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Events of 2011

In 2011 Ukraine adopted reforms to facilitate closer association with the European Union and adopted new laws on access to information and refugee protection.

The conviction of former Prime Minister Yulia Tymoshenko and the arrest and trial of other former government officials undermined confidence in the judiciary's independence, media faced increasing pressure, and corruption continued to plague public and private institutions. Violations of the rights of migrants and asylum seekers remain serious concerns. Regarding the right to health, in 2011 the government's record was uneven on HIV/AIDS prevention and poor on access to pain relief.

Migration and Asylum

On August 4, 2011, a new law on refugees came into force that expands the grounds for recognizing refugee status, provides for temporary and complementary forms of protection, automatically grants minors refugee status when parents receive it, and ensures better access to education for children of refugees by simplifying school registration procedures.

Unlike EU standards, the law does not provide complementary protection to those facing indiscriminate violence. At this writing local migration service offices often refused applications for temporary and complementary protection while they awaited implementing instructions on the new law from the Cabinet of Ministers. Asylum seekers remain vulnerable to arbitrary detention, police harassment, and torture. There is no standard procedure for determining the age of refugees and asylum-seeking children.

In March 2011 the State Border Guard Service forcibly deported at least 10 asylum seekers and migrants back to Afghanistan before some could appeal the rejection of their asylum status. Members of the group did not have access to adequate legal representation or interpreters during their asylum and deportation hearings.

The 10 were part of a larger group of 14 asylum seekers who were held in custody at the Borispyl airport. Border guards allegedly handcuffed some detainees for more than a day, and at least three border guards allegedly punched, kicked, and verbally abused group members.

Rule of Law

In 2011 several ministers who served under former President Yushchenko were tried on criminal charges of "abuse of office" as part of President Viktor Yanukovych's anti-corruption campaign. In October a Ukrainian court convicted and sentenced Tymoshenko to seven years imprisonment for signing a gas contract with Russia allegedly without approval from the Cabinet of Ministers. The contract significantly increased the price of natural gas. Other officials facing prosecution include former acting Minister of Defense Valeriy Ivashchenko, former Interior Minister Yuri Lutsenko, and former First Deputy Justice Minister Yevhen Korniychuk, some of whom are also prominent opposition leaders. The EU, United States, and Russia expressed concern that the allegations against the former officials did not constitute crimes and that the charges are politically motivated.

Although international observers declared the 2010 presidential elections generally in accordance with international standards, OPORA, an independent NGO, reported procedural violations in the November 2010 local elections.

Hate Crimes and Discrimination

In 2010 the number of reported violent and apparently racially motivated attacks fell to fewer than 15 from its peak of over 80 attacks per year in 2007 and 2008, but by July 2011 there were already 13. Police and prosecutors remain reluctant to classify attacks as racially motivated. Racial profiling, non-violent harassment by police, and hate crimes against persons of non-Slavic appearance and ethnic and religious minorities persist. Crimean Tatars and Roma continue to face discrimination and problems integrating into society, including lack of education in their native languages.

Civil Society

Despite legislative reforms, the situation for journalists and media outlets deteriorated in 2011, and civil society activists faced official threats that appeared to be retaliation for their work. In January 2011 the government passed the Law on Access to Public Information, which provides for the protection of journalists and, with the exception of confidential information, mandates the release of government information about the use of public property and funds.

Attacks on journalists, while not pervasive, often occur with impunity. On July 13, unidentified gunmen shot through the car windshield of *Obozrebatel* reporter Anatoly Shariya as he drove home. Although Shariya, who covers gambling, was not injured, Yanukovych ordered an investigation into the attack. The same month arsonists barricaded the door to *Novosti Donbasu* editor Aleksiy Matsuka's apartment with cement bags, put a funeral wreath with a threatening message outside the apartment, and set the door on fire. Matsuka, who was not home at the time, requested on August 8 that authorities reclassify the current "hooliganism" charges as an "attempted murder" investigation connected to his work. In response to Matsuka's request, on September 9 the Ministry of Internal Affairs added article 129 "threat of homicide" to the criminal investigation.

The national investigation into the August 2010 disappearance of Vasyl Klymentyev, *Noviy Stil* editor-in-chief, remains open. In August former Gen. Oleksiy Pukach confessed to the 2000 murder of investigative journalist Georgy Gongadze and implicated former President Leonid Kuchma and current Parliament Speaker Volodymyr Lytvyn in the crime. The proceedings remain closed, although the Gongadze family's lawyer made three separate appeals to the court to have the murder trial public.

In July ATN TV's provider unexpectedly and without explanation dropped ATN's signal, and local authorities ordered the termination of ATN's broadcasting due to a lack of a valid Sanitary and Epidemiological Service permit. ATN, the only independent Kharkiv news program, wrote an open letter to Yanukovych on September 13 alleging that the measures were politically motivated. The next day Foru and A/TVK, two other channels that broadcast ATN news and have valid broadcasting licenses, were unexpectedly removed from the air without a clear or official explanation. An opaque August 2011 bidding process for digital television frequencies resulted in several regional stations, including 9 Kanal, Chornomorska TV, and 3 Studia losing their frequency.

In December 2010 Vinnytsya Human Rights Group (VHRG) coordinator Dmytro Groisman was charged with disseminating pornography and desecrating state symbols. At the time VHRG was documenting asylum seekers who claim that the Vinnytsya police regularly extorted them. Authorities confiscated VHRG's documents and equipment in January in connection with Groisman's case, but returned all the materials on March 25, 2011. At this writing Groisman could not legally travel outside the Vinnytsya city limits due to his pending case. International pressure prevented human rights activist Andrei Bondarenko from undergoing a groundless, compulsory psychiatric examination in December 2010.

Health

Ukraine took several positive steps to fight the HIV/AIDS epidemic. On January 15, 2011, the government enacted a national law on HIV/AIDS that for the first time identifies substitution treatment and needle exchange as essential elements of Ukraine's national HIV prevention strategy. Ukraine also expanded the number of people with opioid drug dependence receiving opiate substitution treatment from none in 2004 to 6,390 in September 2011.

Developments early in 2011 threatened this progress. On January 18 the Ministry of Interior issued an order to collect personal data of patients enrolled in opiate substitution programs across Ukraine. Police pursued patients at clinics and at home to obtain this data and denied them access to services if they did not provide confidential information, including their HIV status and criminal record. NGOs working on HIV prevention and treatment were also ordered to surrender project documents, effectively paralyzing essential HIV prevention and outreach programs for drug users. In October 2010 the government recriminalized small amounts of narcotic drugs, resulting in decreased use of needle exchange programs and a 15 percent rise in drug possession arrests in the first quarter of 2011.

Tens of thousands of patients with advanced cancer in Ukraine unnecessarily suffer from severe pain every year because pain treatment is often inaccessible, best practices for palliative care are ignored, and anti-drug abuse regulations hamstringing healthcare workers' ability to deliver evidence-based care. Those healthcare workers who try to provide the most effective pain treatment possible often have no choice but to act, as one oncologist said, "on the edge of the law." The situation is particularly devastating in rural areas – home to about one-third of Ukraine's population of 46 million – where strong opioid analgesics are often hard to access or simply unavailable.

Key International Actors

In August Yanukovych reaffirmed that "Ukraine's future lies with Europe" and declined to join a customs union with Russia, Belarus, and Kazakhstan. However, Tymoshenko's conviction jeopardized Ukraine's prospects of concluding an EU Association Agreement, which was being finalized at this writing. The agreement, which includes a free trade agreement, would bring closer economic and political integration with the EU.

Rising oil prices and Ukraine's rejection of Russia's customs union have led to mounting tensions between the two countries. Despite expressing concern over the prosecution of opposition leaders, the US continues to provide economic aid to Ukraine.

The Parliamentary Assembly of the Council of Europe's standing rapporteur for media

freedom voiced concern over the deteriorating situation for media freedom in Ukraine.

The United Nations Committee on the Rights of the Child reviewed Ukraine in January, expressing concern over the overall lack of data on children at risk of torture, domestic violence, and other forms of ill-treatment. In its August review the UN Committee on the Elimination of Racial Discrimination welcomed Ukraine's new refugee law, but expressed concern that several government bodies working on discrimination ceased work in 2010.

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