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UKRAINE ASYLUM COUNTRY PROFILE 2008

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I. INTRODUCTION

Country profiles are produced by the Department of State's Bureau of Democracy, Human Rights, and Labor, Office of Multilateral and Global Affairs for use by the Executive Office of Immigration Review and the Department of Homeland Security in assessing asylum claims. By regulation, the Department of State may provide asylum officers and immigration judges information on country conditions that may be pertinent to the adjudication of asylum claims. The purpose of this and other profiles is to provide factual information relating to such conditions. They do not relate to particular asylum claims, but provide general country condition information as of the date they are drafted. They are written by State Department officers with expertise in the relevant area and are circulated for comment within the Department, including to overseas missions.

This country profile focuses on the issues most frequently raised by Ukrainian asylum applicants and the regions from which most applicants come. It cannot cover every conceivable circumstance asylum applicants may raise, nor does it address conditions in every region in Ukraine, where local enforcement of national policies is often uneven. Adjudicators may wish to consult the latest versions of the Department of State's annual *Country Reports on Human Rights Practices*, *International Religious Freedom Report*, and *Trafficking In Persons Report*, all of which are available on the Internet at www.state.gov, and other publicly available material on conditions in Ukraine.

II. CONTEXT AND OVERVIEW

Since it became independent in 1990, Ukraine has made significant progress toward building a law-based society.

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However, the country's human rights record remained mixed, and serious problems persist. Some of the most serious human rights concerns included problems with the police and the penal system while there was also continued violent hazing of military conscripts. There were instances of violence against Jews, and anti-Semitic publications were a problem. There were serious incidents of forcible return of persons to a country where they feared persecution in 2006. Asylum seekers were abused at detention facilities. Frequent police harassment of minorities, particularly Roma and dark-skinned persons, remained a problem, and violence against persons from non-Slavic ethnic groups was a growing problem.

A new constitution was adopted in June 1996 under which the President, elected for a 5-year term, and a one-chamber Parliament (the Rada), elected for a 4-year term, share responsibility for governance. Constitutional reforms adopted after the contested election of 2004 give greater authority, particularly over the Cabinet, to the Prime Minister, while the President retains oversight of the armed forces and foreign policy. President Yushchenko took office in January 2005. Regular parliamentary elections were held in March 2006, however, after months of political deadlock in April-May 2007, pre-term Rada elections were held on September 30, 2007. According to international observers, the vote was free and competitive and civil and political rights were respected during the Rada campaign, enabling voters to freely express their opinions. The Party of Regions won a plurality of the vote, however, at the time of this report, the combined political blocs of the President's Our Ukraine-People's Self-Defense and former Prime Minister Yulia Tymoshenko's bloc had formed a potential ruling coalition.

The Ukrainian economy is making a difficult transition from a centrally planned to a market-based system. Nonetheless, the private sector has continued to grow and now represents a substantial portion of the economy. Corruption among governmental officials at all levels remains a serious problem.

III. CLAIMS AND RELEVANT COUNTRY CONDITIONS

According to DHS statistics for FY 2005, the most recent available, 2,889 individuals from Ukraine applied for asylum during the year. Also during FY 2005, 61 Ukrainians received

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affirmative decisions of asylum and 69 received defensive decisions of asylum.

Common bases for asylum claims include mistreatment on account of religion, especially by evangelical Christians; on account of ethnicity (often referred to as "nationality" by applicants), including primarily Jews and Roma; on account of sexual orientation; and based on threats from mafia or government/mafia-related individuals. In seeking to establish past persecution, some of the claimants describe mistreatment they experienced under the Soviet regime, which ceased to exist in late 1991. Few individuals cite government mistreatment as a source of their misfortunes, although there are complaints about the failure of government officials to provide protection against the activities of nongovernmental actors.

From the beginning of FY 2005 to the end of FY 2007, the U.S. Refugee Admissions Program (USRAP) processed cases involving 8,989 Ukrainians, of which 3,657 were approved for resettlement to the United States and 2,369 were granted parole. Since the beginning of FY 2005, approximately 4,500 Ukrainians have arrived in the United States with refugee status through the program.

Typically, those resettled through the USRAP from Ukraine are cases involving claims of religious persecution from Evangelical Christians. In recent years, the approval rate has been declining steadily -- around 40% at present -- even though the so-called "Lautenberg Amendment" remains in force and lowers the evidentiary burden for applicants to prove persecution.

The demise of Communism brought new religious and political liberties, and new economic opportunities, for many Ukrainians. However, the decline in personal safety, social order and economic well being that have accompanied a painful and incomplete transition away from the Communist regime are reflected in most asylum claims from Ukraine. Strong family ties with large communities of Ukrainian origin in the United States constitute a significant "pull" factor in the migration stream. In the sections below, we describe country conditions related to various types of asylum claims with the goal of aiding the adjudicator in determining the extent of past mistreatment and its relationship to the statutory grounds for asylum claims.

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A. Claims Based on Race and Ethnic Affiliation

Racial minorities are few in Ukraine, made up mostly of individuals from other countries who are in Ukraine for a variety of reasons. Some skinhead groups exist, and have targeted individuals of African, Middle Eastern, and Asian origin. The Government has responded to such behavior by arresting the perpetrators but has not taken adequate measures to prevent further attacks or prosecute cases under the Criminal Code provisions on inciting ethnic and racial hatred. Reports of attacks continue.

Claims of mistreatment on the basis of ethnicity are more common. Instead of using the word "ethnicity," Ukrainians often use the word "nationality." For example, a Ukrainian may identify himself or herself as of "Polish" or "German" nationality even though he or she descends from a family that moved to areas incorporated into Ukraine generations ago. The claimant may not even speak Polish or German. A 1991 law on the rights of national minorities constitutes the basic formulation of nationality policy in Ukraine. This law provides a large number of specified nationalities with schools and cultural organizations paid in part by government subsidies. The law has been recognized by human rights advocates, the High Commission for National Minorities of the Organization for Security and Cooperation in Europe, and the Council of Europe, as meeting international standards required for the protection of minority groups.

According to one official Ukrainian source there are 130 "nationalities" in Ukraine. Russians are the largest non-Ukrainian ethnic group, followed by Jews, Belarusians, Moldovans, Bulgarians, Poles, Crimean Tatars, Roma, Hungarians, Romanians, Greeks, and Germans. These, and some other ethnic minorities recognized by the State, are permitted public schools in their own languages. Most groups boast cultural and social organizations to protect their interests.

Official Policies on Language, Education, Citizenship:

Ukrainian is the official state language, and the study of Ukrainian has become compulsory in schools, including those where the over all language of instruction is another language. However, the Constitution provides for "the free development, use and protection of the Russian language and other minority languages in Ukraine." In Crimea, Russian is permitted as a

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language of official correspondence along with Ukrainian. Despite a policy of encouraging the use of Ukrainian as the language of instruction in the schools, the Ukrainian Ministry of Education reports that there are 2,215 schools (both elementary and secondary) that use Russian as their language of instruction, 70 that use Hungarian, 97 that use Romanian, and 10 that use Crimean Tatar or Polish. A 1991 Law on National Minorities allows individual citizens to use their respective national languages to conduct personal business and establish their own schools. Nonetheless, some pro-Russian organizations in eastern Ukraine complained about the increased use of Ukrainian in schools and in the media. They claim that their children are disadvantaged when taking university entrance examinations, since all applicants are required to take a Ukrainian language test. Some regional governments attempted unsuccessfully in 2006 and 2007 to give the Russian language official status alongside Ukrainian.

1. Russians

Ethnic Russians are the largest minority in Ukraine, constituting about 17% of the population. Political differences between the governments of Russia and Ukraine have led to widespread discussion of possible ethnic difficulties between Russians and Ukrainians. Despite some tensions, however, there has been no serious conflict on an ethnic basis and the governments of both countries have generally refrained from fomenting ethnic tensions. Russian and Ukrainian speakers in Ukraine generally do not differentiate in daily life between Ukrainian and Russian ethnicity. Large numbers of Ukrainians (that is, individuals with "Ukrainian" names who identify themselves as ethnic Ukrainians) speak Russian at home and Russian is the most common language encountered in the capital, Kyiv. Post-independence policies promoting Ukrainian (see below) will no doubt gradually alter this balance between the languages. However, the large numbers and strategic location of the Russian speakers (in the industrial East, and in Crimea, the home of the Black Sea Fleet) are such that the government is under considerable pressure to be attentive to their interests.

Ethnic Russians predominate in Crimea and form a significant portion of the population in the Eastern and Southern parts of the country. In these areas sentiment for close ties with Russia is strong. However, this sentiment appears motivated more by economic considerations than by hostility toward ethnic

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Ukrainians. Russian national feeling has been strongest in Crimea, which is primarily Russian in ethnic makeup and was administered as a part of Russia until transferred to Ukraine by the Soviet government in 1954. Since Ukraine became independent, Crimea, with the special legal status of an autonomous republic within Ukraine, has enjoyed considerable juridical, and even greater de facto, autonomy. (Ethnic Ukrainians have even complained of localized discrimination there by the Russian majority - see below.) In western Ukraine, centered on L'viv, a strong spirit of Ukrainian nationalism has led to some popular hostility toward Russian inhabitants.

We are aware of no discriminatory treatment of Russians by authorities in employment, housing, or other services.

2. Jews

Although only a very small number of Jewish cases are processed presently through the USRAP overseas, claims based on anti-Semitism constitute the largest single category of asylum claims from Ukraine. Such claims usually include accounts of discrimination against the claimants or their parents under the Soviet government and mistreatment on a personal basis, usually including threats and physical attacks, by individuals associated with extremist organizations in the post-Soviet period.

Ukrainian Jews have suffered discrimination on both ethnic and religious grounds. Since the demise of the atheistic Soviet ideology, however, Jews have described their mistreatment primarily in ethnic terms. This section treats the two together.

After Russians, Jews are the second largest ethnic minority. They constitute by far the largest group seeking asylum from that country. The total number of Jews in Ukraine is difficult to determine. However, according to the 2001 census, there were approximately 103,000, a decline from an estimated 630,000 in 1980. This decline is due both to large scale emigration, primarily to Israel and the United States since emigration became unrestricted in the late 1980s, and to a very low birth rate. (It is estimated that between 170,000 and 370,000 Ukrainians are eligible to emigrate to Israel because of their Jewish heritage.) This loss in the Jewish population of Ukraine appears to be offset to some degree by an increased willingness

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by individuals who concealed their Jewish heritage during the Soviet period to acknowledge it under present conditions.

Under the Communists: Initially the Communists abolished the widespread anti-Semitic policies and restrictions of the Tsars. Subsequently, however, particularly during the post-World War II period, discrimination was reintroduced. Measures taken by Stalin from 1948 until his death in 1953 included suppression of Jewish cultural life and imprisonment and exile of Jews on trumped up charges. After Stalin's death, many of the individuals falsely charged were "rehabilitated." Such individuals were provided with documents to this effect. In subsequent years, however, discrimination against Jews persisted in education, employment, and the exercise of religious and cultural rights, but became more subtle and selective. For most of the post-war period, access to higher education was limited by a quota system, which effectively made entry into higher educational institutions more difficult for Jews. Although these limitations were widely felt, Jews nevertheless managed to gain higher education in comparatively large numbers.

Employment opportunities for Jews under the Soviet regime presented a complex picture. They gained access most frequently to positions of prominence in the arts, education, engineering, the natural sciences and medicine. In part because of imputed support for Israel, they faced severe restrictions on travel abroad and great barriers to advancement in politics, the higher ranks of the military, and in defense related industries, which accounted for the most advanced part of the Soviet economy.

Although a few synagogues remained open, Communist hostility to organized religion either prevented Jews from practicing their religion or required them to sacrifice any hopes of professional or educational advancement if they did so.

The Post-Communist Period: Since independence, Ukrainian governments have repeatedly condemned anti-Semitism, and there is no evidence of government policies or actions that discriminate on the basis of Jewish nationality or religion. There has been a resurgence of Jewish religious and cultural institutions. An estimated 35 to 40 percent of the Jewish population is active communally, and there are 240 registered Jewish organizations. Jews are well represented among the political and business elite and hold several parliamentary seats as well as government offices. Numerous Jewish

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congregations have negotiated successfully with local authorities for new worship space. Furthermore, restitution of communal Jewish property confiscated during the Soviet era continues. For example, synagogues in Kyiv, Lviv, Dnipropetrovsk, Donetsk, Odesa, and several other cities have been restituted to the local Jewish community.

Nonetheless, anti-Semitism exists among some elements of society. Some ultranationalist groups and newspapers continued to publish and distribute anti-Semitic tracts regularly, especially in western Ukraine and Kyiv. Public officials have not enforced the Criminal Code prohibitions against inciting interethnic hatred. Anti-Semitic incidents such as vandalism of Jewish cemeteries and skin-head attacks on Jewish worshipers have occurred. The Interregional Academy of Personnel Management, a commuter college with campuses around the country, has been especially active circulating anti-Semitic tracts. In this environment, Jews can and do encounter expressions of anti-Semitism and there were several violent attacks against Jews in 2007. However, the reporting available to us does not indicate a pattern of physical mistreatment of Jews or of systematic denial of services and economic opportunity on this basis.

In the past few years Ukraine has begun a halting process of privatization. Many Jewish citizens have benefited from these new economic opportunities. However, the problems of honest businessmen have been compounded by the considerable activity of gangsters and the depredations of corrupt government officials (see Fear of Criminal Elements in section IV). Shakedowns of businessmen are commonplace and protection money is often extorted, at times by the gangsters, at times by bureaucrats. In some asylum applications, when the nationality of the businessmen is Jewish, anti-Semitic references are said to accompany the pressure. The adjudicator will wish to probe further to determine in each case the relationship between the mistreatment and anti-Semitic motives.

NOTE ON VERIFYING JEWISH NATIONALITY: The adjudicator may occasionally have reason to question an applicant's claim to be Jewish. While there is no certain way of establishing this in every case, the following may be helpful in individual cases. The "nationality" of parents is listed in Soviet birth certificates (Post-independence Ukrainian birth certificates do not show "nationality."). Often, applicants who anticipate making an asylum claim in the United States based on their

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Jewish nationality will bring these documents with them. In cases where serious doubt arises and no documents are available in the United States, relatives of applicants should be able to obtain copies from the authorities in Ukraine.

Applicants not documented through birth certificates as Jewish (or in internal passports issued before 1997) may still make valid claims to having some Jewish ancestry. In the past, offspring of mixed marriages upon reaching maturity had the choice of listing the nationality of either parent on their own identity documents, and, faced with the possibility of discrimination, often chose to list the non-Jewish nationality. After two generations, therefore, both parents would be listed in the applicant's birth certificates as having nationalities other than Jewish. If the adjudicator determines nonetheless that the applicant should be considered Jewish, he or she might conclude that the wish to hide one's nationality itself is a factor suggesting a genuine fear of anti-Semitism. On the other hand, an individual who successfully concealed his Jewish ancestry under the Communist regime would also be less likely to have experienced discrimination on the basis of it. Converts to Judaism constitute another group of individuals who might not be documented officially as Jewish. Such individuals may often be in a position to present other evidence of this status, for example, letters from Ukrainian synagogues attesting to their affiliation.

3. Ukrainians

In Crimea, ethnic Russians constitute the overwhelming majority of the population. The region has considerable autonomy and Ukrainians sometimes complain of linguistic and other forms of discrimination by the Russian majority. The overall control of the government in Kyiv, however, limits the extent of mistreatment in this regard, and relocation to another part of the country would appear a reasonable alternative.

4. Other Racial and Ethnic Minorities

Crimean Tatars: The Tatars are an officially recognized ethnic minority entitled to the use of their language in education and other spheres. They are traditional inhabitants of Crimea, from whence they were forcibly dispersed by Stalin in 1944, primarily to Uzbekistan in Central Asia. In recent years they have been returning to Crimea, where they have come into conflict with the

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largely Russian population there. Approximately 300,000 Crimean Tatars have returned, of whom 267,000 live in Crimea.

The onerous process of acquiring citizenship, eased somewhat with the removal of the five year residency requirement in 2001, prevented many Crimean Tatars from participating in elections and deprived them of an opportunity to participate in the privatization of land and state assets in the 1990s. The newly privatized land was subsequently priced beyond the means of most. Many thousands have been unable to muster resources to build homes, and many are unemployed. They suffer some job discrimination and object to being refused rights to properties they occupied before their expulsion in the 1940s, and which have been occupied for half a century by others. There were almost 8,200 protests about the land issue in 2006, in contrast to 2,500 protests in 2005. Tatars asserted that discrimination by mainly ethnic Russian officials in Crimea deprived them of employment in local administrations and that propaganda campaigns, particularly by Russian Cossacks, promoted hostility against them among other inhabitants of Crimea.

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

Crimean Tartars are politically organized and have called for measures to improve services for their ethnic group. The Tatars tend to reject the push for greater autonomy for Crimea which is supported by many of the majority Russian population, based on the assumption that the overall Ukrainian majority in Ukraine would provide greater protection for them.

Hungarians, Romanians, Greeks: These are officially recognized ethnic minorities entitled to the use of their languages in education and other spheres. There are approximately 140,000 ethnic Hungarians in Ukraine's western Transcarpathian province. There have been some allegations among them that the legal

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requirement that political parties have support in a number of geographical areas was devised to hinder the formation of parties by national minorities. We have seen no reports of violence or other mistreatment of Hungarians on ethnic lines. The "Romanian" minority (approximately the same size as the Hungarian) includes both those who identify Romania as their ethnic homeland, and those who identify primarily with the independent Republic of Moldova. University-level education in the Romanian language is a priority of this community. This has been the subject of negotiations between the Governments of Ukraine and Romania. The community of Greeks in Ukraine numbers in hundreds of thousands, including 150,000 in the city of Mariupol on the Sea of Azov. The Greek society has Greek language programs in 23 schools and publishes a Greek-Russian newsletter.

Ruthenians: A Slavic people who live in the extreme western Ukraine, as well as eastern Slovakia and southern Poland, the Ruthenians are not recognized as a nationality by the Ukrainian government, which regards them as a subdivision of the Ukrainian ethnic group. Accordingly they do not have the benefits of the legislation specifying the rights of national minorities, such as schools in their own language. (Twenty-six Sunday schools that teach Ruthenian language and culture are operating in the Zakarpattya region.) The Ruthenian community is divided about what its future should be. Some members of the community are actively working for greater recognition by the Ukrainian government of their separate language and nationality. To this end they have made alliances with groupings in the Hungarian and Russian communities. This effort to work through the rather rigid Ukrainian political system has not been successful so far, but we have no indication that individuals who engage in it have been subjected to systematic mistreatment.

Roma: The 2001 census indicated that there are approximately 47,600 Roma living in Ukraine, though other unofficial studies suggest the number may be as much as 200,000 to 300,000. Roma community leaders and international human rights organizations state that Roma are subject to subjective harassment, detainment, and abuse by police and that Roma are systematically subject to discrimination in housing, education, and employment opportunities. Roma also faced considerable societal hostility. Opinion polls indicated that social intolerance is greater toward Roma than toward any other ethnic group. In October, 2006 the European Roma Rights Center complained to the UN Human

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

B. Claims Based on Religion

For discussion of Jewish cases, which often involve both religious and ethnic issues, see Section III.A.2 "Claims Based on Race and Nationality."

Most claims based on religion are advanced by individuals claiming mistreatment on the basis of their Evangelical Christian faith. A major component is harassment and pressure from various nationalist organizations and representatives of 'traditional' religious organizations. Currently in the USRAP, some 97% of the caseload identifies itself as some form of Christian, the vast majority Evangelical.

After ethnic origin, mistreatment on the basis of religion is the largest basis of asylum claims from Ukraine and almost the only basis of persecution claims in the USRAP. The 1996 Constitution and the 1991 Law on Freedom of Conscience and Religion provide for separation of church and state and the right to practice the religion of one's choice. The Government generally respects these rights in practice as a matter of policy, but some problems -- usually involving religions whose presence in Ukraine is very recent -- arise due to the intransigence of individual local bureaucrats. Until recently, a major issue facing religious groups in Ukraine is that of registration with the authorities. Religious communities which do not seek the status of juridical entities have no registration requirements. There have been no reports of such groups being denied the right to meet and worship. On the other hand, the acquisition of property for churches and training is generally restricted by law to religious organizations which have registered, and thus have the status of juridical entities. With respect to registered religious communities, the Government has continued to expedite allotment of land plots for construction of new houses of worship and to return religious

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buildings and sites nationalized in the Communist period to their former owners.

1. Evangelical and Other Christian Groups

Under the Russian Empire, Evangelical Christians were regarded by the state-established Russian Orthodox Church as a threat, and were subjected to some official and unofficial harassment on religious grounds. Under the Communists, Evangelical Christians were repressed, as were believers of other faiths. If they were open about their religion, they were usually denied higher education and their career opportunities were severely limited. As religious believers they would not seek Communist Party membership, a key to most forms of advancement. In addition, the beliefs of many of the Evangelical groups included a prohibition against bearing arms. In some cases, this was interpreted by the believers as forbidding military service entirely. This often led to imprisonment, incarceration in psychiatric hospitals or to alternative service in difficult or unhealthy places and occupations. Other groups accepted military service, but refused to carry weapons. This stance usually led to assignment to a military construction brigade, widely regarded by the believers themselves to be a punitive measure. (The brigades included an unusually high proportion of former convicts, whom the government did not trust to bear arms.)

With the overthrow of the Communist regime in 1991, Evangelicals were no longer denied religious freedom and for the most part they worship without interference. Many of the more established Protestant denominations, such as the Baptists and Pentecostals, have experienced rapid growth in churches and membership. The Baptist Union of Ukraine, for example, claims some 300,000 members in 2,800 churches. Protestants hold influential positions in business and politics. Alternative service for conscientious objectors is now provided. Religious organizations wishing to acquire property, establish institutions for training of clergy and certain other activities are required to register with the State. The State has not denied registration to any religious group, including such minority religions such as Mormons, Jehovah's Witnesses and the Krishna Consciousness communities. In some cases, however, individual local officials, apparently acting under pressure from more established Orthodox or Greek Catholic groups, did not register local congregations for protracted periods, thus delaying their activities.

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While generally the Government does not discriminate against, or take measures against, individual believers on the basis of their faith, Evangelical Christian missionaries reported some instances of societal discrimination against members of their churches, such as salary cuts, layoffs, and public criticism for betraying "native religions." Asylum applicants frequently describe physical violence directed against them by nationalist or other groups, but we have no reporting to indicate that such behavior is widespread or systematic.

2. Russian Orthodox, Autocephalic Orthodox, and Greek Catholics

Occasional asylum claims also are filed by believers of more traditional Ukrainian Christian faiths. While the history of these groups is complex, it can be said that for most of the Communist period, the only type of Orthodox Christianity permitted by the regime was Russian Orthodoxy, (hierarchically subordinated to the politically reliable Church hierarchy in Russia. The Autocephalics, essentially a Ukrainian national Orthodox Church, and the Greek Catholics (Uniates), whose worship service resembles the Orthodox but whose hierarchical allegiance is to the Roman Catholic Pope, were regarded by the Communists as tainted with Ukrainian nationalism or possible allegiance to foreign powers. Under the Communist regime, both groups were systematically suppressed. Both groups remained active among Ukrainians overseas.

Gorbachev's reforms made possible a resurgence of activity by both Churches in the late 1980s. This met with hostility from Communist administrators and internal security organs, often in alliance with the Russian Orthodox Church, which had inherited the physical facilities and many of the believers of the two suppressed organizations. In the period from the late 1980s until the time of Ukrainian independence, there were examples of severe mistreatment of active believers of these two faiths.

This situation has now changed dramatically. There are rival churches that seek to represent the idea of a Ukrainian Orthodox Church independent of the Moscow Patriarch. Principal among them are the Ukrainian Autocephalous Orthodox Church, which has 1,155 "communities" (parishes) primarily in the western part of the country, and the Ukrainian Orthodox Church - Kyiv Patriarchate, whose strength is mostly in western and central Ukraine which

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has 3,880 "communities." The Ukrainian Orthodox Church under the Moscow Patriarchate has the largest number of communities with 11,085 and its greatest strength is in eastern and central Ukraine.

These denominations, as well as the Greek Catholic Church, whose adherents are located primarily in western Ukraine, now generally enjoy unfettered freedom of worship. Nevertheless, the underlying claims of the competing Orthodox Christian administrative bodies claiming to be "the Ukrainian Orthodox Church" remain unresolved. The Kyiv Patriarchate of the Orthodox Church complains of harassment by local authorities in predominantly Russian-speaking eastern Ukraine. Nor has the Government been able to resolve disagreements between the Orthodox believers and Greek Catholics in the western part of the country, where the two communities are contentious and often engage in bitter disputes over church buildings and property in several localities. These property and theological disputes between denominations, however, do not result in restrictions on religious freedom.

Both Greek Catholic and Orthodox churches have seminaries in Ukraine. Independent observers credit Governmental authorities with seeking to maintain neutrality among the various traditional religious organizations.

C. Claims Based on Political Opinion

The Communist rule that Ukraine shared with other republics of the Soviet Union until 1991 was highly intolerant of dissent. Ukrainian supporters of political pluralism or Ukrainian nationalism were suppressed. The situation became more complex in the late 1980s as Ukrainian Communist leaders reluctantly accepted elements of Gorbachev's liberalization and as a struggle developed over the future of the Soviet Union. Dissent became louder, and on the surface the State's political grip became looser, but those elements of the regime determined to resist change became more forceful in their determination to preserve the status quo. In the period culminating in the coup attempt in Moscow by hard-liners in August 1991, forces loyal to the Soviet state, often including the security forces, continued to employ pressure tactics, including forcible detention and physical reprisals, against supporters of democracy and Ukrainian independence.

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The post-independence period has seen the emergence of a multi-party system reflecting a broad range of political viewpoints. A presidential election was held in October 2004, followed in November 2004 by a second-round runoff between Prime Minister Viktor Yanukovich and opposition leader Viktor Yushchenko. Massive fraud conducted on behalf of Yanukovich during the runoff election triggered the largest nonviolent protest movement in the country's modern history, known popularly as the Orange Revolution. The Supreme Court ruled the runoff to be invalid and ordered that a repeat runoff election take place in December 2004. The December 2004 runoff, which Yushchenko won, and the short campaign preceding it were substantial improvements. Although supporters of Yanukovich claimed that the Yushchenko government engaged in retaliatory actions against Yanukovich officials - primarily replacing them with Yushchenko loyalists -- non-partisan observers concluded that the political and personnel changes were in line with those that typically follow a change in ruling party in a democracy. Parliamentary elections took place in March 2006, and an estimated 45 parties competed in elections that were considered to be the most open and fair in Ukraine's history. The party led by former Prime Minister Yanukovich formed a working majority in the Parliament, and Yanukovich once again took over the position of Prime Minister in 2006.

Pre-term elections to the parliament (Verkhovna Rada) were held on September 30, 2007, which were the result of a compromise solution to a political stalemate, which developed in April and May 2007 between the president and the ruling parliamentary coalition as a result of the unclear division of authority between the president and the prime minister caused by amendments to the constitution in 2004. The political crisis ended when the president, the prime minister and speaker of parliament agreed to hold pre-term elections, along with changing the composition of the Central Election Commission, adopting amendments to the Law on Parliamentary Elections, and making promises to not interfere with the judiciary or security forces. We have no indication that governmental entities have repressed individuals or political parties on either side of the aisle because of their views.

However, there are some restrictions. The Constitution prohibits parties that advocate the elimination of Ukrainian independence or the violent overthrow of the Government, or those that

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undermine security or foment ethnic, racial, or religious hatred. Reflecting a widespread concern over separatist tendencies, the authorities imposed registration requirements for political parties that effectively preclude participation in national elections by regionally based political parties. These affect primarily Russian and Tatar organizations in Crimea and ethnically based political activity in Transcarpathia (Hungarian minority) and Chernivsti Oblast (Romanian minority.)

The law requires permits for political demonstrations, and such permits are generally granted. Unlicensed demonstrations are also common and have generally occurred without police interference, although local authorities have sometimes refused permits to groups whose aims they do not support.

Politicians continued to be the victims—whether through killing or kidnapping—of organized criminal groups, aided in a few cases, either actively or passively, by corrupt officials. The number of contract killings of members of the business community, often managers of state-owned enterprises, remains high.

Generally, however, mistreatment by criminal elements of officials and political figures has little to do with the political opinion of their targets. It is, rather, the target's access to control over material resources that attracts the attention of the criminals. Because the extent of official corruption is considerable (see section on Fear of Criminal Elements, below), the adjudicator needs to ensure that the applicant is not simply the loser in a conflict between competing officials and/or criminal groups.

Applicants basing their claims on political grounds often express fear of the KGB, now nationalized and renamed the Security Service of Ukraine (SBU), and other law enforcement organizations. Some assert that the personnel of these organs has changed little since independence and that they would be mistreated because of "anti-Soviet" or anti-Communist views they held at an earlier time. While it would not be surprising to find individual personnel who retain some of the authoritarian attitudes of the Soviet period, the security services are effectively subordinated to the Ukrainian authorities, and there is little evidence of mistreatment of individuals because of their support for Ukrainian independence or anti-Soviet views at some time in the past. The SBU and other government agencies

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have interfered indirectly in the political process through criminal investigations of politicians, journalists, and influential businessmen. The SBU, police, and Prosecutor's Office have drawn domestic and international criticism for their failure to take adequate action to curb institutional corruption and abuse in the government.

D. Claims Based on Membership in a Particular Social Group

Homosexuals: Same-sex relations between men were decriminalized in 1991. The former prohibition under Article 122 of the criminal code now outlaws only non-consensual sexual relations between men that involve application of physical violence, threats, or take advantage of a state of psychological incompetence of the victim. Conviction under this statute incurs a prison sentence of two to five years and up to eight years if committed by a group of individuals or in case of a repeated commission of the crime. Social discrimination against male homosexuality is severe, although a "gay scene" has slowly begun to emerge from the underground in Kyiv. Female homosexuality is not addressed in the criminal code.

IV. OTHER CONSIDERATIONS

A. Torture and Other Abusive Treatment

(The word "torture" as used in the following description is a generic one, not a legal one, and is not intended to prejudge whether the treatment described meets the specific definition of torture provided in Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the implementing regulations associated with this Convention.)

In Ukraine, the major instances of abusive treatment of individuals in the custody or physical control of public official, or with official consent or acquiescence, occur in jails and prisons, particularly in pretrial detention. Prison officials regularly beat detainees and prisoners, and there have been numerous instances of such mistreatment, sometimes resulting in death. The human rights ombudsman's office regularly receives widespread reports of torture in pretrial detention. The Government has undertaken measures to institute penal reforms; however, the Government frequently fails to act

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to punish prison and police officials who commit or condone violence against prisoners.

Although the likelihood of torture may constitute grounds for withholding of removal without regard to the grounds on which asylum may be granted, applicants applying for both types relief using INS form I-589 often assert that they will be tortured in connection with their political beliefs, race, or religion. Adjudicators should be aware that in Ukraine incarceration for these reasons is rare. (However, there is anecdotal evidence that police attitudes towards the Roma lead to frequent arrests and abuse.)

Some male applicants claim that they have been abused, or that they fear abuse, while performing compulsory military service. The beating of conscripts in the army by fellow soldiers is common and sometimes results in death. The responsibility for these abuses is sometimes difficult to determine. There is little evidence that senior officials condone such activity, which is frequently conducted by enlisted men only a few months or years senior to the victims. The Government has acted to punish some of those responsible for such abuses. Approximately 150 cases were brought against military personnel during the year for violent hazing; the actual number of cases, however, was believed to be much higher and punishment administered for committing or condoning such activities did not serve as an effective deterrent to the further practice of such abuses.

B. Fear of Criminal Elements

The relaxation of the strong grip of the previous Communist government, combined with the rapid deterioration of Ukraine's economy, has contributed to a substantial increase in criminal activity. Many applicants cite mistreatment by criminal elements, often described as "mafias," that engage in robbery, extortion, and occasionally kidnapping. Individuals engaging in commercial activities are particularly vulnerable to these groups. Moreover, there are often overlapping connections between the new business class, criminal groups, and corrupt government officials. Often applicants will describe these difficulties as related to one of the statutory grounds for granting asylum. There may be occasions when the ethnic, religious or political affiliations are related to criminal activity (some criminal groupings appear to be drawn from one or another ethnic group, for example), but we have identified no

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pattern of mistreatment at the hands of criminal groups based on these affiliations.

C. Ukrainian Security Services and Police

The National Security Service of Ukraine (SBU) reports directly to the President, and the Ministry of Internal Affairs (MVS) reports to the Prime Minister through the Cabinet. Although applicants sometimes state that they will be targeted by these organizations (often still collectively referred to as the KGB) because of their religious beliefs or practices, ethnicity, support for a particular political faction, or opposition to Communism, human rights organizations have not reported any pattern in violations of human rights by the SBU. (See section on Political biases, above.) Nonetheless, the remnants of Soviet control mechanisms survive in many guises, and petty harassment of citizens continues to occur. Citizens who have committed no violation of the law, or only a minor one, often prefer to pay a bribe to avoid a time-consuming investigation.

D. Internal Flight Alternatives

Many of the problems encountered by applicants from Ukraine are local or regional in nature. Different religious, linguistic and ethnic groups predominate in different areas. Consequently, internal flight would appear to be a possible solution to many problems. The Ukrainian Constitution provides for freedom of movement and within some limits, the Government respects this in practice. The system of registering with local authorities (usually called the "propiska" system), which was introduced during the Soviet period, was abolished in January 2004, but registration of one's residence is still necessary. Unlike in the Soviet era, however, official permission is not required to live or work in the new location.

E. Other Factors Influencing Emigration from Ukraine

Apart from the ethnic, political and religious factors already described, a number of other considerations are motivating many individuals who depart Ukraine.

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1. Economic and Social Dislocation

Ukraine's economy continues to lag behind that of many of its European neighbors. Industrial output has suffered years of sharp decline in the 1990s while reform stagnated. While Ukraine's economy has started to show strong growth in recent years, growing numbers of Ukrainians are traveling abroad to seek work. Older people with relatives in the United States have particularly compelling reasons to consider emigration as the medical and social safety nets, once a source of pride and a reason for remaining in Ukraine, have largely fallen apart.

2. Better Opportunities Abroad

The existence of large communities of Ukrainian and Jewish origin in Canada, the United States, and other countries, many of which have renewed their family ties with Ukraine since the fall of Communism, provides alternatives to many which appear attractive in comparison with the hardships of life at home. Individuals in professional occupations, the arts, and sports, whose status and rewards have greatly declined in Ukraine itself, and whose skills are often transferable across national and language barriers, often find emigration particularly attractive. The creation of communities of fellow believers, especially among some of the newer faiths based on American missions, has had a similar effect.

3. Chernobyl

Scientists disagree on the extent of the health hazard that persists from the 1986 Chernobyl nuclear accident but most areas of the country outside of the "exclusion zone" around Chernobyl itself, are generally considered safe. There are no indications that individuals who were not initially exposed to Chernobyl fallout and who return to Ukraine would be in any danger of increased risk of illness.

F. Citizenship and the Right to Return to Ukraine

A law on citizenship which entered into force 20 May 1997 provides that USSR citizens who were permanent residents of Ukraine when that country declared independence, August 24, 1991, and all individuals resident there when the first citizenship law took effect, November 13 1991, automatically became citizens of Ukraine, regardless of ethnic group or place

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of birth, provided they were not already citizens of some other country. In addition to this automatic citizenship, Ukrainian law provides a right to Ukrainian citizenship by application, for all individuals who were born or lived in Ukraine before independence and to their descendants who lived outside Ukraine as of November 13, 1991. In order to be eligible, persons must not have been citizens of other countries and must have submitted their application before the year 2000. Dual citizenship is not recognized. The citizenship law as amended also provides the right to citizenship for deported victims of political oppression such as the Crimean Tatars. Refugees can acquire Ukrainian citizenship if they have lived legally in Ukraine for 5 years and can communicate in the Ukrainian language. Since independence over 1.5 million Ukrainians have returned to Ukraine, while over 1 million persons, mostly ethnic Russians, have left the country. We have no indication that individuals who emigrated from Ukraine, whether they retained their citizenship or renounced it, are penalized upon return to Ukraine.

G. Military Service in Ukraine.

A law on universal military obligations and military service which entered into force in March 1992 provided for military service at age 18, with deferment for individuals enrolled in higher educational institutions and exemptions, *inter alia*, on medical grounds, for individuals having a religious rank and for individuals residing abroad. A Law on Alternative (Non-Military) Service entered into force in December 1991 with amendments in 2000 and 2004. Later updates to the law provide for alternative compulsory service for individuals holding religious beliefs prohibiting them from use of arms. In November 1999 the Cabinet of Ministers adopted a resolution that lists all religious organizations whose beliefs prohibit the use of arms. In 2007 the President signed amendments to the Law on Social and Legal Protection of Servicemen and members of their families (the Law of 1992). In particular, Article 6 of the Law has been revised to allow servicemen to openly express their religious beliefs or atheism, as well as buy, possess and use religious literature and other religious objects and participate in religious ceremonies during their free time.

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H. Extreme Nationalist Organizations:

The major focus of most Ukrainian nationalist organizations is "Ukraine for the Ukrainians" and most express hostility toward "foreigners," especially Russians and Poles. Some are openly anti-Semitic.

Applicants frequently refer to mistreatment by the Ukrainian National Assembly and a related organization of paramilitary units, Ukrainian Self-Defense [UNA-UNSO]. Its main strength was in Western Ukraine. The organization espoused anti-Russian, anti-foreign and anti-Semitic viewpoints. Following its association with a number of violent incidents, the organization was outlawed by President Kuchma in 1998 and now exists primarily as a political organization. Even in its heyday, UNA-UNSO was virtually confined to western Ukraine - Lviv, Ivano-Frankivsk, Ternopil, and Volyn oblasts. Claims of UNA-UNSO assaults outside these areas and since 1998 should be examined with great care. For many people, moving to urban areas in southern or eastern Ukraine would be a viable alternative to flight abroad.

Other nationalist organizations include State Independence of Ukraine (DSU), the Congress of Ukrainian Nationalists (KUN), and the Ukrainian Social National Party (USNP), Ukrainian Conservative Party [led by MAUP President Shchokin], Liberty Union (Svoboda), as well as extremist, right wing party which emphasizes its links to German National Socialism such as Ukrainian Social National Party (USNP), the Ukrainian National Labor Party (UNLP), Patriots of Ukraine, the Ukrainian Movement Against Illegal Migration (UDPNI), the Eurasian Youth Union, Proryv (Break-through), and Combat 18.

I. Prior Residence Overseas:

Many asylum applicants assert a fear that they will be targeted by the "KGB" (SBU) if they return to Ukraine after a period of time spent in the "west." While this may indeed have been a concern in the Soviet era, with the increasing mobility of Ukrainian society and with ever larger numbers of Ukrainians going abroad for work, this is no longer the case. Criminal elements (both within the government and outside) do frequently target those who they think may be financially better off (including foreigners, wealthy Ukrainians, and those who have

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worked abroad) for criminal activity including bribes,
extortion, and robbery.

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CHRONOLOGY

March 1990: Elections to the Parliament (Rada) lead for first time to representation of nationalists and reformers.

August 1991: Ukraine declares independence from the Soviet Union.

December 1991: Citizens of Ukraine vote for independence and elect Leonid Kravchuk president.

June/July 1994: Leonid Kuchma defeats incumbent Leonid Kravchuk and five other candidates in elections adjudged generally free and fair by international observers.

June 1996: A new constitution adopted, providing for a President, elected every five years and a single-chamber Parliament (Rada) elected every four years.

October 1999: President Kuchma re-elected for a second five year term.

November/December 2004: Following a flawed second-round vote in the Presidential elections, Ukrainian citizens take to the streets in the Orange Revolution. In negotiations to end the crisis, the constitution is amended to allow greater authority for the Prime Minister in hiring and firing the Cabinet. Candidate Viktor Yushchenko wins repeat elections in late December.

January 2006: Constitutional reforms of late 2004 take effect.

March 2006: Parliamentary elections, generally recognized as free and fair, give a plurality to the party of former Prime Minister Viktor Yanukovich. A working parliamentary majority is formed in summer, 2006.

April/May 2007: Continuing tensions between President and Prime Minister lead to dismissal of the Parliament. New parliamentary elections planned for September, 2007.

September 2007: Pre-term Parliamentary elections, generally recognized as free and fair.

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