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Nations in Transit 2012 - Ukraine

Capital: Kyiv

Population: 45.9 million

GNI/capita, PPP: US \$6,620

Source: The data above were provided by The World Bank, *World Development Indicators 2010*.

Nations in Transit Ratings and Averaged Scores										
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Electoral Process	4.00	4.25	3.50	3.25	3.00	3.00	3.50	3.50	3.50	3.75
Civil Society	3.50	3.75	3.00	2.75	2.75	2.75	2.75	2.75	2.75	2.75
Independent Media	5.50	5.50	4.75	3.75	3.75	3.50	3.50	3.50	3.75	4.00
Governance*	5.00	5.25	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	5.00	4.50	4.75	4.75	5.00	5.00	5.50	5.75
Local Democratic Governance	n/a	n/a	5.25	5.25	5.25	5.25	5.25	5.25	5.50	5.50
Judicial Framework and Independence	4.50	4.75	4.25	4.25	4.50	4.75	5.00	5.00	5.50	6.00
Corruption	5.75	5.75	5.75	5.75	5.75	5.75	5.75	5.75	5.75	6.00
Democracy Score	4.71	4.88	4.50	4.21	4.25	4.25	4.39	4.39	4.61	4.82

** Starting with the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance, to provide readers with more detailed and nuanced analysis of these two important subjects.*

2012 Scores

Democracy Score:	4.82
Regime Classification:	Transitional Government or Hybrid Regime
National Democratic Governance:	5.75
Electoral Process:	3.75
Civil Society:	2.75
Independent Media:	4.00
Local Democratic Governance:	5.50
Judicial Framework and Independence:	6.00
Corruption:	6.00

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to

7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

Executive Summary:

Ukraine's democratic institutions and processes continued to deteriorate in 2011, moving the country toward authoritarian rule. Growing concentration of power in the hands of the president was accompanied by the politically motivated and selective use of the judiciary to jail key leaders of the opposition.

Since gaining independence from the Soviet Union in 1991, Ukraine has held five presidential (1991, 1994, 1999, 2004, and 2010) and five parliamentary (1994, 1998, 2002, 2006, and 2007) elections. The latest presidential election in February 2010, which was recognized as free and fair, resulted in a victory for former prime minister Viktor Yanukovich. In October of that year, the Constitutional Court annulled 2004 amendments to the constitution that had created a mixed parliamentary-presidential system, effectively restoring the 1996 version of the document and reestablishing a strong presidency. As a result, the parliament is no longer authorized to appoint and dismiss cabinet ministers, though it retains the right to confirm the prime minister appointed by the president.

Misuse of the judiciary became the main indication of a deteriorating political landscape in 2011, preventing free and fair political competition. Criminal cases against the leaders of opposition – particularly former prime minister Yuliya Tymoshenko and former interior minister Yuriy Lutsenko – removed the most vocal opponents of the government from active politics. The opposition remained fragmented, and voters were left with no viable alternative to the ruling party.

The news media still presented a variety of political views, but many outlets, particularly television stations with national reach, became more sensitive to the authorities' wishes. Civil society organizations continued to operate in a relatively free environment, representing a wide spectrum of interests. Meanwhile, the Ukrainian economy grew moderately, but public finances faced severe challenges, forcing the government to search for

loans, either from the International Monetary Fund (IMF) or from other sources.

National Democratic Governance. President Yanukovich's efforts to consolidate power and amass personal wealth for himself and his family continued in 2011, undermining the legitimacy of his regime at home and abroad. Despite the president's avowed commitment to democratic principles, he continued to attack the system of checks and balances within government, diminishing the power of the parliament and political parties and the independence of the Cabinet of Ministers. A politically motivated criminal case against Tymoshenko resulted in a sentence of seven years' imprisonment for the "misuse of power," damaging Yanukovich's relations with established democracies and preventing Ukraine from signing a far-reaching Association Agreement with the European Union. The president's actions during the year suggested that he was building a purely personalistic model of governance. In light of this increasingly authoritarian trajectory, *Ukraine's rating for national democratic governance declines from 5.50 to 5.75.*

Electoral Process. Every national election conducted in Ukraine has been preceded by the passage of new electoral legislation. This trend continued in 2011, as government leaders declared their intention to change the electoral law again ahead of parliamentary elections scheduled for October 2012. The relevant bill was drafted by a parliamentary working group with limited participation by civil society and independent organizations. Among other provisions, it would reintroduce a mixed proportional/majoritarian voting system, raise the threshold for party representation from 3 to 5 percent of the vote, and bar parties from running together in electoral coalitions. In response to international criticism of the opaque drafting process, the government invited input from the Council of Europe's Venice Commission and the Organization for Security and Cooperation in Europe (OSCE), but it ultimately submitted a draft that did not match the version assessed by the Venice Commission. Following civil society protests, a working group including both progovernment and opposition lawmakers developed a compromise draft that still largely reflected the government's political goals. The bill was adopted on November 17. Due to the politicized and nontransparent drafting of the new electoral law, *Ukraine's rating for electoral process declines from 3.50 to 3.75.*

Civil Society. Civil society continues to play an important role in Ukraine, and its leading representatives appeared at the forefront of numerous public events during 2011. The country's growing authoritarianism has not yet resulted in the direct targeting of nongovernmental organizations (NGOs) as such, though several civic activists spent up to four months in jail for allegedly damaging public property during political rallies in late 2010. In most cases the government continued to engage in dialogue with civil society in the established formats; hundreds of civic councils were formed at different levels of government in accordance with new regulations, but often NGOs reported only an "imitation" of public participation in such bodies. Progress was achieved with regard to the legislation for civil society organizations: a draft law that had been stuck in the parliament for several years was advanced in an initial reading. Its final approval would open more space for nonprofit activity, liberalizing the registration of new NGOs and removing some administrative barriers. A variety of new civic initiatives emerged during the year on topics ranging from small business interests to Ukraine's European integration. Internet-based platforms played a growing role in civil society networking. *Ukraine's rating for civil society remains at 2.75.*

Independent Media. Ukraine has a diverse and competitive media market, and media freedoms are guaranteed by relevant legislation. However, since 2010, coverage of politically sensitive topics has taken on a more progovernment bias at most of the television stations with national reach. Self-censorship is a visible phenomenon on nationwide channels, and many channels noticeably "depoliticized" their news broadcasting in 2011. Some signs of direct government pressure on media were evident at the regional level, with three independent television stations in Kharkiv shutting down in August and September. Media watchdogs warned of physical attacks against journalists, and digital broadcasting frequencies were distributed in 2011 in a way that favored media owners with government connections. A planned system for the "protection of public morals" may lead to further deterioration of media freedoms. *Ukraine's rating for independent media declines from 3.75 to 4.00.*

Local Democratic Governance. While the Yanukovych government claims to support placing greater powers in the hands of local authorities, it has effectively abandoned the previous administration's attempts to reform local government. Instead, the year 2011 was characterized by

consolidation of local power hierarchies to the advantage of the Yanukovych administration, with politically motivated appointments occurring at all levels. Throughout the year, the responsibilities of the democratically elected mayor of Kyiv were performed by a presidential appointee, Oleksandr Popov, who replaced Mayor Leonid Chernovetskyi as head of the city administration in November 2010. An administrative reform introduced in 2011 resulted in major cuts to central and local government staff. The need to show political loyalty to the central leadership further hampered the activity of local authorities, alienating them from residents of their regions. Due to these factors and the absence of reform efforts in 2011, *Ukraine's rating for local democratic governance remains at 5.50.*

Judicial Framework and Independence. In 2011, the Yanukovych administration presided over the use of the law enforcement system to persecute political opponents, the elimination of what remained of the judicial system's independence, and the ever growing intrusion of the Security Service of Ukraine (SBU) into civic life. The prosecution of Tymoshenko illustrated the first of these processes, and the ouster of Supreme Court chairman Vasyl Onopenko was indicative of the second. Meanwhile, the SBU benefited from broadened powers that were approved by the parliament. All of these changes left citizens even more vulnerable to violations of their rights. *Ukraine's rating for judicial framework and independence declines from 5.50 to 6.00.*

Corruption. On March 15, the parliament adopted a new anticorruption law, replacing three pieces of legislation that had been drafted in 2009 with the assistance of the Council of Europe's Group of States against Corruption (GRECO) and cancelled by the legislature in late 2010. The new law omits many key provisions of the 2009 legislation, including mandatory declaration of expenditures by state servants and obligatory declaration of the property, income, and expenses of their relatives. In addition, an internationally endorsed 2010 law regulating state procurement, a major source of embezzlement in Ukraine, was replaced in July 2011 with a new and heavily criticized version. As a result of these setbacks, *Ukraine's corruption rating declines from 5.75 to 6.00.*

Outlook for 2012. Negative trends from 2010 and 2011 are likely to continue in 2012. "Administrative resources" are expected to play a crucial role in parliamentary elections scheduled for October 2012, pushing

Ukraine further back from its democratic achievements. The law on elections adopted in 2011 will give the ruling Party of Regions a chance to win a majority in the next parliament despite a level of public support that does not exceed 20-25 percent. The exclusion of opposition leaders like Tymoshenko and Lutsenko will also raise questions as to whether the voting is free and fair. President Yanukovich will continue to centralize and personalize power, while trying to avoid responsibility for failed social and economic policies. By the end of the year, the cabinet is likely to be fired by the president in response to growing social turbulence. Both the parliamentary elections, with the introduction of single-mandate districts, and the continuation of administrative changes will probably have a negative effect on the independence of local government. The coming year may feature additional manipulation of the judiciary by the executive branch. In the absence of effective anticorruption legislation, the fight against graft is unlikely to make any headway in 2012.

National Democratic Governance:

President Viktor Yanukovich's ongoing attempts to consolidate an authoritarian regime in Ukraine achieved some success in 2011. The status of the Verkhovna Rada (parliament) substantially decreased, the cabinet lost its independent role in the system of national governance, and the opposition remained fragmented. At the same time, the government's lack of legitimacy and support in Ukraine's pluralistic society imposed certain restrictions on official actions.

Yanukovich, despite his declared commitment to democratic principles, continued to concentrate power around himself and his family, destroying institutional checks and balances, diminishing the relevance of formal party structures, and even subordinating the powerful business interests that had helped bring him to office. The president's older son, Oleksandr Yanukovich, gained prominence during the year, though he remained unwilling to launch a public political career. Instead, individuals who were perceived as his agents were appointed as head of the National Bank of Ukraine, interior minister, and head of the State Taxation Administration.^[1]

A criminal case against former prime minister Yuliya Tymoshenko, which was widely seen as politically motivated, ended with a seven-year prison sentence for "misuse of power." The trial and verdict, which damaged

Yanukovich's relations with the United States and the European Union (EU), created a powerful precedent, indicating that electoral defeat would henceforth entail the additional risk of criminal punishment by one's political rivals. In its 20 years of independence, Ukraine has experienced several peaceful transfers of power, but the new circumstances threatened to interrupt that pattern by dramatically raising the stakes of political contests.

Members of the Tymoshenko government including former interior minister Yuriy Lutsenko and former acting defense minister Valeriy Ivashchenko remained in jail without a sentence in 2011, while former economy minister Bohdan Danylyshyn obtained political asylum in the Czech Republic. Some members of Tymoshenko's faction in the parliament, such as Yevhen Suslov, reported strong pressure aimed at forcing them to change political affiliations in favor of the ruling party.^[2] One of the few remaining major sponsors of Tymoshenko's Fatherland party, the billionaire Kostyantyn Zhevago, suffered a raid by the Security Service of Ukraine (SBU) on his business in June. Reports later in the year indicated that he intended to move to Britain.^[3]

Selective use of the judiciary and other undemocratic practices have already delayed the initialing and signing of a comprehensive deal with the EU, the EU-Ukraine Association Agreement, which was designed to assist Ukraine in drawing closer to European standards, including those concerning democracy, the rule of law, and human rights. As long as the Ukrainian leadership continues to ignore the numerous European warnings regarding the deterioration of the country's democracy, the prospects for the agreement's signing will remain uncertain.

Having pursued policies that are unsustainable, unaccountable, and clearly not based on merit, the ruling elite has lost the public support it gained through the presidential election of 2010. In August 2011, only 26 percent of people polled by TNS-Ukraine expressed confidence in Yanukovich, down from 41 percent in August 2010.^[4] In December 2011, the Razumkov Center reported that only 13.3 percent of respondents in a nationwide poll said they would vote for Yanukovich in another presidential election; 16.3 percent said they would vote for Tymoshenko, and 10.7 percent said they would elect Arseniy Yatsenyuk, who served as economy minister (2005-06), foreign minister (2007), and chairman of the Verkhovna Rada (2007-08)

under President Viktor Yushchenko.^[5] Nevertheless, there are several opposition leaders with their own party projects and ambitions, and none of them is able to compete with the ruling group on his or her own.

The ruling Party of Regions is a "party of power," drawing its strength from administrative resources rather than a unifying ideology or grassroots support. Though it is not the first of its kind in Ukraine, the Party of Regions has proven to be the first really successful one in terms of obtaining and controlling power in almost the entire country. Prime Minister Mykola Azarov is the formal leader of the party, but real authority is concentrated in the hands of President Yanukovych.

While in previous years the Party of Regions was willing to form alliances with smaller parties, like parliament speaker Volodymyr Lytvyn's People's Party or Deputy Prime Minister Serhiy Tigipko's Strong Ukraine, by 2011 it was insisting that all of its junior partners be dissolved and absorbed into its ranks.

Further reforms of the constitution have stagnated. In February, Yanukovych formed an expert group tasked with establishing a Constitutional Assembly, headed by the first president of Ukraine, Leonid Kravchuk. However, the expert group had undertaken no visible activities and achieved nothing by year's end. In March the Council of Europe's Venice Commission issued an opinion that warned against the idea of a presidentially appointed Constitutional Assembly, calling for wider civic representation in the constitutional process.^[6]

During 2011 the government tried to pursue administrative reform in accordance with a presidential decree adopted on December 9, 2009. The number of ministries, controlling agencies, and other central public administration bodies was reduced, and reorganization was undertaken in a variety of institutions. However, the overall positive impact of such reforms is limited by a lack of sustainable capacity-building efforts.

Democratic oversight of military, security, and law enforcement agencies remains rather superficial. The relevant institutions became less open to outside scrutiny and cooperation in 2011 as compared with recent years. The most worrying trend was the growing misuse of special services,

primarily the SBU, as a means of domestic political and business pressure on perceived government opponents.

The government has failed to carry out economic reforms meant to improve Ukraine's business climate and boost much needed foreign investment, according to the World Bank's October 2011 Doing Business report. The report's rankings on the ease of doing business in 183 countries placed Ukraine at 152, between Liberia and Bolivia. This comes despite continuous promises of change from Yanukovych. In the previous year's report, Ukraine had been ranked at 149. It deteriorated in the categories for registering property, getting credit, and protecting investors. In addition, the ability of businesses to freely trade across borders declined – a reference to the nation's cumbersome and opaque customs procedures.^[7]

Electoral Process:

The next parliamentary elections are scheduled for October 28, 2012, and the next presidential election for early 2015. Despite the fact that the last parliamentary elections in 2007 were recognized free and fair, President Yanukovych and the Party of Regions declared their intention to change the electoral law again ahead of the 2012 contest, in keeping with a disruptive practice whereby the country has adopted new electoral rules before each national vote. The existing system of proportional representation with a 3 percent vote threshold appeared to present a threat to the ruling group, as the public approval rating of the Party of Regions dropped to just 13.9 percent in December 2011.^[8]

A new law on parliamentary elections was therefore drafted by a working group under the leadership of Justice Minister Oleksandr Lavrynovych, with limited input from civil society, the opposition, and independent organizations. It largely reflected the ruling party's desire to reintroduce a mixed proportional/majoritarian voting system, raise the threshold for representation from 3 to 5 percent of the vote, and ban the formation of electoral blocs by multiple parties. At the same time, conditions for candidates' registration, the rules of campaigning, and observation procedures were drafted in rather liberal and inclusive manner.

The opposition failed to develop a unified position on the main provisions of the electoral law. Some lawmakers argued for a proportional system

with "open" candidate lists, allowing voters to select not only a party but also individuals from the party list, but most of opposition was inclined to retain the existing proportional system with "closed" party lists.

Foreign nongovernmental organizations (NGOs) that were initially involved in the working group, such as the National Democratic Institute (NDI) and the International Republican Institute (IRI), withdrew on March 17, warning that the law was being drafted in a "non-inclusive, non-transparent and non-accountable" manner.^[9] In June, the Parliamentary Assembly of the Council of Europe (PACE) expressed similar concerns regarding drafting process.

At the government's request, the Venice Commission on October 13 issued its opinion on the draft, indicating that it included some improvements over the existing law, but stressing its flaws. For example, the commission noted positively that the draft law provided for unrestricted access of mass media to all election-related public events, established mandatory training for district electoral commission (DEC) officials, limited the circumstances under which election commissioners could be removed, and allowed candidates to run as independents.^[10]

However, the crucial decisions on the mixed voting system, the threshold percentage, and the ban on electoral blocs were made unilaterally, and according to the Venice Commission opinion, they would not facilitate the access of different political forces to the parliament. Some technical shortcomings were also identified, including a lack of clear criteria and deadlines for defining boundaries of electoral districts; lack of clarity on the possibility of challenging election results; and lack of full disclosure, before and after elections, of information on campaign contributions and expenditures.^[11]

In an opinion issued in September, the International Foundation for Electoral Systems (IFES) pointedly questioned the wisdom of changing the electoral law at the present time "given the lack of consensus in the country; the significant impact of the proposed changes on the political landscape; and relatively short timeline for implementing these changes." It added, "While the newly proposed system may be a legitimate one, there is no major flaw in the current system that would require an immediate change without further discussion."^[12]

Three days before the Venice Commission opinion was released, members of the parliamentary majority offered another draft law that was similar to the one assessed by the commission, but was seen by the opposition and NGOs as substantially worse on some issues.^[13]

In November, the parliament created a commission, with members of both the majority and the opposition, to prepare a compromise approach. Opposition member Ruslan Knyazevych of the Our Ukraine-People's Self-Defense faction served as the panel's chairman. The resulting draft mostly reflected the government's goals, but it was finally adopted by the parliament on November 17. Of the 366 lawmakers who voted for the measure, about 100 were opposition representatives. Other opposition members criticized their colleagues for endorsing a bill that was generally in line with the ruling party's vision.^[14] The course and outcome of the year's debate added to doubts about whether the 2012 elections would adhere to democratic standards.^[15]

Civil Society:

There was no significant new state pressure on Ukraine's relatively robust civil society sector in 2011, though NGOs lacked the capacity to effectively resist the year's antidemocratic trend. The sector's most important achievement was the adoption in January of a law on access to public information,^[16] which removed administrative barriers and established proper procedures for obtaining public documents. The legislation represented a positive example of cooperation among the government, the opposition, and civil society organizations. In May President Yanukovich signed two decrees governing implementation of the law, which numerous NGOs have pledged to monitor.

According to official statistics, the number of registered NGOs reached 70,000 in 2011, but a January 2011 report by the Justice Ministry found that about 65 percent of those were not active.^[17] The Counterpart Creative Center has offered an even more pessimistic estimate, arguing that only four to five thousand NGOs can be considered active, with experience in implementing projects. Most functioning NGOs are concentrated in the cities of Kyiv and Lviv, followed by Zaporizhzhya, Dnipropetrovsk, and Odessa.^[18]

Specific civic initiatives during the year sought to combat negative elements of a new tax code that affected small businesses, and defend social benefits – for instance reimbursements for Chornobyl veterans – from attempts to diminish or cancel them. Despite their rather narrow social agendas, these civic mobilizations carry the potential to expand into broader movements. The government consequently looks on them with suspicion, and has in some cases attempted to suppress them. For example, several protesters spent up to four months in detention after being accused of damaging public property during November 2010 rallies against tax code in Kyiv. Another high-profile incident centered on the death of Chornobyl veteran Mykola Konoplyov during the November 27, 2011, demolition by police of a tent camp erected by protesters in Donetsk. Civil society observers viewed these cases as attempts by the authorities to intimidate potential participants in any future antigovernment protests. In another negative development, the Justice Ministry's State Registration Service in September refused to register the radical women's movement Femen, arguing that it could "disrupt social order."

In most cases the government continued to engage in dialogue with civil society in the established formats. Hundreds of civic councils were established at different levels of government in accordance with a new regulation (No. 996) adopted by the cabinet in late 2010. The councils consisted of more than 9,000 people; among those attached to central government agencies, 39 percent of the members represented NGOs, 32 percent trade unions and business associations, and 7 percent charity organizations.^[19]

The efficiency of new councils was not obvious, and some played a largely decorative role. NGOs have reported an "imitation" of public participation, in which the government simply declares its will to engage with civil society, but does so mostly in a selective way. A variety of scandals emerged during the civic councils' formation in the Interior Ministry, the Foreign Ministry, the Kyiv city administration, the Land Resources Agency, and other bodies.^[20] For example, the civic council at the Foreign Ministry was taken over by a group of religious activists, which effectively paralyzed its activity until a new leadership was elected in September. The Interior Ministry limited the number of NGOs participating in its council by not registering many applicants. Some civic activists, for their part, attempted to join as many councils as possible, regardless of their professional

profiles. Also during the year, NGOs launched a partnership network to monitor the civic councils' activities.^[21]

The development of a proper legal framework for civil society organizations remains a challenge. According to experts writing for the Organization for Security and Cooperation in Europe (OSCE), the following legal shortcomings restrict NGO activity in Ukraine: a prohibition on the establishment of organizations by legal entities, as opposed to physical persons; a rule requiring organizations to have at least 40 founders and branches in most of the country's oblasts (regions) in order to function nationwide; limits on the right of an organization to represent its members in court; a ban on the use of an organization's name by physical and legal persons who do not belong to the organization, and for aims not related to that of the organization; a long and complex registration process; the closed and classified nature of the State Register of NGOs and Charities; and restrictions on direct commercial activity by NGOs, even for cost recovery.^[22]

There was some progress during 2011 on NGO legislation. A draft law on civil society organizations (No. 7262-1) that had been stuck in the parliament for several years was advanced in a first reading. If finally adopted, the law would provide more space for nonprofit activity, liberalizing the registration of new NGOs, removing some artificial administrative barriers, and addressing most of the negative issues listed above. As of the end of the year it was not clear whether the ruling majority was prepared to pass the bill. To lobby for the legislation, Ukrainian NGOs established a joint website and continued collective efforts to prevent any further delay or inappropriate amendments prior to the second reading.

Charitable activities have steadily grown in recent years, and the largest charity organizations have cooperated to support draft legislation that would decrease taxation of recipients of charitable donations.

A variety of new public campaigns emerged late in 2011 to advance causes like Ukraine's European integration (We Are Europeans) and a fair election process (*Chesno*, or Honestly).^[23] We Are Europeans originated on the social-networking website Facebook but went on to organize actual demonstrations, illustrating the growing role internet platforms have

played in civil society development. Meanwhile, the New Citizen partnership remained a conduit for joint NGO activity in favor of government transparency and accountability.

Independent Media:

The constitution and legal framework generally provide for media freedom, but respect for these fairly progressive laws has diminished in recent years. The country's politicized state media remain unreformed and continue to serve the interests of senior politicians and the state bureaucracy. While the private media sector is competitive and largely pluralistic at the national level, it has faced increasing political pressure.

Most of the nationwide television channels now prefer to avoid providing airtime to critics of the government on an equal basis. The share of biased political coverage increased in 2011, though some channels chose instead to "depoliticize" their news broadcasting, focusing more on nonpolitical news and commentary. Self-censorship is a visible phenomenon on the national channels. There are some informal taboos, such as scrutiny of the presidential family's business activities, or of the president's huge private residence, "Mezhyhiria," which was privatized and constructed in nontransparent manner. According to the media watchdog Telekritika, among the most biased television channels are state-owned First National and privately owned ICTV and Inter, whereas Novy Kanal and STB, both privately owned, provide the least biased political coverage of all the channels monitored.^[24] Inter, the country's leading television network, is owned by Valeriy Khoroshkovskiy, the head of the SBU, illustrating Ukraine's lack of policies or regulations barring such conflicts of interest.

There are growing indications that presidential advisers are influencing the manner in which certain policy issues are presented on Inter and First National, as well as the participants who are allowed on the stations' live political talk shows. Media analysts have described an erosion in the quality of these shows and the wider use of manipulative methods by their directors and presenters.^[25]

There were some signs of direct pressure on media outlets at the regional level in 2011. In August and September, three independent television broadcasters in Kharkiv – ATN, Fora, and A/TVK – were removed from the

air, ostensibly due to questionable disputes with other businesses and a state hygiene department. According to the Kharkiv Human Rights Protection Group, these stations "were among the few local media outlets which provided alternative and critical assessment of the Kharkiv authorities' activities."^[26] Journalists and civic activists protested against the closures, accusing local authorities of using administrative pressure. Kharkiv mayor Gennadiy Kernes, a member of the Party of Regions, rejected those allegations, insisting that the underlying business problems were being handled by the courts.^[27] Fora resumed broadcasting in November, but under new management and with content that was less likely to displease local authorities.

Media monitors continue to warn against a practice whereby many media employees are paid large parts of their salary under the table, leaving them vulnerable to arbitrary reductions for commercial reasons or as punishment for politically sensitive reporting.^[28]

In some cases, journalists have faced physical violence. In Mykolaiv on October 16, reporter Oleksandr Vlashchenko of the newspaper *Nashe Misto* (Our City) survived a shot to the head with an air gun. His suspected attackers were later arrested, and the authorities characterized the crime as a robbery, though colleagues and press freedom advocates had suggested a possible connection to his reporting on corruption and organized crime. Also on October 16, Odessa journalist Vera Gruzova was assaulted by a blogger with whom she had clashed on the internet.

The 2010 disappearance of Vasyl Klymentyev, a journalist from Kharkiv, remained unsolved in 2011. Meanwhile, the politically fraught case surrounding the 2000 murder of journalist Heorhiy Gongadze continued to make its way through the courts during the year. The trial of the main suspect, a former Interior Ministry official, began in July, but was closed to the public. He reportedly implicated former president Leonid Kuchma and current parliament speaker Volodymyr Lytvyn in his testimony, but charges against Kuchma, who had long been suspected of ordering the killing, were dropped in December on the grounds that crucial audio recordings were obtained illegally. An appeal was pending at year's end.

Regulatory mechanisms are subject to political influence. For example, a distribution of digital broadcasting frequencies in 2011 appeared to favor media owners with connections to the government.

On October 14, a draft law on the "protection of public morals" passed a first reading in the parliament. It would establish a regulatory body with the power to close any print, broadcast, or online media outlet for violations such as the promotion of "war, terrorism, other manifestations of criminal activity," "Ukrainophobia," "humiliation or offense to the nation or personality on national grounds," and "disrespect for national and religious shrines." Ukrainian media, the journalists' union, and international press freedom NGOs opposed the bill, saying it contained serious flaws and vaguely worded provisions.^[29]

Local Democratic Governance:

Ukraine has four tiers of subnational administrative divisions: the Autonomous Republic of Crimea and oblasts (including two cities with oblast status, Kyiv and Sevastopol); raions and cities with raion status; cities; and villages and townships. Each raion is divided into a number of village councils. Ukraine has 24 oblasts (plus Crimea), 490 raions, 118 city raions, 459 cities, 886 urban settlements, 1,321 townships, and 28,480 rural populated localities.

Unlike in previous years, there were no nationwide election campaigns on the local level in 2011, nor any concrete attempts to reform the local governance system. Instead, the year featured a consolidation of power by the ruling party.

The key problems hindering the development of local self-government include the following: absence of strict delimitation of powers of different self-governing entities; vagueness of the criteria and procedures for establishing various territorial units; extreme fragmentation of lower-level administrative units; absence of an adequate financial basis for local government budgets; unfair and inefficient accumulation of funds by the central government; and poor staffing of local self-government bodies.

In addition to these well-known problems, the problem of politicized appointment of local executives reappeared in 2011. Oblast governors, who are appointed and dismissed by the president after submission of

candidates by the cabinet, are expected to ensure the political loyalty of their regions. All lower posts in local government are similarly given to supporters of the ruling party, regardless of their professional qualities. On November 2, 2011, the president dismissed Lviv oblast governor Mykola Tsymbalyuk.^[30] No explanation was given, but it is widely believed that he was fired at least in part for losing political control of his region.^[31]

Every new national government has attempted to reform the local self-government law since it was adopted in 1997. In 2010, the Azarov cabinet submitted a package of draft laws on the subject, but they were not passed in 2011. Yanukovych announced in June that Ukraine was "heading to a deep reform of local self-government. A concept and a practical plan of development and encouragement of local self-government are being prepared."^[32] He reiterated his call in November,^[33] but no further action followed.

The local governance system was instead affected by a so-called administrative reform,^[34] which included plans to reduce the size of the bureaucracy by a third at the central level, and by half at the local level.^[35] By the end of the year, central government staffing had been reduced by 17 percent, but a final decision on the local reductions had not yet been taken.^[36]

The violation of the electoral will of Kyiv citizens continued in 2011. The president had removed the elected mayor, Leonid Chernovetskyi, as head of the city administration in November 2010, and appointed Oleksandr Popov, a member of the Party of Regions, to perform his duties. Chernovetskyi retained the title of mayor, but the city was actually governed by an unelected official, contradicting the constitutional principle of elected local self-government.

Judicial Framework and Independence:

The year 2011 featured the use of the law enforcement system for the persecution of the political opposition, the elimination of the judiciary's remaining independence, and an ever-growing role for the SBU in civic life. These processes began under former president Viktor Yushchenko, but Yanukovych went further, actually putting the judicial system into the service of the executive branch.

On May 24, 2011, the prosecutor general's office charged former prime minister Tymoshenko with abuse of power or official standing that involved grave consequences, under Article 365 of the criminal code. The charge pertained to her approval of an agreement on Russian gas delivery to Ukraine in January 2009. According to the prosecution, her actions inflicted grave damage to the national interest, including financial losses of about \$180 million. On October 11, she was sentenced to seven years in prison, plus a three-year ban from political office and reimbursement of the financial damages. Tymoshenko's appeal of the verdict was rejected on December 23, and the final sentence was officially pronounced on December 29. The next day, Tymoshenko was transferred to a penal colony in Kharkiv oblast.

Several features of the trial raised doubts about its lawfulness. The defense argued that the prosecution failed to produce sufficient information to prove malicious intent and personal benefit behind Tymoshenko's actions, which was required for conviction, and did not prove her actual abuse of power.^[37] Defense lawyers also claimed that the verdict was prepared not by the court, but by the presidential administration, and was made possible by an outdated criminal code that had not been amended since Soviet times. Leaders of the European Union assessed the Tymoshenko trial as a case of "selective justice."^[38] The defense repeatedly stated its intention to seek justice in international bodies after exhausting all appeals at the national level.

Efforts to complete the subjugation of the judiciary in 2011 focused on the Supreme Court of Ukraine. A 2010 judicial reform had already removed many of the Supreme Court's powers, but in 2011 the authorities sought the dismissal of the court's chairman, Vasyl Onopenko, who was close to Tymoshenko and had opposed the current government's actions. He faced pressure during the year, including criminal cases against his family members and a failed no-confidence vote by his colleagues, and ultimately decided not to seek a new term after his chairmanship expired on September 29. He consequently lost his seat on the High Council of Justice on October 18. Two days later, the parliament adopted legislation that restored powers of the Supreme Court that had been taken away in 2010, during the peak of the government's conflict with Onopenko. His successor, Petro Pylypchuk, was considered an appointee of the presidential administration.^[39]

The SBU increased its influence in domestic politics and civic life in a number of ways in 2011, including by taking an active role in the Tymoshenko case. It initiated several criminal investigations against her, parallel to the gas-related charges at the center of her trial. Separately, in December the parliament authorized the SBU to create a department of information security, and broadened its powers to investigate actions that fall under the criminal category of "mass riots."

International and independent Ukrainian experts have concurred in their negative assessments of the quality of the judiciary and law enforcement in Ukraine. For example, Transparency International, in its 2011 National Integrity System Assessment for Ukraine, stated that the "independence of the judiciary is not sufficiently guaranteed in Ukraine neither in law nor in practice," and that "law enforcement agencies in Ukraine are ineffective and weak institutions in law and practice."^[40] The chairman of the board of the Ukrainian Helsinki Human Rights Union has pointed out that over 70 percent of court rulings in civil cases in the country are not executed.^[41]

Corruption:

International surveys suggest that the corruption rate in Ukraine remains high. Ukraine was ranked 152 out of 183 countries surveyed in Transparency International's 2011 Corruption Perceptions Index.^[42] According to other analyses, citizens' perception of the spread of corruption in 2011 remained almost the same as two years earlier. While the practice of corruption has not broadened, it increased in its intensity, primarily due to the growth in the number of government bodies where citizens are confronted with open extortion by bureaucrats.^[43] As before, Ukrainians attribute the problem to abuse of power by officials, the lack of proper government controls, the absence of the political will to reduce corruption, and confusing legislation. The authors of Transparency International's 2011 National Integrity System Assessment of Ukraine suggested that corruption is "a systematic problem existing across the board and at all levels of public administration."^[44] Ukrainian citizens generally agree with the conclusions of international agencies. A national poll conducted in August 2011 found that over 70 percent of Ukrainians believed corruption had grown worse during the period of independence.^[45] According to another poll conducted in March and April, more than 80 percent of Ukrainians felt that the level of corruption in Ukraine had not decreased over the previous two years.^[46]

In December 2010, the parliament cancelled three 2009 anticorruption laws that had been drafted with assistance from the Council of Europe's Group of States against Corruption (GRECO). To replace them, the parliament enacted a new law, submitted by the president, on March 15, 2011, without incorporating amendments proposed by the opposition.^[47] The legislation took effect on July 1. It was criticized both at home and abroad, partly because it failed to include obligatory declarations of expenditures by public officials or obligatory declarations of property, incomes, and expenses by their relatives.

The largest embezzlements in the country are associated with state procurement contracts.^[48] A law on procurement endorsed by international and European institutions was adopted in August 2010, but on May 17, 2011, the parliament amended it despite strong objections from the opposition and NGOs. The World Bank and European Commission appealed to the president and cabinet to veto the new measure. Ukrainian NGOs especially criticized a provision stipulating that purchases by state enterprises would be regulated not by the law, but by cabinet decrees. The amendments also allowed procurements without tenders if the contract is going to a state enterprise or a public-private partnership with a state share of more than 50 percent, effectively exempting the lion's share of state procurements.^[49] Although the president vetoed the legislation in June, a new version passed by the parliament in early July, with amendments proposed by the president, retained most of the criticized provisions and also excluded procurements by the Agrarian Fund from the law's restrictions. Yanukovich signed the measure on July 28. By the end of the year, the Accounts Chamber of Ukraine declared that state procurement had withdrawn into the shadows.^[50] Experts said the new situation amounted to a "return to the jungle."^[51]

The Government Commissioner and the Bureau for Anticorruption Policy, two institutions that previously coordinated the development and implementation of anticorruption legislation, and whose creation was associated with Ukraine's fulfillment of its obligations to the Council of Europe, were abandoned. On September 1, 2011, Yanukovich repeated his attempt to create a National Anticorruption Committee as a consultative-advisory body under the president. He had already created such a committee in February 2010. Experts argued that the new panel would not

be able to make up for the absence of the previous bodies, as it was largely seen as a superficial device to support the president's initiatives.^[52]

At a May 24 meeting, GRECO noted Ukraine's failure to establish legislative support for the fight against corruption and its nonconformity with European anticorruption standards in 13 domains.^[53] Ukraine became the first participant in the European Anticorruption Initiative for which experts downgraded the degree of fulfillment of three GRECO recommendations.

The number of "raids," or legally dubious takeovers, of foreign companies in Ukraine increased during 2011. Moreover, according to some reports, the biggest foreign investors could not legitimately accrue and document a value-added tax refund without paying a bribe in the amount of 20 to 50 percent of the accrued sum.^[54] According to representatives of European businesses in Ukraine, "all-embracing" corruption and the personal interests of officials are the main reasons for the drop in the attractiveness of the Ukrainian economy for investors.^[55]

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