



## Human Rights Watch

### UPR Submission

### Ukraine

February 2008

This submission summarizes Human Rights Watch's key concerns with Ukraine's compliance with its international obligations in the context of four areas that have been the focus of Human Rights Watch's work in recent years – human rights abuses fueling the HIV/AIDS epidemic, as well as discrimination against women in employment, media freedoms, and the treatment of migrants. We believe the upcoming Universal Periodic Review of Ukraine provides a welcome opportunity for reviewing Ukraine's record in these areas. We have also included a brief overview of key observations made by intergovernmental human rights monitoring bodies on Ukraine, which we consider as relevant to take up as part of the upcoming Human Rights Council review. While we acknowledge progress made by the Ukrainian government in addressing some human rights problems in recent years, we note that the authorities have taken insufficient steps to rectify a number of serious human rights abuses. We hope that the information below will help inform the upcoming examination of Ukraine and contribute to the resulting recommendations for the improvement of human rights in Ukraine.

#### **Human Rights Abuses Fueling the HIV/AIDS Epidemic**

The HIV/AIDS epidemic in Ukraine continues to grow. The Ukrainian National AIDS Center reported over 6,000 newly registered cases of HIV infection in the first three months of 2007, primarily among injection drug users. Although Ukraine has taken some positive steps to fight HIV/AIDS, chiefly in the area of legislative and policy reform, it must do more to confront the human rights abuses fueling the HIV/AIDS epidemic.

*Medication-assisted treatment for drug users*

The Ukrainian authorities have taken some positive steps to address the HIV/AIDS epidemic recently, chiefly in the area of legislative and policy reform. Most notably, restrictions on methadone import were lifted in December 2007, with President Viktor Yushchenko's leadership on the issue. This will allow for methadone-based medication-assisted treatment (MAT) programs to begin in Ukraine and for considerable expansion in delivery of this service. International experience has demonstrated that MAT (also called substitution maintenance therapy) is a key component in preventing HIV transmission and other harmful consequences of drug use and supporting antiretroviral treatment for HIV-positive drug users. The Ukrainian authorities had promised to expand MAT programs for several years, but political stagnation and conflicts between ministries have hindered this process. The Ministry of Interior had publicly opposed methadone imports and medication-assisted treatment programs.

#### *Discrimination in healthcare*

Although Ukrainian law expressly forbids healthcare institutions from refusing medical aid to people living with HIV/AIDS based on their HIV status, healthcare workers often discriminate against people living with and at high risk of HIV/AIDS. Human Rights Watch research found that injection drug users and people living with HIV/AIDS have been denied emergency medical treatment, including by ambulances that refused to pick them up. Others have been discharged from hospitals once their HIV status became known or have been provided with inadequate treatment because doctors refused to treat them. Health workers also often violate the privacy of people living with HIV/AIDS by disclosing confidential information about HIV status. Discrimination and stigma also keeps many people living with HIV/AIDS from accessing health care and other HIV/AIDS related services at all.

The Ministry of Health has taken measures to expand provision of antiretroviral therapy for people living with HIV, although not on a scale sufficient to address the need for it. When selecting candidates for antiretroviral therapy, medical institutions frequently discriminate against drug users on the unfounded assumption that they will not adhere to a rigorous course of treatment.

#### *Policing*

Police regularly interfere with the delivery of HIV prevention information and services, including drug users' access to legal needle exchange services, in direct contradiction to Ukrainian policies supporting needle exchange. Police needing to fulfill arrest quotas find drug users in particular especially easy targets for arrest or ill-treatment. HRW and others have documented police harassment, and arrest and beatings of drug

users at or near needle exchange sites. In reports issued in 2007, both the European Committee for the Prevention of Torture (CPT) and the UN Committee Against Torture (CAT) found that persons detained by the police face a risk of torture and ill-treatment.

#### *Criminalization of small amounts of narcotics*

Ukraine has harsh criminal penalties for possession of very small amounts of narcotics. Although crime rates are rapidly decreasing in Ukraine, the level of incarceration of drug users remains high. At least 20% of people in detention are there on drug-related charges. The threat of arrest accelerates HIV infection rates by driving those most vulnerable to HIV infection away from HIV prevention services and by increasing incarceration rates for drug users.

#### **Media Freedom**

Journalists and media outlets in Ukraine work free of direct government interference, but threats and physical attacks against journalists critical of government officials or other prominent figures remain a problem.

For example, on August 14 two unidentified assailants attacked Artem Skoropadsky, a journalist for the Kommersant-Ukraina newspaper, who linked the attack to a story he had written citing controversial remarks by Kyiv Mayor Leonid Chernovetsky. Skoropadsky said the mayor's press department had threatened a libel suit over the story. On February 18 two men beat Anatoly Shinkarenko, news director at the local 9 Kanal television station in Dnipropetrovsk. The attackers threatened the journalist, promising to destroy him if he continued to report on an internal conflict at 51 Kanal, a rival television station.

The trial of three former police officers suspected of kidnapping and murdering investigative journalist Georgy Gongadze in 2000 continues, after being opened in January 2006 and repeatedly delayed. Media freedom activists lament that there have still been no charges brought against former senior government officials implicated in organizing Gongadze's killing.

#### **Treatment of Migrants**

Despite multiple reforms in recent years, Ukraine still lacks a clear migration policy or a unified, efficient migration service. Detention conditions for migrants remain poor in most facilities, and fundamental rights to a lawyer, to inform a third party of detention, and to be informed of one's rights are routinely denied. Many asylum seekers in need of protection are denied refugee status on procedural grounds or because migration officials fail to evaluate country-of-origin situations. Many

migrants, especially Chechens, remain at risk of being returned to countries where they could face torture or ill-treatment.

On June 18, 2007, the European Union and Ukraine finalized agreements on visa facilitation for Ukrainian nationals and on readmission of irregular migrants who transit Ukraine and are apprehended in the EU. The readmission provisions will become applicable after a transitional period of two years, and a special accelerated procedure will apply to persons apprehended in common border regions. Nongovernmental organizations (NGOs) believe that the readmission agreement fails to provide sufficient human rights safeguards.

### **Discrimination against Women in Employment**

Although Ukraine has adopted legislation designed to ensure gender equality in employment, including the Law on Equal Rights and Opportunities for Men and Women and amendments to the labor Code prohibiting gender discrimination in employment and remuneration, Human Rights Watch research has determined that women do not enjoy equal access to employment opportunities as a result of discriminatory attitudes among both public and private employers, including discriminatory recruitment practices. In employment advertising, employers regularly specify preferences for men and discriminate on the basis of age or physical appearance of potential female candidates during the recruitment process.

Men hold a disproportionate number of senior government and managerial positions and receive better pay than women in comparable jobs. Women are very often forced into the low-paying and unregulated informal economy and are disproportionately affected by unemployment.

### **Observations of Human Rights Monitoring Bodies**

#### *UN Committee Against Torture*

Ukraine appeared before the UN Committee Against Torture (CAT) in May 2007, and in its concluding observations the CAT expressed concern about torture and ill-treatment in detention, as well as other violations of detainees' rights, and noted the government's failure to effectively investigate torture complaints. The CAT also noted that Ukraine had returned persons to countries where there are substantial grounds for believing that they would be subjected to torture. Ukrainian and international organizations have also reported incidents of torture and ill-treatment in 2007.

#### *UN Committee on Economic, Social and Cultural Rights*

In its January 2008 concluding observations on Ukraine, UN Committee on Economic, Social and Cultural Rights noted with appreciation Ukraine's adoption of legislative measures to promote equal opportunities and eliminate discrimination against women and disadvantaged and marginalized individuals and groups, among other positive steps taken with respect to human rights in the country. However, the Committee noted many subjects of concern, including, *inter alia*, discrimination against minorities and women, inadequate protections for workers, trafficking for sexual exploitation and forced labor, discrimination against people living with and at high risk of HIV/AIDS (including sex workers, drug users, and incarcerated persons), limited access to substitution therapy, and substandard conditions in prisons and other places of detention.

*UN Committee on the Rights of the Child*

In its June 2007 concluding observations on Ukraine's initial report on the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography, the UN Committee on the Rights of the Child encouraged Ukraine to adopt an action plan to prevent crimes against children and to establish a juvenile justice system in conformity with international standards.

*Council of Europe Commissioner for Human Rights*

In October 2007 the Council of Europe's human rights commissioner presented the report on his December 2006 visit to Ukraine. The report noted the problem of torture and ill-treatment, the lack of access to a lawyer for detainees, and overcrowding and poor health conditions in pretrial detention facilities. The commissioner called on the Ukrainian authorities to improve access to treatment and social reintegration for people living with HIV. The report also noted as problems violence against women, human trafficking, and abuse of children's rights.

*European Committee for the Prevention of Torture*

The European Committee for the Prevention of Torture (CPT) in June 2007 published the report on its 2005 visit to Ukraine. The report concluded that persons detained by the police face a risk of ill-treatment, in particular during initial questioning. The CPT deplored the continuing practice of holding people for weeks or months in police station lockups, which often are overcrowded and may lack basic material conditions such as drinking water, natural light, mattresses, heat, and toilets. The CPT cited significant improvements in conditions in some temporary holding facilities and prisons, but found that work requirements in the women's prison amounted to inhuman treatment.