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FREEDOM HOUSE

Freedom in the World - Ukraine (2011)

Capital: Kyiv

Population: 46,030,000

Political Rights Score: 3 *
Civil Liberties Score: 3 *
Status: Partly Free

Status Change Explanation

Ukraine's civil liberties rating declined from 2 to 3 and its status from Free to Partly Free due to deteriorating media freedom, secret service pressure on universities to keep students from participating in protests, government hostility toward opposition gatherings and foreign nongovernmental organizations, and an increase in presidential influence over the judiciary.

Overview

After winning the generally free and fair presidential runoff election in February 2010, Viktor Yanukovych and his Party of the Regions quickly redefined the rules of the Ukrainian political system. They rewrote the law on forming a governing coalition, postponed local elections from May to October, and stacked local electoral commissions with party loyalists. Yanukovych also benefited from a Constitutional Court decision that annulled the 2004 amendments to the constitution, shifting power back from the prime minister and parliament to the presidency. Also during the year, the security services exerted increased pressure on academic freedom, journalists complained of greater censorship, the administration began selective prosecutions against its political opponents, and corruption remained a major concern.

In December 1991, Ukraine's voters approved independence from the Soviet Union in a referendum and elected Leonid Kravchuk as president. Leonid Kuchma defeated Kravchuk in the 1994 presidential poll, and won reelection in 1999 amid media manipulation, intimidation, and the abuse of state resources. Kuchma faced growing criticism for high-level corruption and the erosion of political rights and civil liberties, and evidence implicating him in the 2000 murder of independent journalist Heorhiy Gongadze fueled mass demonstrations and calls for the president's ouster. The democratic opposition made important gains in the 2002 parliamentary elections, but pro-presidential factions retained a majority.

In the significantly tainted first round of the October 2004 presidential election, reformist former prime minister Viktor Yushchenko led a field of 24 candidates, followed by Prime Minister Viktor Yanukovych, a representative of the eastern, Russian-speaking Donbas region who enjoyed backing from Russian president Vladimir Putin. In the November runoff, the official results showed Yanukovych to be the winner by less than three percentage points, but voting irregularities in Yanukovych's home region led the domestic opposition and international monitors to declare his apparent victory "not legitimate."

In what became known as the Orange Revolution because of Yushchenko's ubiquitous campaign color, millions of people massed peacefully in Kyiv and other cities to protest fraud in the second-round vote. The Supreme Court on December 4 struck down the results and ordered a rerun on December 26. In the middle of the crisis, the parliament ratified constitutional reforms that shifted crucial powers from the president to the parliament, effective January 1, 2006. Although technically adopted in an unconstitutional manner, the compromise changes effectively lowered the stakes of the upcoming rerun, making it more palatable to Yushchenko's opponents. However, they also created an unclear division of power, which later led to constant conflict between the president and prime minister.

The repeat of the second round was held in a new political and social atmosphere. The growing independence of the media, the parliament, the judiciary, and local governments allowed for a fair

and properly monitored ballot. As a result, Yushchenko won easily, and his chief ally, former deputy prime minister Yulia Tymoshenko, became prime minister. However, their alliance quickly broke down, leading to stalemate.

The March 2006 parliamentary elections prolonged a political stalemate in which neither the feuding Orange factions led by Tymoshenko and Yushchenko nor Yanukovych's Party of the Regions could form a majority. In July, Socialist Party leader Oleksandr Moroz abandoned the Orange alliance to join the Party of the Regions and the Communist Party in a coalition that made him speaker of parliament and Yanukovych prime minister.

After a period of considerable infighting, Yushchenko dissolved the parliament in April 2007 and was ultimately able to schedule new legislative elections in September. Tymoshenko returned to the premiership in December, thanks to a restoration of the Orange alliance. Nevertheless, the power struggle between Yushchenko and Tymoshenko continued unabated in 2008 and 2009.

In the 2010 presidential election, which met most international standards, Yanukovych defeated Tymoshenko in the second round of voting in February, 49 percent to 46 percent. He quickly reversed many of the changes adopted in the wake of the Orange Revolution. After allying himself with parliament speaker Volodymyr Lytvyn, who gave him enough votes to replace Tymoshenko as prime minister, Yanukovych installed Mykola Azarov in the post in March. To build the necessary majority, the parliament abruptly changed the law on parliamentary procedure to allow individual deputies to defect from their factions and join the governing coalition. Although the Constitutional Court had rejected such a procedure two years earlier, it approved the change on April 8. Also in April, Yanukovych signed a deal that extended Russia's lease on its Crimean naval base for 25 years, even though the constitution does not permit the basing of foreign troops on Ukrainian soil.

In July Yanukovych tried to amend the law on referendums so that he could ask voters to overturn the 2004 constitutional amendments, but he lacked the votes in the parliament. However, after replacing a number of critical Constitutional Court justices in September, he secured an October ruling that annulled the 2004 compromise, restoring the 1996 constitution and returning considerable power to the presidency.

Separately, in another move that went beyond constitutional provisions, the parliament postponed local elections set for May. It then hastily adopted a new electoral law in July that favored Yanukovych's party by prohibiting multiparty electoral blocs—such as the Tymoshenko Bloc and Yushchenko's Our Ukraine-People's Self-Defense—and allowing the ruling parties to dominate the electoral commissions. The European Union criticized Ukraine before the elections over numerous credible reports that the secret services were cracking down on independent media and the opposition, particularly Tymoshenko's Fatherland Party. Ultimately, the October voting was less democratic than the presidential poll, according to the Opora watchdog group, which cited an atmosphere of mistrust and numerous technical violations. The state used its resources to remove candidates from the ballot and to block observers from doing their jobs. There were vote falsifications in the Kharkiv and Odessa mayoral elections, where the number of votes recorded exceeded the number of ballots distributed, and Tymoshenko candidates were barred from the Lviv and Kyiv polls.

Political Rights and Civil Liberties

Ukraine is an electoral democracy at the national level, with the opposition winning in the four most recent presidential and parliamentary elections. However, the October 31, 2010, local elections showed serious flaws under newly elected president Viktor Yanukovych's leadership.

Citizens elect delegates to the Verkhovna Rada (Supreme Council), the 450-seat unicameral parliament, for four-year terms. The 2004 constitutional amendments, which were annulled in 2010, had extended this term to five years. Under an electoral law first used in the 2006 elections, all seats are chosen on the basis of party-list proportional representation. Parties must garner at least 3 percent of the vote to win representation. The president is elected to a maximum of two five-year terms. With the return to the 1996 constitution, the president now dominates the political system. He issues decrees; exercises power over the courts, the military, and law enforcement agencies; appoints the prime minister with the Rada's approval and removes the prime minister at will; appoints and fires all other ministers without the Rada's approval; and appoints regional governors without consulting the prime minister. The Rada can dismiss the entire cabinet, but not individual ministers. Political parties are typically little more than vehicles for their leaders and

financial backers, and they generally lack coherent ideologies or policy platforms.

Corruption remains one of the country's most serious problems. Business magnates are presumed to benefit financially from their close association with top politicians, while the party-list electoral system reinforces legislators' loyalty to party bosses and leaves them less accountable to voters. In 2010, Yanukovych appointed individuals affiliated with the notoriously corrupt RosUkrEnergo gas-trading company to serve as presidential chief of staff, minister of energy, and head of the Security Service of Ukraine (SBU). The new SBU chief, leading private media owner Valeriy Khoroshkovsky, was also appointed to the Supreme Council of Justice, which oversees the judiciary. Yanukovych himself has become de facto owner of a huge estate outside of Kyiv, raising suspicions of illicit wealth.In May the government commissioned the U.S. law firm Trout Kacheris to investigate corruption under the previous government. The report charged that former prime minister Yulia Tymoshenko's government misused more than $400 million between 2008 and 2010. The new authorities opened a criminal case against Tymoshenko in mid-December and ordered her to remain in Kyiv. They also arrested a number of Tymoshenko cabinet officials —including former economy minister Bohdan Danylyshyn, former interior minister Yuriy Lutsenko, and former environment minister Georgy Filipchuk—in what appeared to be a politically motivated effort to discredit the opposition.

The constitution guarantees freedoms of speech and expression, and libel is not a criminal offense. After the 2004 Orange Revolution, the government abstained from direct political interference in the media, which consequently grew more pluralistic, offering a broad range of opinions to the public. Business magnates with varying political interests own and influence many outlets, while local governments often control the local media. Conditions worsened after Yanukovych's election. The media watchdog Telekritika reported that television coverage of the opposition was decreasing, and inMay journalists from Channel 1+1 released an open letter complaining of censorship. Personnel changes in early 2010 left the opposition with no representatives on the National Council for Television and Radio Broadcasting. In June, a court striped the independent stations Channel 5 and TVi of broadcast frequencies they had won in January; the stations competed with Khoroshkovky's Inter media group, and he was accused of engineering the ruling.Journalists who investigate wrongdoing at the local level face physical intimidation, and local police and prosecutors do not energetically pursue such cases. Vasyl Klymentyev, a journalist who investigated local corruption in Kharkiv, disappeared in August and is presumed dead. Internet access is not restricted and is generally affordable; lack of foreign language skills is the main barrier.

The constitution and the 1991 Law on Freedom of Conscience and Religion define religious rights in Ukraine, and these are generally well respected. However, among other problems, Yanukovych publicly associates himself with one of the country's competing branches of the Orthodox Church, and there have been some signs of anti-Semitism in political campaigns in recent years.

Academic freedom has come under pressure since Yanukovych took power. During 2010, Yanukovych's education minister began a process aimed at bringing Ukrainian textbooks into line with those of Russia. In March, the head of the Institute of National Memory—which investigates politically contentious episodes in Ukrainian history—was replaced with a Yanukovych supporter. The SBU in May put pressure on the rector of the Ukrainian Catholic University in Lviv to keep students from protesting Yanukovych's policies alongside opposition parties. In September, the SBU interrogated historian Ruslan Zabiliy for 14 hours and confiscated his computer. The authorities claimed that Zabiliy, who researches Nazi and Soviet atrocities and the Ukrainian independence movement, planned to transfer state secrets to a third party and classified the case as top secret, which limits his rights as a defendant. Bribery surrounding university entrance exams and grades remains a problem.

The constitution guarantees the right to peaceful assembly but requires organizers to give the authorities advance notice of any demonstrations. Yanukovych's government has made it more difficult to assemble. When 30,000 businesspeople turned out in November and early December to protest tax code amendments, police accused some of them of destroying city property after forcibly closing their tent camp on December 3. Ukraine has one of the most vibrant civil societies in the region. However, the SBU has begun to pressure foreign-funded nongovernmental organizations (NGOs). In June 2010, Nico Lange, head of the Ukraine office of the Konrad Adenauer Foundation, was detained for 10 hours at the Kyiv airport after publishing a critical report. The SBU in September searched the offices of organizations funded by U.S.-based philanthropist George Soros. In October, the police searched the home of human rights blogger Dmytro Groysman. Trade unions function, but strikes and worker protests are infrequent. Factory

owners are still able to pressure their workers to vote according to the owners' preferences.

The judiciary is subject to intense political pressure. Under the previous administration, the judiciary was an important arbiter in the political battles between the president and prime minister, and all political factions attempted to manipulate courts, judges, and legal procedures. The Constitutional Court had largely remained silent in the face of politicians' attempts to grab power. Under Yanukovych, however, the Constitutional Court has sided with the president, allowing him to form a parliamentary majority and overturn the 2004 constitutional amendments. Three Constitutional Court judges who were critical of Yanukovych resigned in September, clearing the way for more supportive replacements ahead of the October ruling on the 2004 amendments. Also during the year, the parliament adopted a new law giving the Supreme Council of Justice the right to appoint and dismiss judges from their positions, in violation of the constitution.

Torture by police and poor conditions in overcrowded prisons have been persistent problems. A 2008 reform measure aimed to bring Ukraine's criminal justice system up to international standards, with a focus on improving pretrial detention procedures and strengthening victims' rights. However, the May 2010 death of Ihor Indyl at a Kyiv police station, following what his parents said was a beating, raised questions about police behavior. An investigation proved inconclusive, but two officials were charged with abuse of power and negligence.

While the country's Romany population suffers from discrimination, the government has actively interceded to protect the rights of most ethnic and religious minorities, including the Crimean Tatar community. Tatars continue to suffer discrimination at the hands of local authorities and communities in Crimea in terms of land ownership, access to employment, and educational opportunities. Members of the gay and lesbian community also report discrimination.

Gender discrimination is prohibited under the constitution, but women's rights have not been a priority for government officials. Despite Tymoshenko's prominent role, women still do not have the same opportunities as men. Human rights groups have complained that employers openly discriminate on the basis of gender, physical appearance, and age. The trafficking of women abroad for the purpose of prostitution remains a major problem.

**Countries are ranked on a scale of 1-7, with 1 representing the highest level of freedom and 7 representing the lowest level of freedom. Click here for a full explanation of Freedom in the World methodology.*