukraine.[46]

Ukraine’s efforts to introduce substitution therapy with buprenorphine to 200 drug users by the end of 2005 have been criticized by the WHO, UNODC, and UNAIDS as grossly insufficient to address the needs of opiate-dependent drug users in Ukraine. These agencies recommended in a joint June 2005 report that Ukraine “do everything in its power to simplify the introduction and scale up” of substitution therapy with methadone and buprenorphine to between 60,000 and 238,000 people.[47]
Other factors inhibit access to drug treatment. These include official registration requirements that expose drug users to police and undermine employment prospects; ineffectiveness of treatment that is provided; and poor attitudes of medical professionals toward drug users.\[48\] Drug users and service providers interviewed for this report told Human Rights Watch that drug users avoided seeking drug treatment out of concern about registration with narcologists and by police. They also said that drug users avoided seeking health care for injuries related to their drug use, such as abscesses, out of fear that health care workers would report their drug use to the police, or that their employers would fire them if they discovered that their injuries were related to drug use.\[49\]

The lack of effective drug treatment, coupled with health care provider discrimination against drug users, is also contributing to Ukraine’s tuberculosis epidemic, and to mortality among drug users living with TB and HIV. A 2005 study of HIV/AIDS, tuberculosis, and drug addiction treatment in 13 regions of Ukraine found that 2,640 tuberculosis patients terminated treatment because they were expelled from the hospital due to drug use. Of these, 420 patients were co-infected with TB and HIV.\[50\]

A large percentage of drug users in Ukraine find themselves incarcerated in state custody at some point in their lives. Incarceration, in turn, is itself a critical risk factor for HIV. Injection drug use is widespread in Ukrainian prisons, with many drug users continuing to inject while in prison, while access to HIV prevention and effective drug treatment services in prison is limited.\[51\] HIV prevalence in prison has been reported to be several times that of the population at large: according to the WHO, in 2000, 7 percent of prisoners were HIV-positive.\[52\] There is also increased risk of exposure in prison to other infectious diseases (such as tuberculosis), which heightens HIV and other health risks.\[53\]

**Policing and HIV Risk**

Police have a legitimate interest in controlling illicit drug possession and prostitution, to the extent that both are proscribed by Ukrainian law. But Ukraine’s law enforcement practices are undermining government efforts to provide HIV information and services to drug users and sex workers, the very people whom the government has identified as at highest risk of HIV/AIDS. Indeed, police practices drive people at risk away from services that prevent HIV/AIDS.

Ill-treatment by police, sometimes reaching the level of torture, has been acknowledged as a widespread problem in Ukraine by domestic and international human rights bodies.\[54\] The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in December 2004 published its findings from a late-2002 visit to Ukraine, including that “persons deprived of their liberty by the Militia [Ukraine’s domestic law enforcement body] run a significant risk of being physically ill-treated at the time of their apprehension and/or while in custody of the Militia (particularly when being questioned), and that on occasion resort may be had to severe ill-treatment/torture.”\[55\] According to a July 2005 report on human rights violations in Ukraine by Nina Karpachova, Ukraine’s parliamentary ombudsperson on human rights, the ombudsperson’s office received 1,518 reports of torture and ill-treatment by police in 2003, while the Ministry of Internal Affairs received 32,296 such reports in 2002 and 2003.\[56\]

There are a number of systemic reasons why police abuse continues unabated in Ukraine. Police reportedly must fulfill periodic “work plans,” or arrest quotas. The expectation that police will solve a high number of criminal cases, and that this is a measure of police success, encourages police to seek out easy targets for arrest.\[57\] In its response to the CPT’s report, Ukraine acknowledged police detectives’ “wrong understanding of crime disclosure rate as the main criteria of...
the efficiency of their work,” as a factor in police abuse, stating that this “wrong understanding” was “why some officers try to achieve the high crime disclosure by any means.” In addition, the need to fulfill arrest quotas or achieve convictions may encourage police to engage in torture or other abusive tactics to extract confessions from criminal suspects. The U.N. Committee against Torture has expressed concern about “the numerous convictions based on confessions” in Ukraine, as well as the fact that the “number of solved crimes” is among the “criteria for the promotion of investigators.” According to the Committee, this “can lead to torture and ill-treatment of detainees or suspects to force them to ‘confess.’” Domestic and international human rights bodies have also expressed concern that Ukraine’s failure adequately to investigate, prosecute, or punish cases of police abuse created a climate of impunity that has permitted abusive policing practices to persist.

As Human Rights Watch has documented in previous reports on Russia and Kazakhstan, drug users and sex workers make especially easy targets for arrest or ill-treatment by police needing to fulfill arrest quotas. In Ukraine, drug users can be arrested and convicted for possession of very small amounts of drugs, often less than one dose. Ukrainian law also provides that a person charged with the possession of illegal drugs can escape criminal responsibility if he or she “actively participates in the investigation of drug-related offenses”—a requirement that can lead police to take extreme measures to extract information from drug users. Drug users suffering from withdrawal may be especially vulnerable and thus more likely to submit to police pressure. And since drug users and sex workers are widely regarded as socially undesirable, police face little risk of censure for their actions.

People interviewed by Human Rights Watch explained that police sometimes justified their arrest of drug users and sex workers by explaining that they were under pressure to fulfill a quota. In one case, an outreach worker said that a police officer told her as she attempted to intervene to stop the arrest of a drug user suffering from a high fever: “Well, she’ll die soon anyway, and I have to fulfill the plan. Well, what? They’ll kick me out if I don’t close two cases this month.”

Research on sex workers in Central and Eastern Europe and Central Asia has identified police abuse, including rape and other forms of physical violence, as a significant factor contributing to sex workers’ vulnerability to HIV/AIDS and other health risks. The practice of subbotnik, in which police demand free sexual services (often without condoms) as a condition of limiting police harassment or in lieu of arrest, has also been reported in several countries of the former Soviet Union.

Research in several countries has established that criminal laws proscribing drug possession and associated policing practices targeting drug users increase the risk of HIV and other adverse health outcomes in both direct and indirect ways. The fear of arrest or police abuse creates a climate of fear for drug users, driving them away from lifesaving HIV prevention and other health services, and fostering risky practices. In some countries, many injection drug users do not carry sterile syringes or other injection equipment, even though it is legal to do so, because possession of injection equipment can mark an individual as a drug user, and expose him or her to punishment on other grounds. Police presence at or near government sanctioned harm reduction programs (such as legal needle exchange sites) drives drug users away from these services out of fear of arrest or other punishment.

Many countries have taken measures to protect drug users’ right to the highest attainable standards of health by instituting structural changes in policing practices to ensure drug users’ access to HIV prevention and other health services. In the United States, some jurisdictions have protected drug users’ access to harm reduction services through court orders barring police from arresting or punishing needle exchange participants for drug possession based on residue in used syringes, or through police department orders directing police not to patrol areas near syringe
exchange sites. At least twenty-seven cities worldwide, including in Switzerland, Germany, Australia, and Canada, have established supervised injection sites that permit drug users to inject in a safe, hygienic environment without risk of arrest or prosecution for onsite possession of illegal drugs. As of this writing, Ukraine is finalizing plans to implement prison-based needle exchange programs following the example of neighbors in both Western and Eastern Europe and Central Asia, including Belarus, Moldova and Kyrgyzstan.

**Health Care Delivery in Ukraine**

The structure of Ukraine’s health system has changed little since it became independent upon the demise of the Soviet Union in 1991. Public health services are administratively centralized and vertically organized, with specialized and distinctly separate health services for HIV/AIDS, tuberculosis, sexually transmitted infections, and substance abuse treatment. Each of these diseases has its own specialists, and patients are referred to different facilities for specialized care and treatment. Prison health care is provided by a parallel health system under the State Department for the Penitentiary System. Inadequate coordination among parallel systems providing civilian public health services, and between civilian and prison health care services, mean that people in need of comprehensive health care services often fall between the gaps.

The Ministry of Health of Ukraine is responsible for setting national health care policies, and for directly managing and funding certain health care institutions. Each of Ukraine’s twenty-seven administrative units has its own health administration, which in turn owns and manages a range of health care facilities. Primary health care facilities are owned by local governments.

As of July 2005, there were twenty-five regional HIV/AIDS centers throughout Ukraine; HIV/AIDS centers in the cities of Kyiv and Sevastopol; and an additional five city HIV/AIDS centers in areas with high rates of HIV/AIDS. Antiretroviral therapy was available at fifteen of the regional centers, while people living with HIV/AIDS outside of those regions have the option to seek antiretroviral therapy at the Gromashevskiy National Institute of Infectious Diseases Clinic (Lavra AIDS Clinic) in Kyiv.

Specialized HIV/AIDS centers do not provide comprehensive care, but rather a limited range of services for people living with HIV/AIDS. People living with HIV/AIDS in need of other services should be provided care either at specialized clinics, where appropriate (such as for tuberculosis or substance abuse treatment, for example) or at neighborhood clinics on the same basis as other people. Although their work often overlaps, AIDS specialists typically do not get involved in the work of narcologists, nor with that of tuberculosis specialists.

Ukraine’s constitution guarantees health care free of charge in state institutions. Ukraine’s post-independence economic crisis and the resulting decline in state income have led to a significant decline in state health care expenditures. Budget shortfalls, in turn, have led government health care facilities to levy official fees for public health care services, sometimes disguised as “donations” or “voluntary cost recovery.” It is not unusual for state health care providers also to demand “informal user fees” or bribes as a condition of receiving services.

In 2002, Ukraine’s Constitutional Court ruled that health care in state and community facilities should be provided “without preliminary, current or subsequent payments,” but stipulated that fees could be sought for health services considered beyond the limits of health care. The government subsequently approved a list of health care services to be
provided free of charge by state and community health care facilities, including emergency care and inpatient care for pregnant women and women in labor. Certain populations considered socially vulnerable (such as people with disabilities, children under six, and retired persons receiving minimum pension) are exempted from user charges, or are eligible for free or reduced cost medication or other services.[79] People living with HIV/AIDS are guaranteed the right to free medication necessary to treat existing diseases, under Ukraine’s national HIV/AIDS law.[80]

The imposition of fees for health care services has created serious barriers to access to necessary care for many Ukrainians. A 2002 survey of 9,478 households by the State Statistics Committee found that more than 25 percent of households were unable to obtain necessary medical care for any family members, the vast majority due to exceptionally high costs of drugs, homecare devices, and health services. The study also found that a substantial number of patients were charged for services that the state health system was required by law to provide.[81] A 2003 poll by Ukraine’s Social Monitoring Center and the Institute for Social Studies found that 78 percent of respondents believed that all or most government officials collected bribes, identifying Ukraine’s state health care services as the biggest bribe takers. This figure is consistent with a 2002 survey by the Ukrainian NGO Partnership for a Transparent Society, which reported that more than half of respondents had paid a bribe to receive medical services.[82]

V. Police Abuse

As a drug user, police don’t consider me a person. As a drug user, I have no rights. The police can do anything to me.

- Sasha T., injection drug user, Kherson, July 9, 2005

Some people don’t come to the needle exchange point at all. The police were here yesterday. They beat up one man, quite cruelly. They asked the young man for money. He said that he didn’t have any. They
Human Rights Watch documented police actions that violated fundamental human rights protections against torture and other forms of ill-treatment, and due process. Numerous drug users, sex workers, and service providers reported that police had extorted money and information from drug users by applying physical and psychological pressure, including severe beatings, electroshock, partial suffocation with gas masks, and threats of rape, both at the time of arrest and during detention, and had directly interfered with the provision of HIV prevention information and services for drug users and sex workers. Drug users and service providers reported that police planted drugs in their homes or on their person, and used this as evidence to arrest or abuse them.

International law unequivocally forbids the use of torture and other cruel, inhuman or degrading treatment or punishment by officials or persons acting in an official capacity. These prohibitions apply “not only to acts that cause physical pain but also to acts that cause mental suffering to the victim,” including intimidation and other forms of threats, International law also bars the use of statements obtained through torture as evidence, except against the person accused of torture. This prevents law enforcement officials from being rewarded for using torture to extract information. It is also a way to ensure against self-incrimination, a right protected under international law. International law also guarantees the right to liberty and security of the person and protection from arbitrary detention.

When police rape or otherwise physically assault drug users and sex workers, whether as punishment, to intimidate or coerce information, or otherwise, they violate basic protections against torture and ill-treatment, and rights to liberty and security of the person. When police use drug addiction as a tool to coerce testimony or extort money from drug users suffering from withdrawal, and deny medical assistance to drug users in withdrawal, they similarly violate basic provisions against torture and cruel, inhuman, and degrading treatment or punishment.

Police Abuse of Injection Drug Users

Severe violence and ill-treatment

Volodomyr D., twenty-seven, said that during the six years that he used drugs, Kherson police had detained him for extended periods of time and subjected him to serious physical and psychological abuse to extort money and information from him. “It’s a terror campaign against drug users,” he said. “They only know how to use harsh measures.”

In 2002, Volodomyr was held in a pre-trial detention facility for a total of twenty-seven days. He said that during this period:

- Outreach worker, Dnipropetrovsk, July 12, 2005
The investigators and others would have ‘discussions’ with me. They would bring in big guys, ‘sportsmen,’ to do the real punishing. . . . They detained me for ten days, then they released me, took me in a car to ‘take me home’ but then suddenly there was a new sanction for my arrest. And I was detained for ten more days. They repeated this procedure and again I was detained for seven days.

For some seven days they used physical measures to try to coerce me. They beat me to unconsciousness. They worked to physically and morally humiliate me. . . . They tortured me. They used the lastochka method. They put a gas mask over my head and handcuffed my hands to my legs. Then they put a stick underneath my underarms and suspended me from two large safes. They beat me in the stomach until I lost consciousness. They beat me on the bottom of my feet with nightsticks. This is very painful and it doesn’t leave many traces.

What’s even worse though is the mental torture. They beat me until I was in so much pain and barely conscious. Then they threatened to rape me. They threatened to have another inmate rape me. This is probably one of the worst things imaginable. People kill themselves after something like this happens.

Olga G., thirty, said that she faced constant harassment by police, who knew her to be a drug user. In 2001 and 2004, Mykolaiv police entered her home and attempted to coerce information from her to assist in criminal investigations. In the 2001 episode, she said that police entered her apartment through a window, placed a hand over her seven-year-old daughter’s mouth to muffle her screams and took Olga to the police station, leaving her daughter home alone.

They took me through a side door, not the main entrance. No one knew that I had come in. [At the police station], they put a gas mask on me, over my head. The gas mask has a long tube that comes off of the front. They covered up the air vent so that I couldn’t breathe. My hands were handcuffed together under my knees, so I was forced to bend over. I was kept in this position for more than an hour. They would turn off the air in the gas mask and beat me in the back, in the kidneys with a nightstick. I couldn’t breathe at all when they did this. They also threatened me, saying, ‘You’ll dance naked for us on this table.’ They swore at me. They would pull up the gas mask sometimes a bit off my face so that the tube hung down over my face. They would laugh at me and mock me. Then they’d pull the mask down and turn off the air again. They took me in at eleven a.m. or so and then let me go only at eight p.m. They kept asking me, ‘where is this guy?’ and I kept telling them that I didn’t know.

Sasha T., forty-four, stopped using drugs in the summer of 2004, after twenty-five years of injecting opiates. Though he no longer used drugs, he still frequently had problems with the police. In the summer of 2004, Sasha was stopped and searched by police, who checked his pockets for syringes and for money. He told Human Rights Watch, “The police...
pushed me on the ground and put handcuffs on me, and dragged me about 300 meters on the ground. I was beaten so much that they had to call for medical help. I was at the police station for the night and I was physically beaten all night.”[93]

Human Rights Watch met Yosep L., forty-six, at a needle exchange point in Mykolaiv. Yosep said that he had been detained by the police several times. He described a three-day detention in 2004:

[Police] put me in the lastochka position. They put my hands in handcuffs and then suspended me from a hook in the wall. . . . They left me there like that for hours. For four months afterwards I didn’t have any feeling in the top of my hands and in the top of my wrist. They also beat me with their fists and with night sticks. They kicked me too. All over. In the abdomen, back, anywhere. They also put a telephone cord around my penis and wound it tightly. It cut off the circulation. Then they plugged the telephone cord into the wall and there was an electric current. It wasn’t a high voltage but still it was really painful, there was still a strong current.[94]

Konstantin A., thirty, said that Dnipropetrovsk police often stopped him and asked for money and information about drug users. In 2001, he was tortured while in police detention. He told Human Rights Watch:

They handcuffed my arms to my ankles and then hung me up on a pole put under my armpits. They beat me on the back and in the kidneys until I lost consciousness. I admitted to committing a robbery. They wanted to convict me for four [robberies] if I didn’t admit to this one.

I was tortured for one day, and then they transferred me to the investigator. When the beating was happening, I couldn’t control myself, I was hysterical. I lost strength to go on talking. I had some broken ribs, I had trouble breathing and coughing after they beat me. I had some bruises and some swelling too. Maybe now one could complain, but at that time I didn’t complain. It would only bring more trouble. I know cases in which people made a complaint and there were bad consequences.”[95]

Street children who use drugs may be especially vulnerable to abuse, as there are few people who can or will intervene to protect them. Larissa Borisenko, a social worker with the NGO Virtus in Dnipropetrovsk, worked with a teenage drug user charged in 2005 with murder of a fifteen-year-old girl. She told Human Rights Watch that there were witnesses who could support the teenager’s claim of innocence. But when police arrested him, they tortured him. She said, “And when they put electroshock to his head, he confessed to murder.”[96]
Numerous drug users, advocates, and service providers to them said that police planted drugs in people’s homes or on their person as a basis to arrest and to extort money and information from them. Andriy, an attorney with Way Home, a harm reduction program in Ilyochovsk, told Human Rights Watch, “Police here know all the drug users by face and know where they can plant drugs. They do this to recruit informers. They plant drugs and then arrest you and then say you have to work for us as informers.”

Kherson police planted drugs on Volodomyr D., and presented him with a choice: “They told me that I had to agree to the crime of possession of shirka. They said if I brought U.S.$3000 I would be released from the charges.” Volodomyr also said that police warned him not to complain about this abuse.

They warned me right away: ‘if you complain, we’ll bring a bunch of witnesses to show that we didn’t do this, and that you actually did it to one of our guys. They play a lot of psychological games. They threatened to hurt my relatives, friends. They said, ‘We’ll tell your friends that you gave us information about them.’ It’s easy for police to prove someone guilty. No one will be able to endure the physical and moral torture that they inflict.”

Drug users as informants and official "witnesses"

Law enforcement officials interviewed by Human Rights Watch said that law enforcement agencies conducted periodic raids to identify drug users and to register them with the police and narcological dispensaries (specialized state facilities under the Ministry of Health that provide treatment for drug and alcohol addiction; also known as narcology centers). They also said that drug users were relied on as important sources of information about drug trafficking and other crimes. Targeting drug users for registration and as informants may heighten HIV risk for drug users, who may fear seeking HIV prevention services, or taking measures to prevent HIV (such as carrying clean needles) that would expose them to arrest.

Valeriy Milnechenko, head of the drug enforcement agency, Kherson region, explained that police raids served both drug use prevention and police investigation functions. He told Human Rights Watch, “We conduct raids in conjunction with other agencies. These raids have a preventive character, to put people on the registry in the police facility.” He explained that arresting drug users for drug possession would deter people from using drugs in the first instance, and would facilitate the prosecution of drug dealers. Milnechenko said that drug users “participate in information for the detention of drug dealers . . . . We can get information about drug dealers from people who have been convicted.”

Human Rights Watch interviewed police officer Andriy B. at a needle exchange point in Mykolaiv, where he and his partner were conducting an “intervention” to identify drug users and gather information from them about criminal activity (see also sub-section “Harassment of drug users at needle exchange points and at pharmacies,” below). Andriy B. told Human Rights Watch, “twice a year we conduct interventions to reveal drug users, like this one. The interventions are one month long.” Andriy B. said that drug users were good informants: “In order not to be taken to the police department, a drug user will tell you everything . . . . Pretty often drug users give you information. They know
it’s important to help us fight crime and to find criminals.”Vasiliy S., Andriy B.’s partner, said that there was a 100 percent conviction rate for detainees. “We detain about ten people a week... Of ten people a week who are brought in, all of them are sentenced. Once you are brought in, there is no way back out.”

Ukraine law requires that at least two witnesses be present during police searches of an individual’s person or his accommodations,[103] but police often do not follow this procedure. Attorneys who represented drug users, as well as social workers and drug users, themselves, reported that police often conducted searches without the required witnesses, or appointed witnesses who were not present at the search to testify in support of police actions.[104] Viktoria Belova, a Dnipropetrovsk attorney, told Human Rights Watch that drug users who had been convicted of drug offences were used as informants and as official witnesses by police. According to Belova, “Police use the same witnesses for every drug case. They take a few witnesses, and they give nonobjective testimony in favor of the police. [During the court proceedings], I ask the witnesses whether they’ve ever been a witness at a trial before, and they usually say yes... I see the same people for many years, always there as witnesses.”

**Using drug addiction to coerce testimony**

Police use drug addiction as a tool to coerce testimony from drug users, who may succumb to pressure to admit to false charges when faced with painful withdrawal symptoms in custody. According to Pavel Skala, who worked as a senior detective specializing in drug enforcement cases in Ukraine, “unfortunately, it is still common police investigation practice” to conduct questioning while drug users are suffering from withdrawal.[105] Attorneys and social workers working with drug users in Ukraine have also reported that police intentionally use withdrawal as part of investigative measures to coerce incriminating testimony from drug users; extort money from drug users by threatening to detain them, forcing them to suffer withdrawal; and deny medical assistance to drug users going through withdrawal.[106]

Bogdan S., an outreach worker with the NGO Club Eney in Kyiv, explained, “The drug users that come to our exchange points are drug addicted. Even if at that moment he doesn’t have drugs, only clean syringes, under Ukrainian law he can be arrested for seventy-two hours to identify who he is.[107] For a drug user, in the days of detention he will sign practically anything, say practically anything. For this not to happen, people try to bribe police, even if there are no drugs with them.”[108] Yevgeniy Kryvosheyev, Club Eney’s president, said that “If a drug user is locked up for some time without drugs, it’s not difficult to break his mentality. He’ll sign anything.”[109]

**Direct Police Interference with HIV Prevention Information and Services for Drug Users**

*Police are around this needle exchange point frequently. They have stopped me a few times. They look in my shopping bag... They ask me, ‘Where are you going? Why?’ They gave me warnings: ‘Don't come around here. We don’t want to see you around here.’*

- Marta V., injection drug user, twenty-three, Dnipropetrovsk, July 12, 2005
Staff at harm reduction programs in Odessa, Kherson, and Kyiv said that they had agreements with law enforcement officials recognizing their needle exchange services as part of legal HIV prevention programs.\textsuperscript{[111]} Some high-level police also expressed support for needle exchange. Valeriy Milnechenko, head of the drug enforcement agency for Kherson region, told Human Rights Watch that his agency had an agreement supporting needle exchange services provided by the Kherson-based NGO Mongoose.\textsuperscript{[112]} Oleg Sakalov, head of the drug enforcement agency, Dnipropetrovsk region, said that “in principle, I regard [needle exchange services] positively,” but that they “absolutely need to be done under the control of law enforcement authorities.”\textsuperscript{[113]}

In practice, however, local police often interfered with the delivery of HIV prevention information and services, including the provision of sterile syringes, to injection drug users. Human Rights Watch documented numerous cases of injection drug users reporting being harassed, arrested, and sometimes severely beaten for possessing syringes, both sterile and used, at or near the site of needle exchange points.

Many injectors interviewed by Human Rights Watch expressed reluctance to use syringe exchange services because they feared that they would be detained or beaten by the police. Many injectors also reported that police interference with syringe exchange sites led them to engage in high-risk injecting practices, such as sharing and reusing syringes. Human Rights Watch also documented several cases of police harassment of outreach workers providing HIV/AIDS prevention services to injection drug users.

\section*{Harassment of drug users at needle exchange points and at pharmacies}

\begin{quote}
We give people booklets, 'Know your rights!' But the police beat people with the books, tear up the books in front of them.
\end{quote}

- Outreach worker, Dnipropetrovsk needle exchange point, July 12, 2005

The goal of a needle exchange program is to reduce the risk of spreading HIV and other blood-borne diseases by ensuring that drug users always use sterile syringes to inject. Recovery or exchange of used needles for sterile ones serves an important health function by removing contaminated needles from circulation, thus reducing their chances of reuse, and helping to ensure their safe disposal. Needle exchange programs can also provide a bridge to drug treatment programs by providing clients with information, counseling, and referrals.

Human Rights Watch found that Ukrainian police frequently stopped syringe exchange clients in the immediate vicinity of and sometimes at-syringe exchange sites, and confiscated their syringes, using them both as a basis to charge drug users with drug possession and to extort money and information from them.
When Human Rights Watch arrived at a needle exchange point in Mykolaiv, only outreach workers were there. An outreach worker at the exchange said that ten minutes earlier, two policemen had come to the exchange, arrested a client, and beaten him up. She added, "The police have been here two times already today. The police are basically always around here. They come here every day. There are regular neighborhood police and drug enforcement agents as well. They stand around in plain clothes trying to look like drug users themselves."

According to the outreach worker, police detained people at the needle exchange points and also took clean needles from them. As a result, drug users were "afraid of hanging around too long at the point, since the police are always close by. . . . The social workers around here warn the clients if the police are around or not." According to the outreach worker, police detained people at the needle exchange points and also took clean needles from them.

During the time that Human Rights Watch was at the needle exchange point, several drug users came to get clean syringes, but made clear that regular police presence at the exchange point had sometimes deterred them from coming to the point, and made them nervous about remaining there any longer than necessary. Oleg K. told Human Rights Watch, "there have been at least three or four times when I saw police standing near the needle exchange point and I didn’t come near it because the police were standing around." He continued, "Can I go now? I really don’t like standing here too long."

Regina S., twenty-nine, had been arrested twice at the needle exchange, most recently one week before Human Rights Watch spoke with her. She told Human Rights Watch:

I’m very nervous about staying near the needle exchange point because police stopped me on Friday. . . . I have been arrested before at this spot [the needle exchange point], last summer. The same thing happened. I was leaving another spot and there were drug users there and there were syringes on the ground. The policeman came and picked up the syringe and said, ‘It’s yours,’ and charged me. I was convicted under Article 14 and sent to the narcology center for a month. I am afraid to carry syringes because of police.

Shortly after Regina left the exchange point, Vasilii S. and Andriy B., whom outreach workers identified as the two policemen who had been there earlier, returned. They confirmed that they detained drug users at the needle exchange point, and rejected the idea that providing sterile syringes would prevent HIV among drug users. The officers said that they would like to kill drug users, whom they considered inhuman. Andriy B. explained how police prevented drug abuse, including by detaining drug users at the needle exchange point:

With the beginners, people who aren’t in the system, we try to explain and show the consequences of drug use and that people are killed because of drug use. One-and-a-half weeks ago, we picked up a sixteen-year-old boy here [at the needle exchange point]. We put him in the car and we showed him drug users, how they look, what they look like. He was just a beginner. His friends treated him to drugs one or two times, and he came here to get information.
In his efforts to teach the teenager the consequences of drug use, Andriy B. detained the teenager in the car for an extended period of time, and effectively barred him from obtaining harm reduction information and services for which he had come to the needle exchange point.

Oleg Sakalov, head of the drug enforcement agency, Dnipropetrovsk region, conceded that local police had interfered with drug users’ access to needle exchange points, but said that such problems were small and had been resolved. He denied that police interfered with harm reduction efforts by targeting drug users present at needle exchange points, claiming that “the idea that they [police] are sitting and waiting for people just does not exist.”[119] But outreach workers and clients of Dnipropetrovsk syringe exchange points said that police were frequently at syringe exchange points, and that police presence and abuse there deterred users from using these services. As a result, many drug users who avoided syringe exchange points reused or shared syringes with other injectors.

Denis P., thirty-three, who had been injecting opiates for twelve years, said that he had been detained by the police at the exchange point more than once, most recently the week prior to his interview with Human Rights Watch. He understood that sharing needles posed a risk of HIV infection, but said that he sometimes avoided the needle exchange out of fear of arrest, and that he could not safely carry sterile syringes without being identified by police as a drug user. He told Human Rights Watch:

Police take syringes and they throw them away. The last time this happened was maybe a month ago. I was without documents, and they searched me and found a syringe and money. They threw away the syringe and took the money. They beat me on the forehead and let me go. Maybe this has happened three times, usually in the evening. The patrol services are out in the evening. This was a new syringe that they threw away. Police stop me and check my arms for tracks. . . . It’s better to walk in the street without a syringe because police can always stop you. . . . If you have a used syringe, it’s obvious you are a drug addict. If it’s clean, you can say it’s for a normal injection, but even then they can look at your arms and see you’re a drug addict.[120]

In Kherson, Andriy T., twenty-seven, told Human Rights Watch that he preferred to get his needles from the needle exchange, but police presence near the exchange kept him from coming there. He told Human Rights Watch, “I try to come here infrequently, two or three times a week. I know that police are around here, looking out for me, and so I try to avoid coming around here.” Two weeks prior to speaking with Human Rights Watch, Andriy had been stopped by the police. “It was the kind of incident that would make me not want to come here. I came here and got needles and police stopped me about two blocks away. Police do whatever they want and humiliate you. What am I supposed to do? I could write a complaint against them and that complaint wouldn’t go anywhere.”[121]

Grigory V., thirty-seven, who did outreach work in a village outside of Mykolaiv city, told Human Rights Watch that drug users refused to bring their used syringes to the exchange. He said that when he explained the exchange to drug users, they said, “We’re afraid. We’re not going to do that.” According to Grigory, drug users “don’t want to gather all syringes waiting for me to exchange them. They’re afraid of police because there’s blood on the syringes and they could be convicted.”[122] Leaving used needles in circulation partly defeats the object of a syringe exchange.
Pharmacies, which can legally sell syringes to adults in unrestricted numbers, are an important source of sterile syringes for drug users. Human Rights Watch found, however, that in some cities, police patrolled pharmacies and targeted those who purchased syringes for arrest or other abuse, using possession of sterile syringes as justification to arrest drug users, and to extort money or information from them.

Mikhail S., thirty-two, said that in Odessa, “police often patrol outside pharmacies and arrest drug users who have syringes.” He said that “even yesterday I saw a police raid near a pharmacy,” and that he had been arrested and beaten by police outside a pharmacy in May 2004. “These policemen simply walk in the area close to the pharmacy and they can pick out the drug users. I had a brand new syringe in my back pocket and one policeman grabbed my hand and the other tried to pull the syringe from my pocket.” Mikhail added, “I think these patrols [of pharmacies] encourage dangerous drug use. Many times, I saw situations where drug users took syringes from the ground and cleaned them with rainwater and urine and then used them. I personally saw clients come and select used syringes from the bucket [where people discarded contaminated needles].”

Harassment of outreach workers

Ukraine government policy recognizes that the most effective and in some cases the only possible AIDS educators for members of marginalized groups, such as injection drug users, are their peers. But peer educators and others who reach out to marginalized groups are often held in the same contempt as the individuals with whom they work, and subjected to discrimination and violence at the hands of the government. Several NGOs that work with drug users said that police abuse of outreach workers had abated in recent months as a result of concerted efforts on their part to educate police about their work. But problems still remain: Human Rights Watch documented several cases of police abuse of outreach workers providing services to drug users.

Outreach workers with Club Eney, a harm reduction program in Kyiv, said that they were often arrested, one as recently as two hours prior to meeting with Human Rights Watch. Daniela Y. said that she had been arrested twice for having used syringes that had been exchanged. “I had a whole bag, about one hundred of them,” she said. “The police came to the needle exchange point and arrested drug users . . . and then they took the outreach workers with them. They didn’t let us make a call. They were very abusive. We had no chance to tell them who we were. We were detained for about four hours.” Tomas L. told Human Rights Watch, “The police know us. They may come say hello. In other cases, they arrest our people. Earlier, it was harder, but police bother us less now.” When asked when he was last harassed while working at the needle exchange point, Tomas L. replied, “this morning.”

Club Eney outreach workers said that they had an agreement with police and the mayor to distribute syringes, but local officials abused these agreements. One outreach worker explained, “the situation with the police is very bipolar. Higher officials are not a problem any more. They understand the situation. But minor officials can’t collect bribes if they cooperate with us.”

Club Eney also had an agreement with each police district in Kyiv permitting syringe distribution during certain times. Outreach workers acknowledged that in some districts, police did not come by during syringe exchange hours, crediting training by local authorities on harm reduction. Not all districts respected this agreement,
however. Bogdan S., an outreach worker with Club Eney, said that “very often, a police car comes and parks about twenty meters from us. The duty shift basically know all the drug users, so they can simply watch and follow them. It’s a really big obstacle. There’s no direct pressure, but it destabilizes the situation.”

Outreach workers with Way Home in Odessa said that they usually carried a copy of an agreement signed by the head of police stating that the police would cooperate with Way Home’s harm reduction efforts, and an identification card stating that they were working with Way Home’s harm reduction program. This agreement did not stop all police abuse of outreach workers, however. Way Home staff said that although police “hinder our work much less” than they had in the past, there were still problems. According to one staff member, the month prior to Human Rights Watch’s visit to Odessa, “police tried to beat up one of our outreach workers. Outreach workers are all ex-drug users themselves, so they look like drug users. Police tried to beat up the outreach worker, but he showed his identification documents and was released.”

Harm reduction program staff in Mykolaiv likewise said that their efforts to educate police about harm reduction had helped reduce police abuse and arrest of outreach workers, but that police did still detain outreach workers. The outreach coordinator for the NGO Exit, a harm reduction program in Mykolaiv, recalled that “there have been four incidents in the past six months were the police searched or detained outreach workers.”

### Police Abuse of Sex Workers

Sex workers interviewed by Human Rights Watch reported being harassed and sometimes detained by police, who demanded money, information about drug users and other criminal suspects, and sex in exchange for release. Sex workers also reported that police beat them and forced them to engage in degrading acts, such as sitting naked in the police station. As a practical matter, because sex workers are easy targets for prosecution as prostitution is illegal, police face little risk of censure for these actions. Many sex workers migrate to Ukraine’s cities from villages in Ukraine or other countries in the region; their lack of official registration and identity documents required for legal residence and access to city services makes these sex workers more vulnerable to police abuse than their counterparts with registered residency.

Anastasia P., twenty-three, said, “Police use their position to get sex for free.” She told Human Rights Watch that in 2004, two policemen threatened to kill her if she refused to have sex with them. Tanya K., twenty-seven, said that she had been detained by police three times since she had begun working as a sex worker in 2004. “The first time, I was forced to perform oral sex on three police officers. They didn’t wear condoms.”

Alexandra R., thirty-two, said that she paid police not to arrest her for prostitution. She told Human Rights Watch, “I have constant interactions with police. We have a money-based relationship.” Maria B., thirty-two, said, “The police detain me very often. They take me to the police station. They want money. They want at least ten hryvna [U.S.$2], although it depends on the person asking.”

Sex workers said that police targeted them to fulfill their periodic “work plans.” Oksana M., thirty-one, told Human Rights Watch, “If it’s a low-level police officer, maybe we’ll have to pay a little bribe. But if it’s a head guy, he’ll write you up. You can’t bribe him because they have a work plan and will detain you.”
Sex workers also said that police extorted false witness statements, and forced them to provide information about drug users and other crimes. "Since police know us and who and where we are, they sometimes come to us and force us to sign witness statements," said Victoria F. "For example, yesterday, when I was detained and I saw they [police] were beating those guys, I was forced to sign a statement. Other girls were also forced to sign. We didn’t even have time to read the document." Maria told Human Rights Watch that police “demand information from us, information on drug users, who is stealing. They are constantly demanding ‘cooperation.’”

Sex workers said that the law on prostitution, as well as police disregard for sex workers more generally, made it impossible for them to file complaints about violence or abuse against them. Ivana S., twenty-eight, said that after she was anally raped by a client, “I told the other girls who work at this location about him. I didn’t complain to police because I would just be arrested for prostitution.” Larisa A. said she had been gang raped by five men two months prior to meeting with Human Rights Watch in July 2005. “After that, I went to the police station. They brought the guys in. When they told the police that I had been bought [had been paid to have sex], the police told me, ‘get out of here.’”

Evgenia R., forty-three, said that when she tried to file a report with police after having been gang raped at gunpoint, the police told her, “You’re just upset because when they raped you, they didn’t pay you.”

When she was pregnant in 2001, Larisa was detained for six days without police registering her presence or informing her family of her whereabouts, in plain violation of Ukrainian law. She said that police beat her severely with night sticks and with fists, and that she lost a lot of blood. “My husband came and asked for me. The police said that no one was registered by that name. I could hear police saying that we can do whatever we want because she is not even registered. . . . The procuracy official told the police, ‘She’s just a prostitute. Why don’t you just take her in the yard because I bet she knows how to do a lot of good things.’”

The kinds of police abuse described above increases sex workers’ vulnerability to HIV in a number of ways. First, forced or coerced sex creates a risk of physical trauma. When the vagina or anus is dry and force is used, genital or anal injury are more likely, increasing the risk of transmission. Forced oral sex may cause tears in the skin, also increasing the risk of HIV transmission. Sex workers who face violence or abuse have limited capacity to negotiate condom use or safer sex. And as the testimony above illustrates, in the face of violence and abuse from police, sex workers have little reason to expect that police will provide protection against rape or other violence committed against them.

VI. Abuses in the Health Care System
Injection drug users, people living with HIV/AIDS, doctors specializing in AIDS care, and AIDS service workers recounted consistent and numerous accounts of discrimination and abuse in the health care system of individuals related to their HIV status. Injection drug users and people living with HIV/AIDS were often denied emergency medical treatment, including by ambulances that refused to pick them up; were kicked out of hospitals; and were provided inadequate treatment by doctors who refused even to touch them. Others were forced to pay for treatment that should have been free of charge. Health workers also often violated the privacy of people living with HIV/AIDS by disclosing confidential information about HIV status.

Human Rights Watch found that the threat of abusive treatment, and the fear of being identified and registered as a drug user, kept drug users from seeking health care treatment for injuries that might reveal injection drug use, and inhibited drug users from seeking treatment for drug dependency or information about HIV/AIDS prevention and care. Discrimination and stigma also kept people living with HIV/AIDS away from health care and other HIV/AIDS related services.

Health Care Services Denied

Ukraine’s national AIDS law specifically forbids health care institutions from refusing admission or medical aid to people living with HIV/AIDS based on their HIV status. Legal experts have interpreted Ukraine’s constitution to further protect against discrimination based on HIV status. Human Rights Watch found that many people living with HIV/AIDS were denied health care, in violation of these guarantees.

The experiences of Olga G., a thirty-year-old social worker with Exit, in Mykolaiv, were typical of the accounts collected by Human Rights Watch. According to Olga:

The doctors in the AIDS center are okay. They aren’t so good in the hospitals and polyclinics [general clinics]. In November 2004 I was brought to the third city hospital once by an ambulance when I was feeling really sick—my blood pressure was really high. The doctor said to the paramedics, ‘Why did you bring me an AIDS patient? Why didn’t you take her where she actually should go.’ He meant to the AIDS hospital. He refused to treat me.

Artur Z., thirty-six, said that in late 2004, he was forced to leave an Odessa hospital after having disclosed his HIV status to a doctor there, and that doctors in Odessa had also refused to provide him with necessary medical care. “After I confessed my HIV status, the information spread and they wanted me out of the hospital. My mother came and had to pay fifty Euros [U.S.$60] so that I could stay overnight until they found me another hospital. They said, ‘We have no right to keep people with AIDS here. You better hurry and get him out of here because he could infect other people.’ So I was taken to a TB hospital. At that time, I had candidiasis pneumonia. I had some spots on my X-ray. It was not TB, but they wrote TB because I had to be taken to another place.”

Doctors in Odessa refused to perform a biopsy, forcing Artur to pursue medical care elsewhere. Artur said that he was able to have a biopsy performed in Kyiv because he did not disclose his HIV status, following the advice of doctors at the Odessa AIDS Center. “I had no problems because I did not reveal my HIV status. I did it in an unofficial way.”
Tatiana Bordunis, an attorney with the All-Ukrainian Network of People Living with HIV/AIDS, represented several people living with HIV/AIDS who had been denied medical treatment. In February 2005, one of Bordunis’s clients, a man living with HIV/AIDS, was denied treatment for an abscess in his lung by health care facilities in his native Chernihiv. The pulmonary institute in Kyiv confirmed that he needed surgery, but after they found out that he was HIV-positive, they released him, as did a second hospital, without performing it. “Two hospitals in Kyiv refused surgery,” said Bordunis. “Can you imagine what happens outside of Kyiv?”[52]

Doctors working with people living with HIV/AIDS acknowledged that health care professionals’ refusal to provide medical care to people they knew or suspected to be HIV-positive severely compromised the lives and health of people living with HIV/AIDS. Yaroslava Lapatina, an AIDS specialist at Lavra AIDS Clinic, Ukraine’s leading HIV/AIDS hospital, identified doctors’ refusal to provide even basic care to people living with HIV/AIDS as the main health care problem faced by people living with HIV/AIDS, and the reason that patients arrived at Lavra AIDS Clinic in such poor health. Lapatina told Human Rights Watch:

I had a case recently where one of our [AIDS] patients had a stomach problem. Some part of his stomach was very tight and he couldn’t eat because food wouldn’t pass through. He needed a special procedure. Doctors at the regional hospital said, ‘We don’t think it’s necessary. He has got space for food to pass.’ It took immense effort to pressure doctors to do this procedure. I don’t know how much money his mother had to pay to get the doctor to do this procedure. There was a three-week delay. The patient couldn’t eat this whole time. He was dying from hunger. He got dystrophy. He was injected with substitute food, but it was an expensive treatment and it didn’t work so well. Two things helped solve this problem: the patient’s mother was very upset and very demanding; and she paid money.[153]

Discriminatory and Degrading Health Care Provision

Katrina M., twenty-four, said that after she told doctors in Lviv that she was HIV-positive: “Some [doctors] refused even to talk with me. At one point last winter, about seven or eight months ago, I had pneumonia in both lungs, with a related heart complication. I had a very high fever. When the nurse came to give me shots, he told me to roll over and face away from him and not breathe on him. A doctor told other patients not to come close to me. He said that I have lots of diseases, like HIV and hepatitis C, and that I can contaminate other people if they come close.”

At one point a nurse came in to change my catheter. I told her to put on gloves. I was tired of telling everyone that I have HIV, and so I just told her to put on gloves, without explaining anything. She said, ‘It’s more comfortable for me this way.’ I said, ‘Please, I’m sick. Use gloves.’ She said, ‘What do you have?’ And I told her. And she said ‘What?!’ and looked at me terrified and then fainted right on the floor. She lost consciousness.
Some months before that, I had gone to the gynecologist. She put on a heavy glove, like a winter glove or a gardening glove, I don’t know exactly. And then she put on a plastic glove over that before she would examine me. I really don’t understand this. It’s really unpleasant for me. I understand that people are afraid, but I am also a person! \[154\]

Yaroslav R. said that the month prior to meeting with Human Rights Watch, hospital staff, including doctors, had chastised him for being a drug user, and denied him a hospital room and access to the hospital cafeteria because of his HIV status. At the trauma hospital where he had sought treatment, Yaroslav had been placed in a corridor, even though there were rooms available. He told us, “One doctor said to me, ‘Why do you come here and make more problems for us? You are guilty yourself for this. You are dragging yourself to your own destruction.’” Summing up his experience, Yaroslav said, “This was all really unpleasant for me. I mean, I’m a human being and I was in pain. Isn’t it their job to treat me?” \[155\]

Sergei Soltyk, head of medical services at Odessa regional AIDS center, acknowledged that health care workers’ prejudice against drug users and sex workers contributed to their fear of people living with HIV/AIDS. Soltyk said that doctors feared people living with HIV/AIDS because they were afraid of drug users and sex workers. He told Human Rights Watch:

Now we have here all those patients who got infected in the first wave, in 1993. Most got infected through blood—drug users, low-level prostitutes. At that time, it was mainly drug users, sex workers, bad elements of society that got infected and now they are coming to hospital. All those people who go to hospital are dirty, smelly, very cheap prostitutes. This also contributes to the fear, that people are afraid of people like them. \[156\]

Svitlana Antoniak, head doctor at Lavra AIDS Clinic in Kyiv, said that even doctors themselves faced AIDS-related discrimination. She told Human Rights Watch:

Yesterday, I received a phone call from a surgeon from [town name withheld] who was fired a month ago when it became known that he had HIV. No confidentiality—his parents were told. He thinks he might have been infected while performing surgery. He never had a chance to use PEP. \[157\] He didn’t even know about it. He was fired, and there’s not even a confirming diagnosis yet. They just shook his hand and told him to go [seek care at] the polyclinic. \[158\]

**Specific Obstacles to Care for Drug Users**

Discrimination and abuse against drug users is persistent in health care settings, regardless of their HIV status. Drug users and service providers working with them said that some medical facilities refused altogether to provide care to drug users, and that treatment, when provided, was inadequate, and provided in an abusive manner.
Larissa Borisenko, a social worker with the NGO Virtus in Dnipropetrovsk, told Human Rights Watch:

Medical facilities do not take active drug users. When I was working here I knew the story of one guy, Sergei M. They wanted to put him in the oblast AIDS center. He was HIV-positive. He had serious swelling in the glands in his neck—this candidiasis is a typical infection for HIV-positive people. But the oblast AIDS center refused to take him because he was an active drug user. Several other hospitals also refused to take him. The ambulance services also refused to take him. He is on the registry as a drug user. All the medical personnel knew that he used drugs, so they refused to pick him up.

Jakob T., an outreach worker with Way Home, in Odessa, said that medical workers “don’t look at drug users as ill people, but like criminals, like bandits. Our clients are often refused treatment.”

When Human Rights Watch met Anton D., forty-one, he had large purple abscesses on his lower legs and he said that his right leg had been swollen for some time. Anton said that a doctor at the local polyclinic had refused to treat these ailments, and rebuked him for seeking treatment for them. Anton told Human Rights Watch that at the hospital, “the doctor said, ‘How dare you shoot up and expect me to treat you?’ They didn’t treat me.” Anton said that when he suffered an abscess or was otherwise sick, he took care of himself.

Bogdan S., an outreach worker with Club Eney in Kyiv, said that in his experience, drug users “bribe the doctor not to call police about abscesses. . . . If the doctor sees someone has an abscess, this identifies him as an injection drug user. There’s a huge possibility that he will call the police.” Maksim G., another Club Eney outreach worker, said that when he and his colleagues called emergency services because of an overdose, “we say the person had a heart attack. Otherwise, we’re concerned that the ambulance won’t come and the police will be called.”

Viktor M., a twenty-eight-year-old drug user in Dnipropetrovsk, showed Human Rights Watch three scars from abscesses that he had treated himself. He told Human Rights Watch that he treated his own abscesses because he feared that if he were treated at the hospital, the hospital would share information with his employer that would disclose his drug use, and he would lose his job. He said, “There is a special sheet at the hospital that they have to fill out if you miss work. If they put the disease as abscess, they would know I was a drug user.”

Illegal Demand for Payment for Medication and Services

People living with HIV/AIDS said that health care workers sometimes requested payment as a condition of receiving services, or to protect against immediate removal from the hospital. This is in stark violation both of Ukrainian constitutional provisions, noted above, guaranteeing free health care for all in state institutions, and national legislation guaranteeing free medicines to treat existing disease, as well as psycho-social support, for people living with HIV/AIDS. While many Ukrainians must pay for treatment to which they are entitled by law, such payments are particularly burdensome for people living with HIV/AIDS, for whom obstacles to care threaten to compromise already fragile health status.
Yaroslav R., an HIV-positive drug user, met with Human Rights Watch in July 2005, eight days after his wife had died of AIDS. One month before her death, Yaroslav had to pay 90 hryvna (U.S.$18) for his own medication when he sought treatment for himself, mentioned above. In January 2005, his wife had been denied treatment at the Mykolaiv regional AIDS center when she could not meet their demand for payment.

Yaroslav told Human Rights Watch, “We went to the oblast AIDS center on 18 January 2005 to get treatment for her.” Yaroslav continued, “It’s about forty-two kilometers from where we live. I don’t know what was wrong with my wife, but her system just started shutting down. She had diarrhea and then didn’t go to the toilet for four days. She couldn’t eat. She was really kind of going crazy.”

Yaroslav described how he and his wife were greeted at the AIDS center:

There were two people sitting at the front desk. One young woman and one young man. They were sort of laughing at us. They said, ‘Oh, your wife has AIDS? Should we give you some condoms or is it already too late?‘ They told us that it would cost 600 hryvna [U.S.$120] for treatment. We didn’t see a doctor. We didn’t see anyone except these people at the front desk.

I mean she was really so very sick. I came with her and I was ready to leave her for some treatment. I came with all the bags packed and everything. And then they said 600 hryvna. I only had about 120 hryvna [U.S.$24] with me and so we went home. . . . After that we didn’t go anywhere else for medical treatment. We felt that there was nothing else that we could do.¹⁶⁸

Inna B., an HIV-positive social worker from Dnipropetrovsk, said that when she was seven months pregnant, she sought emergency treatment at a maternity hospital because of a threat of miscarriage.

I came to get some emergency treatment, but the first hospital refused me. I was sent from one birthing hospital to another. No one wanted to take me because I had used drugs and I was HIV-positive. I had to make an agreement with the head doctor and I had to pay. I was in the hospital for two weeks. When I was ready to give birth I came to the central birthing hospital No. 1 at 11 a.m. My water had already broken. They didn’t want to admit me. Several people refused to admit me. It was only when I said, ‘How much?’ that they took me in. I paid 1,100 hryvna [U.S.$220] and my daughter was born a few minutes later. If I hadn’t paid, I would have given birth in the waiting room.¹⁶⁹

(See also below, sub-section “Abuses against Women with HIV/AIDS in Reproductive Health Care Provision.”)

**Barriers to Tuberculosis Treatment for People Living with HIV/AIDS**
Tuberculosis is a leading cause of death for people living with HIV/AIDS, and a major problem overall in Ukraine.[170] Government failure to link tuberculosis and HIV/AIDS treatment, as well as health care professionals’ refusal to treat people living with HIV/AIDS suffering from tuberculosis or pulmonary ailments, may be contributing to fatality rates for people living with HIV/AIDS.

Nino Chelidze, project coordinator for Médecins Sans Frontières, which has been providing HIV/AIDS services in Odessa since 2000, said that tuberculosis was the main opportunistic infection among HIV/AIDS patients in Odessa. Chelidze said that “a lot of people are dying from tuberculosis,” identifying the “very weak link between the national tuberculosis program and the HIV program” as a major problem. [171] Zahed Islam, head of the Ukraine mission for Médecins Sans Frontières, also said that tuberculosis centers’ refusal to treat people living with HIV/AIDS was a common problem:

This kind of discrimination happens all the time. For example, if a person has clinical indications of extrapulmonary TB, the person is sent to the hospital. Any doctor could identify this as TB, but the patient returns with a note saying there’s no TB. There are many cases like this. More than forty patients who died in the inpatient department of the AIDS center had TB. I hear these stories every day. Sometimes our doctors, nurses say that we suspect this patient has TB. Sometimes we get results if we accompany the person. People end up dying even where they could be treated.[172]

Sergei Soltyk, head of medical services at Odessa regional AIDS center, told Human Rights Watch, “We always have problems referring people to TB clinics. We have more serious problems sending clients there than sending them to other hospitals. [TB clinics] just refuse to accept people with AIDS. It’s like an endless fight. After a lot of fighting, finally they’ll take patients.” When asked why TB hospitals denied care to people living with HIV/AIDS, Soltyk replied, “They’re afraid because of their ignorance. There’s not enough information about HIV.”[173]

Human Rights Watch met Pavel N., twenty-seven, at Lavra AIDS Clinic in Kyiv. Pavel had been diagnosed with tuberculosis, and was in the advanced stages of AIDS, in desperate need of antiretroviral therapy. Pavel said that he had been diagnosed with tuberculosis in 2002. Two weeks prior to coming to Lavra, Pavel had been forcibly discharged from a hospital in Simferopol immediately after his HIV-positive test result had been confirmed. He told Human Rights Watch, “I was getting treatment in the hospital for pneumonia until the test results became known. I was kicked out of the hospital the same day the results became known. The doctor stopped in and invited me to his office. He mentioned my positive test result and said that I had to go to the AIDS center.” Pavel left Simferopol, and was taken by a friend to Lavra AIDS clinic.[174]

In December 2004, Misha G., forty-one, was refused treatment at both Dnipropetrovsk regional and city tuberculosis clinics. He told Human Rights Watch:

There’s a diagnosis common among people who are HIV-positive, lymph node tuberculosis. You need a test for this. For one year they refused to give me this test because I was HIV-positive. The oblast TB center turned me away. When I was refused there, the doctor even dropped the papers when she saw that I was HIV-positive. They said, ‘You need to be
Niko L., forty-six, said that he had been refused treatment on three occasions when he was suffering from TB, both at the TB hospital and at the infection hospital in Odessa. In 1997, he had been refused assistance by the TB hospital after disclosing his HIV status. In 2004, a nurse refused to take his blood, claiming that she did not know how to take blood from a drug user.

Abuses against Women with HIV/AIDS in Reproductive Health Care Provision

All women, regardless of their HIV status, have the right to make decisions about whether to continue or terminate a pregnancy, without coercion or other interference from the state, and to have access to information and means to exercise this right. For women living with HIV/AIDS, access to complete and accurate information about mother-to-child HIV transmission and its prevention is essential to secure these rights. International law also obliges states to meet their obligations under the right to health, to take measures to improve access to sexual and reproductive health services, access to information, and resources to act on that information.

Ukraine’s public health system fails to adequately protect the rights of pregnant women living with HIV/AIDS. Women and AIDS service providers interviewed by Human Rights Watch reported that health care professionals tested pregnant women for HIV and released their test results to spouses or family members without the women’s knowledge or consent. In some cases, doctors failed to inform pregnant women living with HIV about prevention of mother-to-child HIV transmission, exaggerated the risk of HIV transmission to the fetus, or attempted to unduly influence HIV-positive women’s independent decision regarding having children. Human Rights Watch spoke to women and their spouses who said they had chosen to terminate their pregnancies because of their HIV status, without having received full information about their options.

Lada Bulah Dekhtyarenko, director of a Kyiv community center for people living with HIV/AIDS that works with HIV-positive women and their children, told Human Rights Watch, “When a woman is two months pregnant, they have to do an HIV test. The AIDS law says it’s voluntary, but pregnant women are made to do this.” Dekhtyarenko said that the chief doctor at the city AIDS center had told her, “despite the fact that the test should be voluntary, and the doctors are supposed to say, ‘I strongly recommend that you undergo HIV testing,’ it’s next to impossible that the doctor actually says this.”

In a recent case described by Dekhtyarenko, a woman learned her HIV status just after giving birth. When her husband came to the hospital to see her, the nurse disclosed her status to him, without prior consent by the woman. Dekhtyarenko said that in this case, the husband took his wife and child home with him. But other women had been thrown out of their home in such circumstances: “Some women say that after they give birth to their children, they have no home. The husband leaves them, and parents say you are not our daughter any more, don’t come home any more.”
Olga G. said that she found out that she was HIV-positive in 2004, when she was pregnant. She said, “I was so afraid when I found out that I had HIV that I aborted the child. I was in the second month of pregnancy. No one told me about any kind of therapy. I didn’t know you could prevent vertical transmission.”

Staff at AIDS service organizations in Kherson and Odessa also said that their clients had complained that doctors had told them to get abortions. According to Nina M., a social worker with the All-Ukrainian Network of People Living with HIV/AIDS in Kherson:

Similarly, Nataliya, a volunteer with Life Plus in Odessa, said that “doctors very often recommend that HIV-positive women get abortions. I hear this complaint quite frequently from other people.”

Women who are offered antiretroviral drugs to prevent mother-to-child transmission received inadequate information about it, and were sometimes required to pay for it, again a violation of Ukrainian law that these medications be provided free of charge. Inna B., the HIV-positive social worker in Dnipropetrovsk, charged that the “law stating that HIV-positive people should get free treatment is a joke, especially if we consider the city AIDS center.” She said when she was pregnant, a doctor at her local polyclinic told her that HIV-positive pregnant mothers and their babies should be provided with medicines free of charge. She said that after hearing this:

I went directly to the city AIDS center . . . I demanded that they give me this medicine. They said, ‘When you need this, we’ll call you.’ I told them, ‘I know that I am entitled to some medicine, but I don’t know what.’ I called every day asking them, ‘Please give me the medicine.’ Finally one doctor said that I could come in and get it. When I arrived she threw the tablets on the floor and said, ‘sign here.’ She didn’t tell me how to take it. I had to call her again and all she said was, ‘two times per day.’ I waited for two months to get the therapy. I didn’t even know what it was. No one told me that I couldn’t skip a dose.

As described above, Inna B. was admitted to the hospital to give birth only after paying 1,100 hryvna for admission.

Doctors at some AIDS Centers did intervene to correct misperceptions about mother-to-child HIV transmission. Klara Z., thirty-nine, said that when she learned that she was HIV-positive, the local doctor “told everyone,” and she wanted an abortion. At the Odessa AIDS center, however, doctors explained to her how to prevent HIV transmission to her
fetus, and provided her with antiretroviral drugs to prevent transmission.\[188\]

Discrimination against HIV-positive mothers can extend to their children. Klara said that her son suffered medical problems at birth. But “when they found out that I was HIV-positive, they refused to give him medication. They made him leave the hospital and he never got any treatment.”\[189\]

### Inadequate Protection of Confidential Information

Ukraine’s national HIV/AIDS law protects the medical confidentiality of HIV test results, and includes specific limits on the transfer of these data. The law further instructs that information related to, and medical supervision of, people living with HIV/AIDS be carried out consistent with respect for rights to confidentiality, and personal rights and freedoms guaranteed by Ukrainian law and relevant international treaties.\[190\] A 2004 survey of people living with HIV/AIDS in sixteen cities throughout Ukraine found that these rights were mostly honored more in the breach than the observance, however: 70 percent of respondents reported that their rights to confidentiality of HIV diagnosis had been violated.\[191\]

Several people living with HIV/AIDS told Human Rights Watch that health workers had disclosed confidential information about their HIV status without their authorization. Katya N., twenty-eight, found out that she was HIV-positive when she was pregnant. Soon, this information was public. “When I came to the obstetrician, only one doctor and the chief of the department knew about my HIV status. After a while, even the cleaner at the hospital knew about it. The cleaner’s daughter was my friend. The cleaner told her daughter not to be friends with me. After that, I lost my friend.”\[192\] As mentioned above, Klara Z. had a similar experience also when she was pregnant. “The doctor told me that I was HIV-positive and didn’t behave very well. She told everyone. This was a very big shock for me. My friend took me to the doctor and the doctor told my friend and other doctors that I was HIV-positive. My friend then became very cautious and distanced herself from me.”\[193\]

Leonid S., thirty-seven, lived with his parents in their Kyiv apartment. In April 2005, a doctor at a Kyiv polyclinic disclosed his HIV-positive status to his mother without his consent; since then, his parents have asked him to leave home. “My mother says, ‘You are a shame to our family. Go away from our home. You are contagious. We can all become sick.’”\[194\]

Ruminta T., thirty-nine, said that a narcologist in Dnipropetrovsk had disclosed her HIV status to other drug users, supposedly as a “warning” to them.\[195\]

Elena Goryacheva, director of Exit, said that health care providers’ failure to maintain confidentiality of patients’ HIV status kept people from being tested for HIV, noting that this was a particular problem in small towns. “Especially in small towns, people don’t want to get tested because they fear disclosure. They’re afraid of taking the test. We have even proposed taking a specialist from Mykolaiv who doesn’t know them to do the testing so as to keep things anonymous.”\[196\]
A further risk of divulging confidential information about HIV status arises from the singling out of HIV-positive patients for disparate treatment absent medical justification, such as limiting substitution therapy to people receiving antiretroviral treatment. This is discussed in Section VII, below.

Preserving the confidentiality of information about HIV status is protected by international law[197], as well as Ukrainian national law.198 Such actions also threaten other rights. As described above, people living with HIV/AIDS may be denied health care, threatened with eviction or unemployment, or subjected to other forms of discrimination and stigma when state and private actors discover that they are HIV-positive.

### VII. Barriers to Drug Treatment and Antiretroviral Therapy for Injection Drug Users

In 2005 Ukraine made important progress in its efforts to provide substitution therapy for drug users, and antiretroviral therapy for people living with HIV/AIDS. Human Rights Watch research found, however, that significant obstacles remain that threaten to impede the implementation of substitution therapy and antiretroviral treatment programs.

#### Barriers to Substitution Therapy

*Without [substitution] therapy, the only things waiting for drug users are overdose, prison, HIV, other diseases, homelessness and the grave.*

- Volodymyr D., participant in substitution therapy program, Kherson, July 9, 2005
Since 2001, the government has issued a number of official government documents (including parliamentary hearing recommendations, Cabinet of Ministers resolutions, and Ministry of Health orders) recommending the introduction of substitution therapy programs as part of national efforts to treat drug dependency and to control the spread of HIV/AIDS. But opposition by drug and law enforcement agencies, particularly to methadone, has created significant barriers to the implementation of these programs.

Ukraine is party to U.N. drug control conventions obliging it to establish rehabilitation and social reintegration services for drug users according to international standards, and to make provisions for treatment systems. U.N. bodies monitoring these treaties have made clear that methadone substitution therapy does not breach these conventions. Ukrainian officials have wrongly cited these conventions to oppose methadone, while ignoring the substantial body of evidence establishing methadone substitution as an effective treatment for opiate addiction.

Maj. Gen. Anatoliy Naumenko, the chief of the drug enforcement department of the Ministry of Interior from September 2003 to July 2005, vigorously opposed the use of methadone on several grounds, asserting that Ukrainian and Russian studies had proved methadone to be ineffective in treating opiate addiction, and that its use contravened United Nations drug conventions. Naumenko also expressed concern about the illegal sale of methadone by underpaid health professionals and drug users. The Security Service of Ukraine has similarly opposed methadone, dismissing its use in HIV prevention as “propaganda,” and claiming that it did not address opiate drug addiction, but instead created a new form of drug addiction (“methadone mania”) as well as demand for the illegal manufacture and marketing of methadone.

In mid-2005, the Cabinet of Ministers proposed to ban methadone altogether. In November 2005, following significant protest by domestic and international human rights, HIV/AIDS, and harm reduction advocates, Ukraine agreed to partner with the Clinton Foundation HIV/AIDS Initiative to “pilot and then scale up methadone-based drug substitution therapy.” At this writing, methadone remains unavailable, and the government has not announced plans for its use in substitution therapy programs.

Injectable buprenorphine has been used to treat opiate addiction in Ukraine for some years, both in drug detoxification, and on a more limited basis, for short-term substitution therapy. In 2004, pilot programs with sublingual buprenorphine were begun in Kyiv and Kherson, initially designed to treat thirty patients in Kherson and one hundred in Kyiv for six months. In September 2005, with support from the Global Fund to Fight AIDS, Tuberculosis and Malaria, Ukraine began to implement a pilot substitution therapy program with sublingual buprenorphine, with the goal of providing treatment to 200 drug users in seven cities by the end of the year. Methadone is significantly less expensive than buprenorphine, and at least as effective. But the NGO the International HIV/AIDS Alliance in Ukraine, which is charged with implementing Ukraine’s substitution therapy program, chose to use buprenorphine for substitution therapy in part because of law enforcement opposition to methadone.

Narcologists interviewed by Human Rights Watch were encouraged by Ukraine’s efforts to provide substitution therapy with buprenorphine, but some worried that state drug and law enforcement services would interfere with these programs. A narcologist who had used buprenorphine to treat drug users in 2002 and 2003 expressed serious concern that state drug control authorities’ interference with the buprenorphine substitution therapy program would drive people away from services and might force health care workers to stop providing buprenorphine altogether.
The narcologist told Human Rights Watch that in the program he ran in 2002-2003, regional authorities "created conditions under which it was impossible for me to work. They inspected me every week. My name was discussed at meetings. They said that I was giving out drugs to drug users. . . . [The] Department for Combating Illegal Drug Circulation told me not to play tricks. They said if they had found any violations, they would have put me in jail." The narcologist said that a representative from the Committee for Inspection of Narcotic Drug Control had interrogated patients receiving buprenorphine about their treatment by him, driving several of them away from treatment altogether and forcing the program to shut down. The narcologist told Human Rights Watch, "After being questioned by the Committee, several patients quit buprenorphine treatment. Some returned to opiate use."

Although this narcologist has agreed to provide buprenorphine as part of the new government program, he remains concerned about interference by state drug control authorities, fearing that "it is inevitable that they will come." "I'm very concerned that law enforcement bodies will interfere with buprenorphine," he said. "I don't know how, but there's an article in the criminal code about distribution of illegal drugs, and if on the government level, they don't approve of substitution therapy, they can incriminate me."[^210]

Ukraine's buprenorphine programs are also being implemented in ways that threaten the privacy of HIV-positive drug users. Under Ministry of Health guidelines, only people who are HIV-positive are eligible to receive buprenorphine, which means that participation in the program itself advertises a person's HIV status.[^211] As of January 2006, enrollment in substitution therapy programs was limited to individuals who have been registered and listed as drug users with narcology clinics;[^212] in most cases, narcology clinics officially register drug users who seek assistance from them.[^213] Anatoliy Vievski, head narcologist at Ukraine's Ministry of Health, expressed concern that procedures were inadequate to ensure that this information remained protected both within and between medical institutions participating in substitution therapy programs, and from police. Vievski said that many narcology hospitals and clinics routinely shared information with police about registered drug users, and where this was the case, police would have ready access to confidential information about drug users on substitution therapy. According to Vievski, "It would be easy for police to say [to the narcology hospital] 'we want this information,' and they'll hand it over."[^214]

Given that, as noted above, many drug users reportedly do not seek treatment at narcology clinics out of concern with registration requirements and their consequences,[^215] the same concerns may also deter drug users from enrolling in the substitution therapy program. Viktor M., who told Human Rights Watch that he would not go to the narcology clinic because of the registration requirement and for fear that his employer would consequently find out and he would lose his job, recommended a solution to this dilemma: ensuring anonymous drug treatment.[^216] This recommendation has been made by the World Health Organization in its January 2006 report on substitution therapy in Ukraine as an important factor to be considered to facilitate rapid scale up of Ukraine's substitution therapy programs, and to ensure the confidentiality of patient information for drug users enrolled in the programs.[^217]

Restricting buprenorphine to HIV-positive drug users also fails to take into account guidance by Ukraine's national HIV/AIDS strategy, as well as recommendations of international health organizations, which recognize the critical importance of substitution therapy in preventing HIV infection among drug users.[^218] It also fails to take into account Ukraine's own recent successful experience with substitution therapy. According to Irina Blizhevskaya, the director of the buprenorphine substitution program at Kherson regional narcology center, of fifty people who had attended Kherson's substitution therapy program, only five or six had returned to drugs; and fifteen of nineteen patients remaining in Kherson's substitution therapy program in July 2005 were working. Blizhevskaya noted that this was a
“big accomplishment, particularly considering that some of these people spent a large portion of their lives in and out of prison,” and never before held a steady job. And, as Blizhevskaya pointed out, only five of the nineteen patients in the Kherson pilot buprenorphine program were HIV-positive.\(^{219}\)

Narcologists interviewed by Human Rights Watch also expressed concern that government efforts to provide substitution therapy were insufficient to address the needs of opiate-dependent drug users in Ukraine. In Dnipropetrovsk city, for example, according to official statistics, in June 2005 more than 4,000 registered drug users were classified as opiate addicted.\(^{220}\) A narcologist at the Dnipropetrovsk city narcodispensary told Human Rights Watch that there were only thirty slots for substitution therapy patients, which was plainly inadequate to treat those who needed it.\(^{221}\) According to international drug control and health organizations, 30 to 40 percent of the opiate-addicted drug users in a given population should have access to substitution therapy on a daily basis to have an impact on drug dependency and HIV/AIDS.\(^{222}\) For Ukraine, with an estimated 200,000 to 590,000 drug users, this would mean providing between 60,000 and 238,000 treatment slots.\(^{223}\)

Some narcologists also raised practical problems with coordinating substitution therapy with doctors from AIDS centers. A narcologist at the Dnipropetrovsk city narcodispensary told Human Rights Watch, “Substitution therapy is a very politicized thing in our country. AIDS doctors will take part in the substitution therapy but they refuse to have it on their premises. There are lots of technical questions—storage, transportation, licensing—and they don’t want to deal with it.”\(^{224}\)

In Kherson, Ukraine, the first participants in the buprenorphine substitution treatment program founded an NGO, “Awake!”, to educate people about substitution therapy and rally support for the program. In its first year, Kherson’s buprenorphine program, one of two such pilot projects in Ukraine, was successful in helping long-term drug users quit street drugs and to find jobs, some for the first time in their lives. Awake! members became peer educators to support other drug users seeking substitution therapy and traveled nationwide to speak publicly about its benefits. Government officials visited Kherson’s program, looking to it as a model. Kherson’s buprenorphine program experienced a crisis in the summer of 2005. The program’s sponsor, the United Nations Development Programme, announced that by September it would have no more medicine to provide. Doctors were forced to sharply cut doses to patients, and expressed concern that their patients would return to injecting drugs if the program ended. Awake! members launched a concerted campaign to secure support for the program. Awake! enlisted international HIV/AIDS and harm reduction advocates, including the European AIDS Treatment Group, the International HIV/AIDS Alliance in Ukraine, and the International Harm Reduction Development Program, to join the fight. Awake!’s efforts helped ensure that the Kherson program would be supported by Ukraine’s Global Fund grant and could therefore continue offering services. Awake! members and other patients in Kherson’s program experienced no interruption in their buprenorphine treatment. Dozens more opiate-dependent people and their family members have contacted Awake! to learn more about how to get treatment with buprenorphine.\(^{225}\)

**Barriers to Antiretroviral Therapy**

The World Health Organization in April 2005 estimated that 17,300 people in Ukraine were in immediate need of antiretroviral therapy.\(^{226}\) Between April 2004 and November 2005, 2,644 people living with HIV/AIDS were enrolled in antiretroviral treatment programs, a significant increase from the 255 people under treatment as of April 2004.\(^{227}\)
In January 2004, the Global Fund to Fight AIDS, Tuberculosis, and Malaria suspended payments of U.S.$25 million to three HIV/AIDS programs in Ukraine, citing concerns with the slow progress of implementation of HIV/AIDS prevention and treatment programs, and management and governance problems. A spokesman for the Global Fund charged that the Ministry of Health's failure to increase the number of people on antiretroviral treatment from about one hundred was "completely unacceptable." In February 2004, the Global Fund handed over the administration of the grant to the International HIV/AIDS Alliance in Ukraine, which had been involved in the Ukraine HIV/AIDS program.

In June 2005, the Global Fund to Fight AIDS, Tuberculosis, and Malaria raised the concern that "IDUs (injection drug users) remain a group of people significantly unable to access treatment in Ukraine." Alla Shcherbinska, director of the Ukraine National AIDS Center, said that 46 percent of the 2,200 people receiving antiretroviral treatment as of July 2005 were drug users. This percentage was low given that according to Ukraine government statistics, as of July 2005, injection drug users represented 68 percent of all people living with HIV/AIDS. Moreover, Shcherbinska cautioned that these statistics likely underestimated the actual number of HIV-positive drug users, because official government statistics included only HIV infections among people who have been in direct contact with testing facilities, and many injection drug users avoided getting tested. Shcherbinska acknowledged that "[m]any drug users are not getting tested for HIV because they are afraid that their status as a drug user would be disclosed."

Human Rights Watch’s research suggests that many drug users living with HIV/AIDS who were eligible for antiretroviral therapy may not have been receiving it for many of the same reasons that keep them from receiving HIV/AIDS information and support, and other health services more generally. Many people living with HIV/AIDS learn about antiretroviral therapy from their regular doctors, and regularly visiting a doctor is sometimes an informal criterion for eligibility for antiretroviral therapy. With many drug users facing the kind of discriminatory treatment by doctors and health workers described above, and thus being unlikely to seek any health care except in extreme emergencies, they are likely being deprived of information as well as access to antiretroviral therapy. As Alla Shcherbinska recognized, it was "very difficult" for drug users to come to the health system.

Ukraine’s policy is to provide antiretroviral therapy to people living with AIDS according to clinical criteria. In practice, the application of informal and highly subjective criteria, such as patient “commitment” or "motivation,” can serve to exclude active drug users from enrolling in some antiretroviral therapy programs. Antonina Dyadik, head of the inpatient department, Dnipropetrovsk regional AIDS center, told Human Rights Watch, “We have no active drug users in our program. We’re taking patients that are committed. There is no commitment from drug users to antiretroviral therapy… . When given the choice between taking antiretroviral therapy and taking drugs, they choose drugs.” Irina Petrovskaya and Ludmila Ostrovskaya, doctors at Mykolaiv regional AIDS Center, told Human Rights Watch that they had not enrolled active drug users in the antiretroviral therapy program because active drug users were not “motivated for life,” and therefore unable to adhere to treatment. These practices contradict World Health Organization principles of antiretroviral treatment delivery, reflected in Ukrainian national clinical standards, which state:

Access to HIV treatment should not be artificially restricted due to political or social constraints.
Specifically there should be no categorical exclusion of injection drug users from any level of care. All patients who meet eligibility criteria and want treatment should receive it, including ID-users, sex-business workers and other populations.\[239\]

They also contradict the experience of active drug users in Ukraine, many of whom have successfully enrolled in antiretroviral treatment programs in Ukraine, as well as in other parts of the world.\[240\]

When asked how doctors measured “patient commitment,” Alla Shcherbinska, head of Ukraine’s national AIDS centers, told Human Rights Watch, “Before the doctor prescribes antiretroviral therapy, the doctor sees that person for three years. The doctor has information on how that person follows instruction. The doctor has an opinion of that person.” As described above, invitations to start treatment are only extended to those patients who are “committed.” This requirement appears to impede many drug users’ access to antiretroviral therapy: even if a drug user goes against the widespread inclination to shun health care services because of abusive treatment, and presents for treatment, it suggests that many doctors are likely to believe that as a drug user, he or she would have no commitment to treatment.

Sergei Soltyk, head of medical services at Odessa regional AIDS center, expressed his interest in establishing a clear policy denying antiretroviral therapy for active drug users, following what he understood to be the law in Russia: “Unfortunately, until now we provide antiretroviral therapy to current drug users. I think we should stop it soon, as it happened in Russia. If a person still takes drugs, he shouldn’t get therapy.”\[244\]

Elena Goryacheva, the director of the NGO Exit in Mykolaiv, told Human Rights Watch:

There are no official documents stating that active drug users can’t get antiretroviral drugs. It’s just the conviction of doctors that drug users can’t adhere to treatment and the myth that drug users are just searching for drugs. . . . I’ve spoken with doctors at the AIDS center about active drug users and antiretroviral drugs. Doctors say that active drug users can’t adhere to treatment. They may not say this openly but somehow there’s these really expensive medications and why waste them.\[243\]

Aspects of the government’s punitive approach to drug addiction also interfere with antiretroviral treatment. Drug users and outreach workers told Human Rights Watch that police had confiscated antiretroviral drugs from people living with HIV/AIDS in Dnipropetrovsk, Odessa, and Mykolaiv. In early 2005, Odessa police stopped Vitaliy M., thirty-eight, and questioned him about drug possession. Vitaliy said that after he showed police his antiretroviral drugs, and explained that they had been prescribed by the doctor, “They [police] detained me right away. They didn’t give me the possibility to explain. They put me in a cell and they sent the medicines for analysis. They didn’t believe me at all when I told them that I needed these medicines. They thought it was ‘ecstasy.’” The director of the NGO Time for Life, which works with people living with HIV/AIDS in Mykolaiv, said that police had confiscated antiretroviral drugs from people living with HIV/AIDS in Mykolaiv.\[244\] To address this problem, Time for Life had developed cards with pictures and information about antiretroviral drugs for people to show police in case of arrest.
Government failure adequately to coordinate links among drug treatment, HIV/AIDS, tuberculosis, and outreach services to people living with and at high risk of HIV/AIDS, also creates significant barriers to obtaining information about, and in turn, access to, antiretroviral drugs. HIV-positive drug users, for example, may receive little or no information about antiretroviral therapy from clinics where they receive drug addiction treatment. Yuriy Chumachenko, narcologist at the Ilyochovsk narcology center, said that not all narcologists discussed antiretroviral therapy with their patients, and that narcologists in Ilyochovsk had “recently stopped asking questions about HIV status,” believing that they were “not allowed to ask such questions.” When Human Rights Watch interviewed Anatoliy B., nineteen, he was an outpatient at the Odessa narcology center for the second time in 2005. Anatoliy told Human Rights Watch that he had found out in 2004 that he was HIV-positive. He said, “I can probably get treatment for this, but I don’t know. I don’t know where to get care or what the treatment is.”

Svitlana Antoniak, chief doctor at Lavra AIDS Clinic in Kyiv, said that the lack of information among people living with HIV/AIDS about antiretroviral therapy, and the shortage of people trained to provide it, posed major barriers to obtaining it. The NGO Exit surveyed drug users in Mykolaiv, and found that only one (of twenty-five) had any knowledge of antiretroviral drugs. Olga Sokolova of Exit said that drug users interested in seeking HIV testing often lacked information about where to get it: “And they know that medical workers have negative attitudes toward drug users and don’t want to go to them.” To address this lack of knowledge, Exit has developed materials for injection drug users on antiretroviral drugs and other HIV/AIDS-related services for distribution to injection drug users in Mykolaiv.


The Ukrainian Constitution provides that international treaties that are in force are part of the national legislation of Ukraine. Ukraine is a party to international and regional treaties requiring it to protect the human right to health without fear of punishment and discrimination. These treaties include the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social, and Cultural Rights; the Convention on the Elimination of all Forms of Discrimination against Women; and the European Convention for the Protection of Human Rights and Fundamental Freedoms. As a party to these treaties, Ukraine has committed itself to take positive measures to ensure equal access to HIV/AIDS-related information and prevention services for all people living with and at risk of the disease.
The Right to Obtain Health Services without Fear of Punishment

International law recognizes the human right to obtain lifesaving health services without fear of punishment or discrimination. The International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees the right to the highest attainable standard of health without discrimination on certain prohibited grounds (including physical or mental disability and HIV status). Article 12(c) of the ICESCR specifically obliges states to take all steps necessary for “the prevention, treatment and control of epidemic ... diseases,” which include “the establishment of prevention and education programmes for behaviour-related health concerns such as sexually-transmitted diseases, in particular HIV/AIDS.” Realization of the highest attainable standard of health requires that the state ensure equality of access to a system of health care and provide health information and services without discrimination, and protect confidential information. It also, according to the U.N. Committee on Economic, Social and Cultural Rights, requires states to take affirmative steps to promote health and to refrain from conduct that limits people’s abilities to safeguard their health. Laws and policies that “are likely to result in ... unnecessary morbidity and preventable mortality” constitute specific breaches of the obligation to respect the right to health.

Programs such as syringe exchange and opiate substitution therapy are among the most well-researched HIV prevention strategies in the world. Studies consistently show that access to sterile syringes dramatically reduces HIV transmission without increasing rates of drug use or drug-related crime. The World Health Organization states that “[needle exchange programs] ability to break the chain of transmission of HIV is well established.” In reality, the scarcity of treatment programs and the very nature of drug use guarantee that there will always be people who either cannot or will not stop using drugs. Impeding this population from obtaining or using sterile syringes amounts to prescribing death as a punishment for illicit drug use. Research supporting the establishment of substitution therapy programs, particularly with methadone, is equally compelling.

In the face of this scientific consensus, and in the absence of equally effective alternatives, state-imposed barriers to harm reduction programs for injection drug users constitute interference with the human right to health. To the extent that drug users suffer from addiction-related disabilities, restricting these programs may also constitute a form of discrimination in access to health care.

The Right to Nondiscrimination in Access to Health Care and Health Services

The U.N. Commission on Human Rights, the main body within the U.N. system charged with human rights matters, interprets article 26 of the International Covenant on Civil and Political Rights (ICCPR), which “prohibit[s] any discrimination and guarantee[s] to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,” as prohibiting discrimination based on HIV/AIDS.

According to the Committee on Economic, Social and Cultural Rights, states have a “special obligation ... to prevent discrimination in the provision of health care and health services, especially with respect to core obligations of the right to health.” These core obligations include ensuring nondiscriminatory access to health facilities, especially for vulnerable or marginalized groups; providing essential drugs; ensuring equitable distribution of all health facilities, goods and services; adopting and implementing a national public health strategy and plan of action with clear benchmarks and deadlines; ensuring reproductive, maternal and child care; taking measures to prevent, treat and
control epidemic and endemic diseases; and providing education and access to information for important health problems. To justify the failure to meet at least minimum core obligations as based on a lack of available resources, a state party “must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.”

The Committee on Economic, Social and Cultural Rights has stated that “information accessibility” is an essential element of the human right to health, noting that “education and access to information concerning the main health problems in the community, including methods of preventing and controlling them” are of “comparable priority” to the core obligations of the ICESCR. Article 19 of the ICCPR, which guarantees the “freedom to seek, receive and impart information of all kinds,” encapsulates access to complete and accurate information about HIV/AIDS. Parties to the ICCPR are obliged not only to refrain from censoring information, but to take active measures to give effect to this right.

Access to HIV prevention services saves lives. Access to health care prevents people living with HIV/AIDS from unnecessary suffering and early death. The right to life is recognized by all major human rights treaties and, as interpreted by the U.N. Human Rights Committee, requires governments to take “positive measures” to increase life expectancy. These should include taking adequate steps to provide accessible information and services for HIV prevention, and ensuring access to medical treatment for people living with HIV/AIDS.

IX. Recommendations

To the Government of Ukraine

On HIV/AIDS

- **End discrimination in health care services to people living with HIV/AIDS.** Monitor efforts to provide antiretroviral treatment to people living with HIV/AIDS to ensure that access to such treatment is provided on a nondiscriminatory basis.
Respect the rights of people in Ukraine to complete, accurate information about HIV/AIDS and to obtain HIV/AIDS information and services without fear of punishment or discrimination. Ensure that large-scale, sufficiently resourced information campaigns provide complete, factual, and unbiased information about HIV/AIDS, including the facts of transmission, the importance of reducing stigma related to HIV/AIDS, and the role of harm reduction measures in HIV prevention. Ensure that information campaigns are tailored to meet the needs of drug users and their sex partners, street children, sex workers, and other marginalized persons at high risk of HIV. Enhance government support for peer education among young people, drug users, sex workers, and others at risk, building on the lessons of government and nongovernmental experts in Ukraine and in other countries.

Take a leadership role in educational campaigns focusing on improving human rights protections and reducing stigma and discrimination against people living with and at high risk of HIV/AIDS, including drug users and sex workers. Government officials at all levels, including the president and cabinet officials, should engage in a concerted educational campaign including by using public events and media contacts to condemn police persecution and other human rights abuses against high-risk groups and HIV/AIDS outreach workers, and to reiterate the crucial importance of HIV prevention services for persons at high risk.

Ensure that the national HIV/AIDS program, in consultation with the Ministry of the Interior, develops and implements a formal plan for a budgeted program of monitoring of and regular police reporting on violence and abuse against marginalized groups at risk of HIV/AIDS.

Provide training on HIV/AIDS, harm reduction, and drug use to all personnel in health care facilities. This should include instruction on the right to privacy and protection of confidential information about HIV status, and specific guidance on how to guard against negligent and intentional disclosure. Ensure that legal remedies are accessible to individuals whose privacy has been infringed or who have experienced discrimination or harassment in the health system based on their HIV status.

Reform the health care system infrastructure to ensure better coordination among health care facilities managing related diseases, including HIV/AIDS, tuberculosis and drug addiction, and to ensure further integration of HIV treatment into the overall health care system. Collaborate with peer-based care projects, harm reduction organizations, HIV/AIDS organizations, and the community of people living with HIV/AIDS to prepare health care workers to coordinate and support services to link HIV/AIDS, tuberculosis, and drug treatment services.

Protect the sexual and reproductive health rights of women living with HIV/AIDS. Ensure that HIV-positive women are provided complete, unbiased information about pregnancy and the prevention of mother-to-child HIV transmission, and that health care providers and women recognize that all women, regardless of HIV status, have the right to independently decide on number, timing, and spacing of children, and information and means for doing that.

On narcotic drugs and drug users

Expand and enhance the scope of humane treatment services for drug addiction, including in prison, according to international standards, which would include the prompt implementation of substitution therapy with methadone and buprenorphine. These measures are in accordance with Ukraine’s commitment as a state party to the Single Convention on Narcotic Drugs of 1961 and its additional protocol of 1972.

- **Reject the proposal by the Ministry of Health Committee on Narcotic Drugs Control to amend Ukraine’s drug classification tables to criminalize possession of very small amounts of certain narcotics, which would exacerbate the problem of HIV/AIDS among drug users.** Repeal mandatory imprisonment for possession of small amounts of illicit drugs, which also serves to accelerate HIV infection.

- **Ensure that implementation of a full-scale substitution treatment program, including with methadone and buprenorphine, has the full support of the Ministry of Interior, the Committee on Narcotic Drugs Control, and the Security Services of Ukraine.**

- **Ensure that substitution therapy is available to all opiate drug users,** regardless of HIV status or previous enrollment in state-sponsored drug treatment programs, on a confidential and anonymous basis.

- **Increase government support for all harm reduction services for drug users.** Ensure that the Ministry of Interior, the Committee on Narcotic Drugs Control, and the Security Services of Ukraine give full support to these efforts. Establish and increase support for harm reduction services for all at-risk populations, including sex workers and men who have sex with men. Evaluate the existence of any legal barriers to harm reduction services, such as criminalization of very small amounts of narcotic drugs, or the use of syringe possession as evidence to arrest drug suspects, and eliminate these barriers.

- **Discontinue the registration of drug users by government offices,** and any other practice that violates an individual’s right to privacy about his or her use of drugs, including the sharing with law enforcement and other government agencies of information gained through provision of medical care about HIV status or drug use.

### On law enforcement conduct

- **Cease and publicly repudiate the unlawful use of force and other ill-treatment by police and other agents of the state against drug users and sex workers.** Ukrainian law enforcement officers must conduct arrests of criminal suspects with the minimum force necessary, as called for in the U.N. Code of Conduct for Law Enforcement Officials and U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The Ukrainian government should ensure that Ukraine’s parliamentary ombudsperson on human rights has the necessary resources and authority to fully investigate torture and other serious offenses committed in the context of the government’s antidrug efforts.

- **Cease and publicly repudiate interference by police and other agents of the state with efforts to provide harm reduction services.** Establish and maintain appropriate training programs for police at all levels on HIV/AIDS, harm reduction services, and related human rights issues. All new officers should be trained, and a refresher course should be provided for veteran officers. As part of the training, reinforce harm reduction services’ role as a legal and central part of Ukraine’s efforts to fight HIV/AIDS, and include information on referring drug users to appropriate drug treatment, HIV prevention, and other related health services.

- **Cease arbitrary arrests and due process violations by Ukrainian law enforcement officers.** Cease all practices of false arrest, planting of narcotics on drug suspects, and use of threats or physical or psychological force or intimidation to coerce testimony regarding drug or other criminal activity. Cease harassment and arrest of persons on the sole basis of known or suspected history of prior drug use.
- **Conduct independent, impartial investigations of allegations of unlawful use of force, extortion, and other abuses by Ukrainian law enforcement officers.** Discipline, discharge, or prosecute officers who engage in or condone unlawful use of force, extortion, torture, and other abuses.

- **Reform evaluation of police performance**, so that the evaluation standard for effectiveness is not a simple counting of criminal cases including those connected to ordinary drug possession for personal use, but is based on impact of law enforcement activities on combating major crimes. Repeal any policy that encourages officers to stop or arrest suspected drug users or sex workers without legal basis in order to meet arrest, detention, or crime disclosure targets.

- **Ensure due process protections for people arrested or held in detention** including by ensuring full and unimpeded access to counsel at all phases of investigation; that the practice of mistreatment of people arrested or in detention is stopped; and that confessions coerced under duress cease to be admitted as evidence in any law enforcement proceedings, except against a person accused of causing such duress.

- **Take concrete steps to reduce drug users' fear of seeking health services.** Immediately and publicly declare that drug users seeking health services will not be reported to police or forced into drug treatment based solely on their status as drug users.

- **Reaffirm the Ukrainian government’s commitment to human rights by extending a standing invitation to all thematic special procedures**, in particular to the U.N. Special Rapporteur on Torture, the U.N. Special Rapporteur on the Right to Health, and the U.N. Working Group on Arbitrary Detention.

- **Implement fully the recommendations of the European Committee for the Prevention of Torture in its 2004 report on protections against torture and other forms of ill-treatment by law enforcement officials.**

### To United Nations Bodies

- **Relevant United Nations Officials and offices**—such as the Joint United Nations Programme on HIV/AIDS (UNAIDS), the U.N. Special Rapporteur on the Right to Health, United Nations Office on Drugs and Crime (UNODC), and the Commission on Narcotic Drugs (CND)—**should affirm the right of all individuals, including drug users, to the full range of HIV prevention services**, including access to harm reduction measures without fear of arrest or punishment, as part of the right to the highest attainable standard of health.

- **The United Nations Commission on Narcotic Drugs (CND), in cooperation with the United Nations Office on Drugs and Crime (UNODC), should support the amendment of international drug conventions to call explicitly for the legalization and promotion of the full range of strategies to reduce drug-related harm.** These amendments should state that harm reduction measures, including syringe exchange services, substitution therapy, and peer outreach and education are compatible with drug demand reduction and essential to HIV prevention.

- **The World Health Organization and the Joint United Nations Programme on HIV/AIDS (UNAIDS) should work with the CND and the UNODC to include in international drug conventions guarantees of access to the full range of harm reduction services.** These organizations should, with active input from public health experts and nongovernmental organizations, issue specific recommendations on the deregulation of syringes, including the legalization of syringe exchange services, the legalization of nonprescription pharmacy sales of syringes, the repeal of drug paraphernalia laws, and the development of safe syringe disposal policies and protocols.
UNAIDS and its co-sponsor organizations, in particular the United Nations Office on Drugs and Crime (UNODC) and the World Health Organization, and UN bodies charged with issues related to illicit drug use, should support measures in Ukraine that contribute to an evidence-based public health approach to HIV and related health care services for drug users, especially by strengthening syringe exchange, substitution therapy, and other harm reduction measures.

UNAIDS and its co-sponsor organizations, in particular the United Nations Office on Drugs and Crime (UNODC) and the World Health Organization, and UN bodies charged with issues related to illicit drug use, should encourage Ukraine to provide alternatives to incarceration for individual possession of very small amounts of narcotic and other illicit drugs, and to reject proposals to amend Ukraine’s drug classification tables to criminalize possession of very small amounts of certain narcotics.

To all State Parties to International Drug Conventions

- Support amendment of the international drug conventions to encourage states parties to adopt public health approaches to drug use, including expanded access to sterile syringe interventions and substitution therapy with methadone.

- Adopt domestic public health approaches that affirm the right of drug users to the full range of HIV prevention services, including access to harm reduction measures without fear of arrest or punishment, as part of the right to the highest attainable standard of health.

To the European Union

- Use the Partnership and Cooperation Agreement (PCA), the framework that regulates the European Union’s relationship with Ukraine, and contains a human rights clause, to urge the government of Ukraine to bring its laws and practices into compliance with international standards, with particular attention to the violations documented in this report. Make a public statement about Ukraine’s compliance with international standards and make clear that continuation of the PCA is contingent on specific and measurable progress in observation of these standards.

- Further develop the European Neighbourhood Policy Action Plan for Ukraine to ensure that protection and promotion of human rights is a central part of its response to HIV/AIDS, with particular attention to the violations documented in this report. Urge Ukraine to elaborate specific benchmarks to address these violations, and clear timelines for their implementation.

To Other European Intergovernmental Bodies

To the Council of Europe Secretary General, Committee of Ministers and Parliamentary Assembly (PACE)

- Use all available means to ensure that Ukraine, as a member state, fulfills its obligations to guarantee the full protection of all human rights to all individuals within its jurisdiction, including drug users and people living...
with HIV/AIDS. To this end, continue to assist the Ukrainian government in its efforts to reform and develop legislation to conform with human rights standards.

To the PACE

- In ongoing initiatives on HIV/AIDS and promotion of public health policy on drug control, take into account the concerns raised in this report, and formulate specific recommendations for measures to address these concerns in Ukraine and other member states as relevant.

To the Organization for Security and Co-operation in Europe (OSCE)

- Make human rights abuses against people living with and at high risk of HIV/AIDS, including drug users and sex workers, an integral part of the overall work of the OSCE Project Coordinator in Ukraine on the promotion and protection of human rights in Ukraine.

- Include people with HIV/AIDS as a category of persons explicitly and actively covered by the work of the Tolerance and Non-Discrimination Programme of the OSCE Office for Democratic Institutions and Human Rights.

To the United States Government

- Make HIV/AIDS-related concerns discussed in this report an integral part of bilateral dialogues with the Ukrainian government on human rights concerns. Press for the Ukrainian government to enact and enforce sanctions for human rights violations against people living with and at high-risk of HIV/AIDS.

To International Financial Institutions

- In pursuing its project on tuberculosis and HIV/AIDS control in Ukraine, the World Bank should take into account the concerns raised in this report, and promote elimination of human rights abuses against drug users and people living with HIV/AIDS as a key component of Ukraine’s HIV/AIDS prevention, treatment, and care efforts.

- The European Bank for Reconstruction and Development should incorporate language reflecting the concerns expressed in this report in its next country strategy for Ukraine, and overall encourage the Ukrainian authorities to pursue a human rights-friendly HIV/AIDS policy as part of its engagement with Ukraine.
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Region / Country Europe/Central Asia, Ukraine
Topic Health, HIV/AIDS and Tuberculosis
Tags Drugs and Human Rights
Tab 38
This weekend saw the 30th anniversary of the World Aids Day, to show support for people living with the virus. To mark the day, the European Centre for Disease Prevention and Control (ECDC) and the WHO Regional Office for Europe have released the latest data on HIV rates across Europe.

In Ukraine, HIV discrimination and stigma is still common. And due to the conflict in the country, cases of HIV are on the rise. Families are struggling to cope with the shortage of medicine as most international medical organisations have been banned from delivering aid.

Euronews Correspondent, Elena Cavallone says that living in a conflict zone is hard, but for HIV positive women, it's even worse.

Yelena knows very well. She comes from the separatist region of Luhansk in Eastern Ukraine. When she found out she was HIV positive, she faced a harsh reality. There was no medical treatment for her disease, so she decided to move with her child to Kyiv to get treatment. Leaving her family and a disabled father was not easy, but conditions were unbearable, she says.

"There is a lot of discrimination over there, a lot of people with weapons. It's not only discrimination about HIV positive women, but also ordinary women can be harassed. And if they find out you have a dangerous disease, then they start to treat you even worse," Yelena told Euronews Correspondent Elena Cavallone.

A study from Oxford University suggests that HIV incidence is on the rise in Ukraine due to the conflict. Women are more exposed to sexual violence and prostitution because of a large military presence and the need of people to get financial resources.

The stigmatisation of HIV is a broader issue among Ukrainian society. Fears of violence and discrimination make women reluctant to be tested or treated.

Based in Kyiv, Vera Varyga set up the NGO Positive Women in partnership with the United Nations Development Programme, and provides information and assistance to HIV positive women.

"HIV infection is transmitted not from those who are HIV infected and receive therapy, because their virus level is low. Infection comes from those people who don't know they are HIV infected and their virus level is high. That's why we need to do maximum effort to form a tolerant attitude of society towards this problem," she said.

According to the UNAIDS, Ukraine has one of the largest HIV epidemics in Europe. Anti-retroviral coverage has increased in recent years but a high rate of new infections in conflict areas threatens to outpace these gains.

The WHO report on HIV/AIDS surveillance in Europe in 2018 (based on data from 2017) found two countries alone — Ukraine and the Russian Federation — accounted for 75% of all newly diagnosed infection cases in the WHO European Region, and for 92% of cases in the east.