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Freedom in the World 2019 - Ukraine

Partly Free

60 /100

Key Developments:

Key Developments in 2018:

- Rights groups documented more than 50 attacks on activists and human rights defenders in the first nine months of the year. There were also a number of severe assaults by nationalist groups against the Romany minority. Investigations into these incidents generally took place only after significant pressure from civil society.
- Lawmakers and President Petro Poroshenko approved legislation to establish a long-awaited anticorruption court. However, domestic and international observers expressed concerns about the selection process for the 39 judges who would sit on the court.
- Intermittent fighting continued in Donbas. The United Nations reported that over 3,000 civilians have been killed since the outbreak of the conflict in 2014.
- In November, martial law was imposed in 10 Ukrainian regions for 30 days after Russian forces captured 24 Ukrainian sailors near Crimea. Provisions of the martial law decree allowed restrictions on free speech and assembly, but these were not invoked in practice.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 26 / 40

A. ELECTORAL PROCESS: 9 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4

The president is directly elected for a maximum of two five-year terms. After Viktor Yanukovich fled the country in February 2014, a snap presidential election was held that May. Petro Poroshenko won 54.7 percent of the overall vote and majorities in

regions across the country. International observers deemed the vote competitive and credible, although polling could not take place in Crimea and separatist-held parts of Donbas.

A2. Were the current national legislative representatives elected through free and fair elections? 3 / 4

The 450 members of the unicameral Supreme Council, or Verkhovna Rada, are elected to five-year terms through a mixed system in which half of the members are chosen by closed-list proportional representation and the other half in single-member districts. Early parliamentary elections held in October 2014 were generally deemed competitive and credible, but voting was again impossible in Crimea and separatist-held parts of Donbas. Consequently, the elections filled only 423 of the 450 seats. The Petro Poroshenko Bloc won 133 seats, former prime minister Arseniy Yatsenyuk's People's Front took 81, Self-Reliance 33, the Opposition Bloc 29, the Radical Party 22, and Fatherland 19. Several smaller parties and 96 independents divided the remainder.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 2 / 4

The current mixed electoral system for the parliament has been criticized as prone to manipulation and vote-buying.

Election monitors have expressed concern about courts' varying interpretations of electoral laws when faced with complaints regarding candidate registration and other topics, as well as about long delays in the adjudication of election-related cases. New electoral laws have sometimes been adopted in haste shortly before voting.

In September 2018, the parliament replaced more than a dozen members of the Central Election Commission whose mandates had long since expired. The new members were nominated by parties according to their parliamentary representation, but one seat on the 17-member panel, designated for the Opposition Bloc, remained vacant.

B. POLITICAL PLURALISM AND PARTICIPATION: 11 / 16

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 3 / 4

With the exception of a 2015 ban on the Communist Party, there are no formal barriers to the creation and operation of political parties. A number of new political parties have appeared in recent years. A law that came into force in 2016 provides parliamentary parties with state funding, but the provision effectively favors established parties over newcomers.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 3 / 4

Opposition groups are represented in the parliament, and their political activities are generally not impeded by administrative restrictions or legal harassment. Newer grassroots parties have difficulty competing with more established parties that enjoy the support and financial backing of politically connected business magnates, known as oligarchs.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 2 / 4

Russia has been able to maintain influence over the course of Ukrainian political life through its occupation of Crimea, military support for separatists in the east, and imposition of economic sanctions on the rest of the country. Russian leverage within Ukrainian politics has declined since Yanukovich's ouster, though Moscow retains influence in some eastern and southern regions where the Opposition Bloc, a successor to Yanukovich's Party of Regions, performed well in the 2015 municipal elections. People living in occupied parts of Donbas are heavily exposed to Russian propaganda and other forms of control.

Ukraine's oligarchs exert significant influence over politics through their financial support for various political parties.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4

Women and members of minority groups are able to participate in political life in Ukraine. However, their voting and representation have been hindered by factors including the conflict in the east, illiteracy and lack of identity documents for many Roma, and rules against running as an independent for many local, district, and regional offices. Internally displaced persons (IDPs), of which there are over 1.5 million, face legal and practical barriers to voting. The Law on Local Elections mandates a 30 percent quota for women on party lists, but it is not effectively enforced. Societal discrimination against LGBT (lesbian, gay, bisexual, and transgender) people affects their ability to engage in political and electoral processes.

C. FUNCTIONING OF GOVERNMENT: 6 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4

Elected officials have demonstrated a capacity to craft and implement various reforms, though the process is ongoing and many initiatives stall due to opposition from powerful business groups and other special interests. Aside from the Donbas conflict, the main obstacle to effective governance in Ukraine is corruption.

C2. Are safeguards against official corruption strong and effective? 1 / 4

Corruption remains a serious problem, and there is little political will to fight it despite strong pressure from civil society. Anticorruption agencies have repeatedly been ensnared in politically fraught conflicts with other state entities and elected officials. While lawmakers and Poroshenko approved legislation in 2018 to create a long-awaited anticorruption court, at year's end the selection of judges was still under way.

C3. Does the government operate with openness and transparency? 2 / 4

Ukraine has made some progress in advancing transparency, for example by requiring that banks publish the identity of their owners, and by passing a 2016 law obliging politicians and bureaucrats to file electronic declarations of their assets. However, it is possible to bypass some regulations, in part because underdeveloped institutions are not fully capable of identifying and punishing violators.

A robust freedom of information law approved in 2011 is not well enforced.

CIVIL LIBERTIES: 34 / 60 (-2)

D. FREEDOM OF EXPRESSION AND BELIEF: 11 / 16

D1. Are there free and independent media? 2 / 4

The constitution guarantees freedoms of speech and expression, and libel is not a criminal offense. The media landscape features considerable pluralism and open criticism of the government. However, business magnates with varying political interests own and influence many outlets, using them as tools to advance their agendas. Poroshenko owns the television network Fifth Channel and has rebuffed press freedom groups' demands that he honor his earlier promise to sell it.

Authorities in 2018 renewed existing measures that bar a number of Russian news outlets from Ukrainian distribution networks and prohibit their journalists from entering the country. The year also featured growing pressure to limit publications in languages other than Ukrainian. The *Kyiv Post*, an English-language newspaper, warned that it and other outlets could be forced to close under a proposed bill that would require media outlets to produce Ukrainian versions of all reports and other materials. In September, the regional council in Lviv approved a measure banning the public use of Russian-language "culture products," including books and films.

Journalists continue to face the threat of violence and intimidation. The independent Institute of Mass Information registered 201 media freedom violations from January to November 2018. Of these incidents, 28 involved beatings or attacks, and 27 involved threats and intimidation.

Ukraine's courts and law enforcement agents sometimes fail to protect the rights of journalists. In September, a court granted a request by the prosecutor general's office to obtain information from a journalist's phone, including text conversations and location data, for a 17-month period. Earlier, in March, journalists and media experts accused the police of interfering in the work of the media and violating journalists'

rights during aggressive removals of antigovernment protesters outside of the Rada. In February, journalists condemned police for performing an intrusive search of women journalists seeking to cover a court hearing at which Poroshenko was to appear via a video link.

The media environment in separatist-occupied parts of Donbas is marked by severe violations of press freedom, including censorship by the de facto authorities.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 3 / 4

The constitution and a 1991 law define religious rights in Ukraine, and these are generally respected. However, smaller religious groups continue to report some discrimination. Vandalism of Jewish structures and cemeteries continues, and in 2017 attackers reportedly threw an explosive device at Jewish pilgrims in Uman, though suspects were later arrested. Russian-backed forces in the Donbas regions of Donetsk and Luhansk have reportedly detained some religious leaders. In February 2018, separatist officials in Luhansk adopted a measure that banned religious groups not associated with "traditional" religions, which apparently included Protestants and Jehovah's Witnesses.

In October 2018, Ukrainian Orthodox clerics received permission from religious authorities in Istanbul, the historical seat of the Eastern Orthodox Church, to create their own "autocephalous" church and remove it from the canonical jurisdiction of the Russian Orthodox Church. A new Orthodox Church of Ukraine was formed in December to unite existing factions, and its autonomy was expected to be formalized in 2019. The Kremlin and church leaders in Moscow strongly objected to the move, and Ukrainian officials said they anticipated provocations, including disputes over church property. There were reports of Ukrainian intelligence agents searching Russian Orthodox churches and priests' homes, and of clergy seen as loyal to Moscow being summoned for questioning. However, the dispute did not meaningfully inhibit most individuals from practicing the faith of their choice.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 3 / 4

A 2014 law dramatically reduced the government's control over education and allowed universities much greater freedom in designing their own programs and managing their own finances.

A law adopted in 2017 was designed to align the country's education system with those in the European Union (EU), but it drew criticism for provisions that mandate the use of Ukrainian as the primary language of instruction in most publicly funded secondary schools by 2020, affecting numerous schools that currently teach in minority languages.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 3 / 4

Ukrainians generally enjoy open and free private discussion, although the polarizing effects of the conflict have weighed on political expression, and intimidation dampens free speech in the separatist-held areas.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 7 / 12 (-2)

E1. Is there freedom of assembly? 2 / 4 (-1)

The constitution guarantees the right to peaceful assembly but requires organizers to give the authorities advance notice of demonstrations. Ukraine lacks a law governing the conduct of demonstrations and specifically providing for freedom of assembly.

Threats and violence by nonstate actors regularly prevent certain groups from holding events, particularly those advocating equal rights for women and LGBT people. In 2018, a few high-profile LGBT rights assemblies and events proceeded in Kyiv, Odesa, and Kryvyi Rih without serious violence, following significant international pressure on the government to allow them. However, many more were canceled or stopped due to threats or violence. In May, a major LGBT event in Kyiv was canceled just before it was to open, after far-right agitators arrived at the scene and threatened to attack participants while police stood by. In November, right-wing militants attacked participants in a transgender rights rally in Kyiv with smoke bombs and pepper spray. There were also reports of counterprotesters, allegedly with the aid of police officers, snatching away feminist banners carried by participants in a Kyiv march on International Women's Day. Police repeatedly insisted that they could not provide security for such events, despite adequate time for preparation.

Score Change: The score declined from 3 to 2 because right-wing extremists have increasingly used threats and violence to prevent or disrupt public discussions, meetings, and demonstrations.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work? 2 / 4 (-1)

Numerous civic groups with a variety of social, political, cultural, and economic agendas emerged or were reinvigorated following the departure of Yanukovych in 2014, and many are able to influence decision-making at various levels of government.

However, in recent years NGOs have faced growing restrictions and threats of violence. In March 2017, Poroshenko signed a law that increased monitoring of NGOs focused on corruption by requiring their leaders, staff, and contractors to submit asset and income declarations. In 2018, attempts to nullify or relax the measure failed, and civil society activists began filing their declarations. Populist lawmakers then used the information to smear the groups as working to harm Ukraine on behalf of malicious "foreign agents." A so-called foreign agent bill that would impose onerous registration and other requirements on "agents acting under the influence of an aggressor state" was introduced in September. The bill, which enjoyed Poroshenko's support, effectively targeted Russian-backed groups, but it nevertheless raised concerns that civil society organizations with foreign grants could be affected.

Violence against civil society activists increased in 2018, with more than 50 attacks on activists and human rights defenders recorded in the first nine months of the year. Those under threat included anticorruption campaigners and defenders of the rights of LGBT people. In November, Kateryna Handzyuk, an anticorruption activist who monitored police activities in Kherson, died from injuries sustained when an attacker poured sulfuric acid on her months earlier. Mykola Bychko, a young environmental activist in Kharkiv who had organized campaigns against corruption and the pollution of local reservoirs by a waste treatment plant, was found hanging in a forest on the outskirts of his village in June. Bychko's death was considered suspicious by his friends and family and by other activists, but police refused to fully investigate the case and closed the probe at the end of the year.

Attacks on public events hosted by NGOs have contributed to an expectation among the groups that announcing plans for such events will result in threats of violence. The prosecutor general suggested in September that civil society activists brought attacks on themselves by criticizing the authorities.

Score Change: The score declined from 3 to 2 due to a wave of physical attacks on civil society activists and the authorities' failure to mount effective investigations and prosecutions in response.

E3. Is there freedom for trade unions and similar professional or labor organizations? 3 / 4

Trade unions function in the country, but strikes and worker protests are infrequent, as the largest trade union, stemming from the Soviet-era labor federation, lacks independence from the government and employers in practice. Factory owners are still able to pressure their workers to vote according to the owners' preferences. Some trade unions have limited or no access to oligarch-owned industrial enterprises in eastern Ukraine.

F. RULE OF LAW: 6 / 16

F1. Is there an independent judiciary? 1 / 4

Ukraine has long suffered from corrupt and politicized courts, and recent reform initiatives aimed at addressing the issue have stalled or fallen short of expectations. A competitive selection process for new Supreme Court judges was initiated in 2016, but it has since come under heavy criticism from civil society and other observers for a perceived lack of transparency and proper consultation, and for failing to weed out flawed candidates. The process will continue into 2019.

Poroshenko signed legislation in June 2018 to create a long-awaited anticorruption court. Following criticism from the International Monetary Fund (IMF) and the United States, the law was soon amended so that existing corruption cases would fall under its purview. Thirty-nine judges still had to be selected to serve on the new body. As with the Supreme Court appointments, concerns remain that provisions meant to ensure fair competition and screening of judges will not be followed.

In March, Ukraine's Public Integrity Council (PIC)—a body composed of civil society representatives that is tasked with advising the High Qualification Commission of Judges (HQCJ) about the ethics and integrity of judicial candidates—announced that it would withdraw from a wide-ranging judicial review process. The PIC said the HQCJ was ignoring its findings and that it had been "used to legitimize the needed result in the eyes of society and the international community."

F2. Does due process prevail in civil and criminal matters? 2 / 4

Although due process guarantees exist, in practice individuals with financial resources and political influence can escape prosecution for wrongdoing.

The government has made little progress in meeting domestic and international demands to investigate and prosecute crimes committed during the last months of the Yanukovych administration in late 2013 and early 2014, which included the shooting of protesters. The authorities have also failed to mount effective investigations into high-profile killings such as the murder of journalist Pavel Sheremet with a car bomb in central Kyiv in 2016.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 1 / 4

Intermittent combat between Russian-backed separatist forces and the Ukrainian military continued in Donbas in 2018 and frequently endangered civilians. More than 10,000 people have been killed since the conflict began in April 2014, including more than 3,000 civilians, according to the Office of the UN High Commissioner for Human Rights (OHCHR). The OHCHR has condemned a lack of institutional mechanisms to prevent and punish enforced disappearances, which have been reported during the conflict, particularly in its early years.

Outside of Donbas, there have been a number of high-profile assassinations and assassination attempts in recent years, some of which appeared to target political figures.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 2 / 4

A 2012 law introduced a nonexclusive list of grounds on which discrimination is prohibited. Gender discrimination is explicitly banned under the constitution. However, these protections are inconsistently enforced, and the Romany minority and LGBT people experience significant discrimination in practice. Roma and LGBT people and groups generally only receive police protection or justice for attacks against them when there is intense pressure from civil society. Rights groups have reported that employers openly discriminate on the basis of gender and age.

Ukrainian nationalist groups actively targeted Roma in 2018. In one particularly severe attack in June, a 24-year-old man was killed and several people were injured, including a pregnant woman and a child, when masked men believed to be associated with a neo-Nazi group attacked a Romany settlement in Lviv. Authorities rarely open investigations into such violence, even when the perpetrators publicly claim responsibility on social media, the attacks are recorded by journalists, or police officers observe the incident. It was reported in June that one extremist organization involved in a number of attacks had received a grant from the Ministry of Youth and Sport.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 10 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 3 / 4

While freedom of movement is generally not restricted in areas under government control, the ongoing conflict with Russian-backed separatists in the east has displaced many residents from their homes and hampered freedom of movement in those regions.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 2 / 4

The government has taken steps to scale back regulation of private businesses in recent years. However, the business environment is negatively affected by widespread corruption, and the parliament has repeatedly extended a moratorium on the sale of agricultural land.

In separatist-controlled areas, the de facto authorities have reportedly "nationalized" many enterprises and exert heavy control over business activities.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 3 / 4

The government generally does not restrict social freedoms, though same-sex marriages are not recognized in Ukraine. Domestic violence is widespread, and police responses to the few victims who report such abuse are inadequate.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4

The trafficking of women domestically and abroad for the purpose of prostitution continues. IDPs are especially vulnerable to exploitation for sex trafficking and forced labor. Reports indicate that separatist commanders in the east have recruited children as soldiers and informants.

Labor laws establish a minimum wage that meets the poverty level, as well as a 40-hour work week and workplace safety standards. However, workers at times go unpaid, with wage arrears being a more acute problem in Donbas, and penalties for workplace safety violations are lenient.

Explanatory Note:

The numerical ratings and status listed above do not reflect conditions in Crimea, which is examined in a separate report. *Freedom in the World* country reports assess the level of political rights and civil liberties in a given geographical area, regardless of whether they are affected by the state, nonstate actors, or foreign powers. Disputed territories are sometimes assessed separately if they meet certain criteria, including boundaries that are sufficiently stable to allow year-on-year comparisons. For more information, see the report methodology (<https://freedomhouse.org/report/methodology-freedom-world-2019>) and FAQ (<https://freedomhouse.org/content/frequently-asked-questions>) .

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