

Last Updated: Wednesday, 18 April 2012, 10:21 GMT

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Title	Freedom in the World 2012 - Ukraine
Publisher	Freedom House
Country	Ukraine
Publication Date	22 March 2012
Cite as	Freedom House, <i>Freedom in the World 2012 - Ukraine</i> , 22 March 2012, available at: http://www.unhcr.org/refworld/docid/4f6b2102c.html [accessed 18 April 2012]
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Freedom in the World 2012 - Ukraine

2012 Scores

Status: Partly Free
 Freedom Score: 3.5
 Civil Liberties: 3
 Political Rights: 4

Overview

During 2011, President Viktor Yanukovich's administration systematically sought to eliminate opposition to the ruling Party of the Regions. Former prime minister Yuliya Tymoshenko, Yanukovich's main political opponent, was convicted of abuse of power in October and jailed. In addition, the authorities increased restrictions on peaceful assembly, media outlets, opposition organizations, and private businesses. A number of political prisoners remained behind bars, and there were increased reports of police torture and the use of psychiatry for political repression. The government revised the electoral law to improve its chances in the 2012 parliamentary elections, while rampant corruption gave incumbents a strong incentive to retain power and avoid possible prosecution by their successors.

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. Evidence implicating him in the 2000 murder of independent journalist Heorhiy Gongadze fueled mass demonstrations and calls for the president's ouster, but pro-presidential factions retained a majority in 2002 parliamentary elections.

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 Yanukovich, 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 Yanukovich to be the winner by less than three percentage points, but voting irregularities in Yanukovich'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. Yushchenko won easily, and his chief ally, former deputy prime minister Yuliya Tymoshenko, became prime minister. However, their alliance quickly broke down, leading to a multilateral stalemate that prevented implementation of comprehensive political and economic reform. The unproductive wrangling continued during a short-lived Yanukovich premiership (2006-07) and another stint as prime minister for Tymoshenko (2007-10) after parliamentary elections in September 2007, seriously eroding public support for the Orange Revolution.

In the 2010 presidential election, which met most international standards, Yanukovich 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, securing Constitutional Court rulings that enabled him to oust Tymoshenko as prime minister and replace her with a loyalist and annul the 2004 constitutional compromise that had reduced the power of the presidency. In October 2010, Ukraine held local elections that were widely viewed as less free and fair than elections held under Yushchenko.

In 2011, Yanukovich launched a systematic campaign to eliminate any viable opposition to the ruling Party of the Regions ahead of parliamentary elections set for 2012. Most importantly, prosecutors brought a series of varying charges against Tymoshenko, Yanukovich's strongest opponent, in a bid to secure a criminal conviction. In October, a Kyiv court finally convicted her of abusing her office as prime minister by signing an allegedly unfavorable gas deal with Russia without seeking cabinet approval. She was sentenced to seven years in prison, banned from public office for an additional three years, and levied a fine of about \$190 million. Most observers did not consider her acceptance of Russia's demands in the gas deal a crime. The Security Service of Ukraine (SBU) leveled two more charges against her after the conviction, and on December 30 she was moved to the Kachanivska Penal Colony in Kharkiv, where her lawyer claims she is denied proper medical care.

Attempts to mount street protests against Tymoshenko's prosecution and other government actions were met with brutal crackdowns and arrests by police, whose ranks were increased during the year. Other political prisoners who were placed or remained behind bars in 2011 included nine leaders of protests against the administration's tax policies, 14 or more nationalists involved in beheading a Joseph Stalin monument, and numerous former members of the Tymoshenko government. The highest-ranking Tymoshenko ally in custody, former interior minister Yuriy Lutsenko, was on trial at year's end for abuse of office and misappropriation of funds – charges that were widely seen as politically motivated.

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 2010 local elections showed serious flaws under newly elected president Viktor Yanukovich'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 the ruling Party of the Regions, the parliament has largely become a rubber-stamp body. According to a new electoral law adopted on December 8, Ukraine returned to a system in which half the members of parliament are elected by proportional representation and half in single-member districts; blocs of parties are not allowed to participate. The Party of the Regions supported the new law because it believes that it will improve its prospects in the 2012 parliamentary elections. Meanwhile, some members of the opposition favored the new legislation because they maintain that it contains new anti-fraud features and will help stimulate the consolidation of opposition parties.

The president is elected to a maximum of two five-year terms. With the return to the 1996 constitution in October 2010, 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. Yanukovich is systematically eliminating opposition to his party, either through repression (as with Yuliya Tymoshenko's Fatherland party) or cooptation (as with Deputy Prime Minister Serhiy Tyhytko's Strong Ukraine party).

Corruption, one of the country's most serious problems, continues to worsen. Business magnates are presumed to benefit financially from their close association with top politicians. Yanukovich himself has become de facto owner of a huge estate outside of Kyiv, raising suspicions of illicit wealth, while his two sons have amassed both power and personal fortunes. The apparent corruption of his administration, and the precedent set by its politicized pursuit

of charges against Tymoshenko and former members of her government, have increased Yanukovich's incentives to remain in power indefinitely.

The constitution guarantees freedoms of speech and expression, and libel is not a criminal offense. Business magnates with varying political interests own and influence many outlets, while local governments often control the local media. Conditions for the media have worsened since Yanukovich's election, and the president threatened one reporter at a December press conference who asked about his family's growing wealth while many in the country face financial hardships. Some 69 percent of Ukrainians get their news from television, and the medium now features fewer alternative points of view, open discussions, and expert opinions. In April 2011, government pressure led the owner of the *Kyiv Post* to fire its editor, but the decision was reversed after the staff walked off the job and the international community expressed outrage. Three opposition channels in Kharkiv that were co-owned by Fatherland member Arsen Avakov were taken off the air in September. 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 2010 and is presumed dead. In July 2011, unknown assailants barricaded the door and set fire to the apartment of the chief editor of the Donetsk regional website News of Donbass, Oleksiy Matsuka, but he was not home at the time; the site frequently criticizes corruption among the local elite. Former Interior Ministry official Oleksiy Pukach is currently on trial for the 2000 murder of independent journalist Heorhiy Gongadze. In March 2011, prosecutors formally charged former president Leonid Kuchma with taking actions that led to the killing, but the case was dismissed in December after the main evidence was ruled inadmissible.

Internet access is not restricted and is generally affordable; lack of foreign-language skills is the main barrier. While the Access to Public Information Act passed in January 2011, it did little to improve the overall environment.

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, Yanukovich 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 Yanukovich took power. Education Minister Dmytro Tabachnyk has curtailed many programs designed to promote Ukrainian language and culture, and in 2010 he began a process aimed at bringing Ukrainian textbooks into line with those in Russia. Ministry budget cuts have focused heavily on schools with liberal reputations and universities in western Ukraine, while universities in the Donetsk region have gained more funding.

The constitution guarantees the right to peaceful assembly but requires organizers to give the authorities advance notice of any demonstrations. Yanukovich's government has made it more difficult to assemble, and in 2011 there was a significant increase in the number of court rulings prohibiting peaceful assembly. The administration is also collecting extensive information on all protest organizers, including details about their professional activities, in order to exert pressure on them.

Although the vibrancy of Ukraine's civil society has declined since the height of the Orange Revolution, social, political, cultural, and economic movements of different sizes and with various agendas remain active. Despite an increasing number of hooligan gangs that intimidate and destroy the property of anyone who supports the opposition, civic activism seems to be on the rise. Intellectuals, students, and Ukrainian speakers are mobilizing against Tabachnyk's policies; the women's organization Femen has drawn attention to corruption and social injustice; entrepreneurs are rallying against economic stagnation and the government's tax policies; veterans have protested cuts to their benefits; journalists have protested crackdowns on the media; a new leftist movement is emerging in Kyiv; and teachers have protested budget cuts. Nevertheless, the Ukrainian Helsinki Human Rights Union has expressed concern that civil society is not active enough in opposing the repressive actions by the government. 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, as the Tymoshenko case demonstrated in 2011. Under the previous administration, the judiciary was an important arbiter in 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 Yanukovich, however, the Constitutional Court has sided with the president, allowing him to form a parliamentary majority and overturn the 2004 constitutional amendments in 2010. Three Constitutional Court judges who were critical of Yanukovich resigned in September of that year, clearing the way for more supportive replacements ahead of the ruling on the 2004 amendments. Also during 2010, 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. The council is now used as a tool of blackmail and pressure against judges, according to Valentyna

Telychenko, the lawyer representing Gongadze's wife in the trial of his alleged killers. Supreme Court chairman Vasyl Onopenko, a longtime ally of Tymoshenko, survived a no-confidence vote in March 2011, but his term expired on September 29. He decided not to run for a second term after the Pechersk District Court dropped criminal charges against his son-in-law, though he publicly denies a connection. On December 23, Petro Pylypchuk was elected head of the Supreme Court; he is expected to be more supportive of Yanukovych.

Reports of police torture grew during 2011. The number of raids by tax police and the security service against opposition-aligned businesses also increased. Since 2010, Ukrainian authorities have misused psychiatry to intimidate civil society activists.

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. The current cabinet does not include any women, making it the first of 14 Ukrainian governments to be exclusively male. 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.

Ratings Change

Ukraine's political rights rating declined from 3 to 4 due to the authorities' efforts to crush the opposition, including the politicized use of the courts, a crackdown on media, and the use of force to break up demonstrations.

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