



Nations in Transit 2013 - Ukraine

Publisher [Freedom House](#)

Publication Date 18 June 2013

Cite as Freedom House, *Nations in Transit 2013 - Ukraine*, 18 June 2013, available at: <http://www.refworld.org/docid/51c1680d27.html> [accessed 17 December 2013]

Disclaimer This is not a UNHCR publication. UNHCR is not responsible for, nor does it necessarily endorse, its content. Any views expressed are solely those of the author or publisher and do not necessarily reflect those of UNHCR, the United Nations or its Member States.

Capital: Kyiv

Population: 45.7 million

GNI/capita, PPP: US \$7,040

Source: The data above are drawn from The World Bank, *World Development Indicators 2013*.

2013 Scores

Democracy Score: 4.86

Regime Classification: Transitional Government or Hybrid Regime

National Democratic Governance: 5.75

Electoral Process: 4.00

Civil Society: 2.75

Independent Media: 4.00

Local Democratic Governance: 5.50

Judicial Framework and Independence: 6.00

Corruption: 6.00

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Electoral Process	4.25	3.50	3.25	3.00	3.00	3.50	3.50	3.50	3.75	4.00
Civil Society	3.75	3.00	2.75	2.75	2.75	2.75	2.75	2.75	2.75	2.75
Independent Media	5.50	4.75	3.75	3.75	3.50	3.50	3.50	3.75	4.00	4.00
Governance *	5.25	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
National Democratic Governance	n/a	5.00	4.50	4.75	4.75	5.00	5.00	5.50	5.75	5.75
Local Democratic Governance	n/a	5.25	5.25	5.25	5.25	5.25	5.25	5.50	5.50	5.50
Judicial Framework and Independence	4.75	4.25	4.25	4.50	4.75	5.00	5.00	5.50	6.00	6.00
Corruption	5.75	5.75	5.75	5.75	5.75	5.75	5.75	5.75	6.00	6.00
Democracy Score	4.88	4.50	4.21	4.25	4.25	4.39	4.39	4.61	4.82	4.86

* 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.

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:

The president's concentration of power in the executive branch and misuse of the judiciary for political purposes has undermined the system of checks and balances, threatening Ukraine's pluralistic political model with growing authoritarianism.

Since gaining independence from the Soviet Union in 1991, Ukraine has held five presidential (1991, 1994, 1999, 2004, and 2010) and six parliamentary (1994, 1998, 2002, 2006, 2007, and 2012) elections. The latest parliamentary elections, held on 28 October 2012, were widely recognized as a step backward from previously achieved democratic standards. Viktor Yanukovich won the 2010 presidential election, and a Constitutional Court decision later that year reversed 2004 constitutional amendments that had shifted power from the presidency to the prime minister and parliament. According to the revised charter, the parliament is no longer authorized to appoint and dismiss cabinet ministers, though it retains the right to confirm the prime minister, who is appointed by the president. In practice, the parliament lost its authority over the executive branch.

Former prime minister Yuliya Tymoshenko, leader of the opposition party *Batkivshchyna* (Fatherland), was sentenced to seven years in prison in 2011 for "misuse of power," and one of her key allies also remained in prison during 2012 after what were widely seen as politically motivated trials. Nevertheless, three major opposition political forces – *Batkivshchyna*, the United Democratic Alliance for Reform (UDAR), and *Svoboda* (Freedom) – secured a combined 50 percent of the vote during the 2012 parliamentary elections, demonstrating a strong desire for change among voters.

The news media still present a variety of political views, and some national television channels improved their standards during the 2012 election campaign. At the same time, self-censorship remains common, and the number of physical attacks against journalists increased in 2012. Nongovernmental organizations (NGOs) continue to operate in a relatively free environment, representing a wide spectrum of interests. New legislation on NGOs was adopted in March, providing a more supportive legal framework.

Meanwhile, the Ukrainian economy began to decline again in the second half of 2012, leading to an overall growth in gross domestic product of just 0.2 percent for the year.

National Democratic Governance. Yanukovich has rearranged the structures of national governance, putting an emphasis on personal connections and the predominance of the executive over the legislature and judiciary. His close entourage, known as the Family (with the president's son, Oleksandr, playing a key role), occupies important positions in the government, which dramatically strengthens its position in the economy and politics. At the same time, the role of wealthy business magnates, known as oligarchs, and Yanukovich's older allies from the Donetsk region has been decreasing. The politically motivated criminal case against Tymoshenko, an obviously biased judiciary, and other evidence of a broadly antidemocratic trend have damaged Yanukovich's relations with the United States and Europe, preventing the conclusion of a far-reaching Association Agreement with the European Union (EU) that would have included a reduction in trade barriers. Despite the shift toward authoritarian rule since 2010, a variety of political actors are represented at the national level. In May 2012, Yanukovich issued a decree establishing a Constitutional Assembly tasked with developing comprehensive constitutional reforms.^[1] However, a law on referendums that was adopted in November may become a tool of manipulation, as it contains a provision allowing changes to or even annulment of the constitution without the approval of the parliament. The president could use it to bypass the two-thirds parliamentary majority normally required for constitutional amendments, potentially altering the conditions for his reelection in 2015. *Ukraine's rating for national democratic governance remains unchanged at 5.75.*

Electoral Process. The parliamentary elections held on 28 October were widely recognized as a step backward from previously achieved democratic standards. An election law adopted a year before the vote introduced a mixed proportional/majoritarian voting system that favored the ruling Party of Regions, allowing it and its coalition allies to sustain a slim majority even though most of electorate did not vote for it. Party of Regions candidates in majoritarian districts benefited from administrative resources, contributing to international monitors' conclusion that the elections were characterized by "the lack of a level playing field."^[2] Other problems included a lack of transparency in party financing and the tabulation process. The imprisonment of Tymoshenko and a key ally, former interior minister Yuriy Lutsenko, barred them from running in the elections. Due to numerous irregularities detected during the parliamentary election process and the exclusion of central opposition figures, *Ukraine's rating for electoral process declines from 3.75 to 4.00.*

Civil Society. Civil society engages in a variety of activities and continues to play a crucial role in defending democratic values and practices. In particular, NGOs in 2012 participated in election monitoring and successfully blocked a proposed defamation law in October. Substantial progress has been achieved with regard to providing a supportive legal framework for nonprofit activity. The new Law on Civic Associations, adopted in March, emerged as a rare example of productive cooperation between the government and the NGO sector.^[3] The law, set to take full effect on 1 January 2013, liberalized the registration process for new organizations and removed some administrative barriers. However, consultations between NGOs and the government are often formal in nature and lack real impact. Civil society actors in many cases have been ignored when politically sensitive issues are at stake. *Ukraine's rating for civil society remains unchanged at 2.75.*

Independent Media. Ukraine has a diverse and competitive media market, and media freedoms are guaranteed by relevant legislation. However, the political environment is not conducive to full-fledged media freedom. Biased coverage in favor of the government continued at some television channels in 2012, and self-censorship remained a visible phenomenon. TVi, a station that carries criticism of the government, faced a tax investigation and reported pressure on cable companies to remove it from their offerings. During the parliamentary election campaign, most of the national television channels signed a memorandum to ensure fair and balanced political coverage, and some stations showed significant improvements.^[4] Meanwhile, signs of administrative pressure were evident at the regional level, where media watchdogs warned of physical attacks against journalists. Freedom of expression advocates and journalists successfully prevented the adoption of the proposed defamation law on the eve of the parliamentary elections. *Ukraine's rating for independent media remains unchanged at 4.00.*

Local Democratic Governance. The key problems hindering the development of local self-government were left unaddressed during 2012. They included an excessive concentration of power and revenue at the national level, fragmentation of lower-level administrative units, vague criteria and procedures for establishing various territorial units, inadequate financing for local government budgets, and poor staffing of local self-government bodies. *Ukraine's rating for local democratic governance remains unchanged at 5.50.*

Judicial Framework and Independence. The country's justice system has been undermined by political influence and repeated attempts to alter the constitution. A new Code of Criminal Procedure came into force in November 2012. It was based on the input of experts from the Council of Europe and passed under pressure from the international community, though Ukrainian experts were more ambiguous in their assessments of the law. The cases against Tymoshenko and Lutsenko continued to draw criticism from international observers for their apparent political motivation and related violations of due process.^[5] In addition to her 2011 sentence of seven years in prison for abuse of power, Tymoshenko faced additional charges, including claims that she organized the assassination of a member of parliament in 1996. *Ukraine's rating for judicial framework and independence remains unchanged at 6.00.*

Corruption. International and Ukrainian experts see corruption as "the greatest threat to Ukraine's democracy and sovereignty."^[6] The National Anticorruption Committee, established in 2011 under the supervision of the president, did not meet during 2012. Yanukovich signed a new law on public procurements in August, but it was strongly criticized for exempting an extensive number of enterprises, products, and services from provisions designed to enhance transparency. Corruption scandals marred the preparation and conduct of the European football championship, hosted jointly by Ukraine and Poland in June. *Ukraine's corruption rating remains unchanged at 6.00.*

Outlook for 2013. Consolidation of personal control by the president's close entourage may lead to a further deterioration of fundamental freedoms, though the political diversity illustrated by the October 2012 elections will obstruct the obvious authoritarian trend to some extent. The government and ruling party will seek other means to ensure their continuity in power, including misuse of the court system and law enforcement agencies. The referendum law may be used by president or his allies to bypass the parliament on key foreign and internal policy decisions. Economic and budgetary challenges could undermine the current government's stability. The signing of a comprehensive Association Agreement with the EU, due in November 2013, is threatened by the government's lack of political will to achieve criteria set by the bloc in December 2012. Ukraine may be forced to accept Russian financial assistance with important conditions attached, for example joining the Russian-led Customs Union or giving Russia's state-owned Gazprom control over the Ukrainian gas transit system.

There is little reason to expect a breakthrough in the area of local governance reform. Despite their decentralization rhetoric, the current authorities favor a concentration of power at the national

level. Continued attempts to amend the constitution are very likely in 2013. In the judicial area, the government will work on amendments to the law on the functioning of the prosecutor's office, the criminal code, and the laws on the judicial system and the status of judges. A reconsideration of the role of the High Council of Justice and a reform of the police are also likely. The problem of corruption will probably not improve, as political will is still lacking.

National Democratic Governance:

President Viktor Yanukovich has reshaped the principles of the national governance since taking office in 2010, reasserting the predominance of the executive over the legislature and judiciary and building a network of power based on personal loyalty and connections. The formal restoration of executive power is based on the reversal of 2004 constitutional changes through a dubious Constitutional Court decision in October 2010, which effectively reinstated the 1996 version of the charter. In addition, the current versions of certain legal acts, such as the Law on the Cabinet of Ministers, give the president even more power than the 1996 constitution. The parliament in practice has lost its authority as a body providing checks on the executive branch.

The president's close entourage, known as the Family, has taken crucial positions in the government, dramatically strengthening its role in the economic and political spheres. In particular, officials belonging to the Family in 2012 occupied the positions of National Bank governor (Serhiy Arbuzov), tax service chief (Oleksandr Klymenko), interior minister (Vitaliy Zakharchenko), and finance minister (Yuriy Kolobov). In December, Arbuzov was appointed as first deputy prime minister. Oleksandr Yanukovich, the president's son, is considered to be a central figure in the Family, though he does not hold a government post.

This network's rise has coincided with a decline in influence on the part of the country's major business magnates, or oligarchs, and an older cohort of bureaucratic allies from Yanukovich's home region of Donetsk. The most important oligarch groups are led by Rinat Akhmetov, the country's wealthiest businessman, and Dmytro Firtash, who is best known for his assets in the gas industry. Serhiy Lyovochkin, the chief of the presidential administration, is associated with the latter.

The system of balances between different interest groups within government has been undermined by Yanukovich's personal power. No important political decision can be adopted by the cabinet of ministers or the parliament without approval from the president. Consequently, the policymaking process as a whole is constrained to a large extent by Yanukovich's own views, beliefs, and interests.

The parliament has mostly lost its independent role and been transformed into a legitimizing body for decisions taken by the president and his entourage. Highly controversial laws on referendums, language policy, and public procurements were adopted by the parliament in 2012 within a few minutes, despite procedural rules calling for debate and consideration of amendments. As a result, the legitimacy of many legal acts could be challenged. Many lawmakers ignored a constitutional requirement that they vote in person, delegating their voting cards to colleagues.

The language law, which proved to be one of the most contentious legislative acts of the year, allowed the Russian language to be granted official status in some eastern and southern regions. Designed to consolidate the Party of Regions' support among Russian-speaking voters before the October parliamentary elections, the law was adopted in the second reading on 3 July without any debate or consideration of amendments.

The law on national referendums was passed by the parliament in the second reading on 6 November and signed by the president on 27 November. Initiated by the presidential administration, the law provides the executive with another means to override the legislature's authority. In particular, it allows the adoption of both laws and constitutional changes via

referendum, contradicting the role given to the parliament in the constitution; an existing constitutional provision holds that amendments must be approved by a two-thirds supermajority in the parliament. Civil society organizations largely agreed that the law also ran counter to European standards, due to the range of issues that can be decided by referendum, the procedure for forming commissions that would organize the votes, the funding procedures, and the campaign rules. Other provisions of the law limit the role of political parties in organizing a referendum and restrict citizens from expressing their opinion about the issues to be decided.^[7] Many experts and politicians speculated that the new law would be used to circumvent or manipulate the 2015 presidential election, as Yanukovich currently lacks wide public support and would be unlikely to win reelection in a free and fair national vote.

Also during 2012, the politically motivated criminal cases against former prime minister Yuliya Tymoshenko and former interior minister Yuriy Lutsenko, combined with other evidence of an antidemocratic trend in the country, substantially damaged Yanukovich's relations with the European Union (EU), hampering progress on a far-reaching Association Agreement that would include the creation of a Deep and Comprehensive Free Trade Area between Ukraine and the bloc.

Despite the erosion of democratic institutions and standards, a variety of political parties remained active at the national level, demonstrating genuine pluralism. The October elections brought two new opposition factions into the parliament: the liberal Ukrainian Democratic Alliance for Reforms (UDAR), led by boxing star Vitaliy Klychko, and the far-right Svoboda (Freedom) party. Tymoshenko's *Batkivshchyna* (Fatherland) party remained the largest opposition force, and these three parties combined secured 40 percent of the seats in the new legislature. Moreover, the ruling Party of Regions lacked an outright majority, forcing it to rely on the Communist Party and allied independents.

Civilian control over the military and internal security forces has been not a major focus of the government. Ihor Kalinin, appointed as head of the Security Service of Ukraine (SBU) in February 2012, and Dmytro Salamatin, named as defense minister the same month, both have close connections to Russia and have never indicated an interest in security-sector reforms aimed at accountability and democratic oversight. A substantial increase in budget expenditures for the prosecutor general's office despite an obvious shortage of public funds, and the expanding purview of the Interior Ministry, including an increased role in counterterrorism policy, have provoked concerns that these institutions could be misused in the future to help keep the incumbent leadership in power.

The economic and investment climate remains rather negative. Ukraine improved by 15 positions in the World Bank's *Doing Business 2013* report, rising from 152 to 137 out of 185 economies due in large part to significant gains in the "starting a business" and "registering property" indicators.^[8] At the same time, according to the Heritage Foundation's *2013 Index of Economic Freedom*, Ukraine remains among the world's "repressed" economies, the worst of five categories, and ranked 161 out of 177 countries assessed.^[9] In November, the National Bank of Ukraine attempted to introduce a bill that would establish a 15 percent tax on the sale of foreign currency, but it was withdrawn in the face of strong opposition from society and the business community. The incident was seen as an example of the government's broader failure to cope with budget deficits, weak economic growth, and a faltering national currency.

Electoral Process:

The parliamentary elections held on 28 October 2012 were widely recognized as a step backward from previously achieved democratic standards. The electoral law adopted in November 2011 replaced the proportional voting system with a mixed proportional/majoritarian arrangement, raised the threshold for party representation from 3 percent to 5 percent of the vote, and barred parties from forming electoral blocs. Although the law included some important improvements, particularly with regard to voter and candidate registration, it generally created a favorable legal

framework for the ruling Party of Regions, enabling it to build a slim working majority in the legislature despite the fact that 50 percent of voters chose one of three main opposition parties.

The contests in majoritarian districts were seen as especially favorable to Party of Regions candidates, partly because administrative resources could be brought to bear more effectively on their behalf. In addition, the districts' system of single-round voting with no majority threshold gave the centralized ruling party an edge, as multiple opposition candidates often split the antigovernment vote. Consequently, the Party of Regions secured just 30 percent of the votes in the proportional system, but captured 50 percent of the majoritarian seats.

Two leaders of the opposition, Tymoshenko and Lutsenko, were not allowed to run for seats due to criminal convictions in cases that were widely viewed as politically motivated. On 30 July, a Batkivshchyna party congress nominated Tymoshenko to top its list of candidates for the parliamentary elections. Lutsenko was nominated as No. 5 on the list. On 8 August, the Central Election Commission (CEC) rejected their registration on the basis of Article 9 of the Law on Election of People's Deputies of Ukraine, which bars participation by those who have been sentenced in criminal cases.

According to the monitoring team from the Organization for Security and Cooperation in Europe (OSCE), the elections were characterized by "the lack of a level playing field."^[10] Major shortcomings were noted in the abuse of administrative resources and a lack of transparency on campaign and party financing. With the exceptions of Tymoshenko and Lutsenko, the candidate registration process was deemed inclusive, resulting in a diverse field of candidates with a wide variety of political views. However, problems appeared with regard to the nomination of electoral commissions. Most positions in District Election Commissions (DECs) and Precinct Election Commissions (PECs) were filled by lottery, meaning some minor parties with little infrastructure or public support obtained representation in all DECs, while other parties with candidates across the country were not represented in DECs at all. Almost half of PEC and 60 percent of DEC members were subsequently replaced. There were claims, some of which were verified by the OSCE monitors, that election commissioners nominated by minor parties were in fact affiliated with other parties, especially the Party of Regions.^[11]

Campaigning prior to election day was visible and active overall, especially in urban areas, with numerous party workers engaged and extensive funds dedicated to events and advertising. Races were competitive in most of the country. However, the ability of candidates to get their messages to voters and compete under equal conditions was hampered in a significant number of districts due to harassment, intimidation, and misuse of administrative resources that blurred the line between the state and the ruling party.

On election day the overall process was conducted without massive irregularities, though monitors indicated some concerns. The civil network OPORA's observers cited numerous ballot secrecy violations, illegal provision of ballots to voters, and cases of centralized transportation of voters to polling stations, which were combined with bribery.

Most observers referred to the tabulation process as the most negatively assessed component of the elections. The work of the election commissions was opaque and included artificial delays in the counting, damaging public confidence in the elections as a whole.^[12] Problems were identified in one-third of the DECs observed. In some constituencies there were differences between the original PEC protocols and the final DEC protocols. Attempts at fraud in the production of results, sometimes with police interference, were detected.

Voter turnout was 58 percent, close to the figure from the 2007 parliamentary elections. The Party of Regions won 72 seats through its 30 percent share of the proportional vote and 113 in individual constituencies, for a total of 185 seats in the 450-seat parliament, the Verkhovna Rada (Supreme Council). Batkivshchyna obtained 62 proportional seats, with 25.5 percent of the vote,

and 40 individual mandates. The UDAR placed third with 34 proportional seats (14 percent) and 6 individual mandates, followed by the progovernment Communist Party with 32 seats, all proportional (13 percent), and Svoboda with 25 proportional seats (10.4 percent) and 12 from constituency races. Small parties and independents won all but five of the remaining individual seats, which were left temporarily vacant due to evident irregularities during tabulation.

The CEC adopted a resolution on 5 November recognizing the impossibility of announcing election results in these five constituencies and asking the parliament to make a decision on holding new elections for the seats in question. On 6 November the Rada accepted the commission's conclusion, but failed to make legal changes necessary for the repeat elections. On 8 November the CEC stated that the parliament should duly amend the election law and the cabinet of ministers should determine the funding for the new polls. Neither had been done at year's end.

Meanwhile, the new Rada convened on 12 December. Despite bouts of physical brawling that have become common occurrences in the chamber in recent years, a majority composed of the Party of Regions, the Communists, and allied independents on 13 December elected Volodymyr Rybak as speaker and confirmed Prime Minister Mykola Azarov for another term.

Civil Society:

Civil society organizations continued to operate in a relatively free environment in 2012, representing a wide spectrum of interests and playing a crucial role in defending democratic values and practices in Ukraine. According to official statistics, the number of registered nongovernmental organizations (NGOs) reached 71,767 in early 2012,^[13] though a report by the Justice Ministry issued in 2011 found that about 65 percent of formally existent NGOs were not active.

Compared with the preceding years, there were few new signs in 2012 that law enforcement bodies were systematically pressuring nongovernmental groups, interfering in civil society activity, or discouraging foreign donors from making grants to Ukrainian organizations. Instead, the government seemed to pursue a more moderate policy of engaging those elements of the civic sector that it did not perceive as directly threatening its power.^[14] In some cases this engagement provided real channels of civic participation, but NGOs warned that it was often aimed at creating only the appearance of consultation to legitimize certain government decisions.

Substantial progress has been achieved with regard to providing a supportive legal framework for nonprofit activity. The new Law on Civic Associations, adopted in March and signed by Yanukovich on 13 April, was a rather rare example of productive cooperation between the government and the civic sector.^[15] It liberalized and simplified the registration process for new NGOs and removed some administrative barriers. These included restrictions on where organizations could physically operate within Ukraine, on their ability to conduct commercial activity to raise funds, and on their advocacy on behalf of third parties. The new opportunities to improve financial sustainability through commercial activity were seen as particularly promising, as they could help reduce Ukrainian NGOs' dependence on foreign sources of funding. The law was scheduled to take effect on 1 January 2013, and the cabinet adopted a number of regulations to ensure proper implementation.

In an additional positive development during the year, on 24 March the government adopted the Strategy on State Policy for Support of Civil Society Development and Primary Implementation Steps. The strategy and its associated action plan were worked out by the presidential administration in close cooperation with civil society activists, who generally welcomed the resulting product.

At the same time, participation of NGOs in government initiatives often remains pro forma. Hundreds of civic councils continued to work at different levels of government in accordance with

a new regulation (No. 996) adopted by the cabinet in late 2010. The efficacy of the councils was not obvious, and some played a largely decorative role. Influential NGOs – New Citizen Partnership and Transparency International, respectively – dropped out of the Constitutional Assembly and the National Anticorruption Committee, claiming a lack of influence and a growing risk of manipulation. The voices of civil society actors in many cases were ignored when politically sensitive issues were concerned.

The authorities reportedly exerted psychological pressure on activists and civil society organizations in some cases. For example, a number of NGOs complained that SBU officers had approached them to hold "preventative conversations" regarding their future projects and activities, especially in connection with the October parliamentary elections.^[16]

A variety of public campaigns and activities that emerged or continued during 2012 indicated Ukrainian civil society's potential to organize and make an impact. A campaign for a clean election process (Chesno, or Honestly) had an important influence on the 2012 election discourse, pressing politicians to provide more information about themselves. Another campaign (SAM, or On My Own) sought stronger self-organization and civic involvement in public policy. Remarkable civic protests were held in October and November against what were perceived as unfair convictions and sentences against a father and son, Serhiy and Dmytro Pavlichenko, for the murder of judge in Kyiv. Citizens also mobilized to defend Kyiv's historical heritage, at Peyzazhna Alley in March 2012 and the iconic street Andriyivskyy Descent in April.

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 diverse and competitive at the national level, it has faced increasing political pressure, and regional media are generally more strictly controlled by the authorities. Self-censorship remains a visible phenomenon, and biased coverage in favor of the government continued at some television channels.

In the summer of 2012, the authorities made what appeared to be an attempt to silence the television station TVi, which broadcasts mostly critical views of the government. The State Tax Service said it had launched a criminal case against TVi's chief executive, Mykola Knyazhitskyy, accusing the channel of evading more than 3 million hryvnias (\$371,000) in value-added tax (VAT) payments. Although the tax evasion case was dropped, the station reported that local cable companies came under pressure to either drop TVi or move it to more expensive packages, putting it beyond the reach of many viewers.^[17]

On 18 September, a draft defamation bill backed by the ruling party was adopted in a first reading in the parliament. It would have allowed journalists convicted of defamation to be fined, banned from their profession, or even jailed. However, after numerous protests, the measure was withdrawn in early October.

Media watchdogs warned of physical attacks against journalists during the year. On 26 September, investigative reporter Dmytro Volkov of the television station 1+1 was badly beaten in Kyiv after he refused to cease his inquiries into land transactions near the city. Also that month, reporter Mykola Ryabchenko was beaten in the eastern city of Mariupol while attempting to report on a road accident involving wealthy local residents. Separately, on 30 July, well-known *Ukrayinska Pravda* journalist Mustafa Nayem was attacked by guards near the site where the ruling Party of Regions was holding its party congress. The prosecutor's office refused to launch an official investigation of the case.

For the parliamentary election campaign, most national television channels signed a memorandum under umbrella of the International Renaissance Foundation, part of the Open Society Foundations network, to ensure fair and balanced political coverage.^[18] The monitoring study conducted within the framework of the memorandum indicated that there was notable progress in the channels' attention to politicians and the volume and frequency of their direct speech. In October, the channels also provided more balanced news coverage of participants in the election process. The most notable improvement was observed at the Inter channel, then owned by Valeriy Khoroshkovskyy, who was removed from his position as first deputy prime minister in December. The trend toward more balanced media attention and the ability of political parties to receive news coverage commensurate with their support in opinion polls could be also observed at ICTV, STB, and the Novyy Channel. Meanwhile, Ukrayina and First National Channel demonstrated notable bias in favor of progovernment political forces, giving them over two-thirds of their attention in the news.^[19]

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.^[20]

Internet-based media continue to extend their audience rapidly, playing a growing role in the Ukrainian media space. More than 25 percent of households have regular internet access, and about 30 to 35 percent of the adult population are regular internet users; the latter figure exceeds 60 percent in the major cities. However, television remains the main source of information for most of society.

Local Democratic Governance:

Ukraine has four tiers of subnational administrative divisions: the Autonomous Republic of Crimea and oblasts (regions), 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, 1,344 townships, and 29,787 rural populated localities.^[21]

Local governance is regulated by Section XI of the constitution and a number of specific laws, including the 1997 Law on Local Self-Government and the 1999 Law on Local State Administrations. The laws have been amended many times since their original adoption, but they still reflect and operate on principles inherited from Soviet times, namely strong centralization, lack of local autonomy, and a disproportional distribution of the state budget.

The key problems hindering the development of local self-government have remained unchanged for some time: an excessive centralization of power at the national level; excessive fragmentation of lower-level administrative units; assumption of the powers of local self-governance bodies by the administrations appointed by the president and cabinet; vagueness of the criteria and procedures for establishing various territorial 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. Currently, nearly 90 percent of local governments depend on subsidies from the higher levels of government, which exceed 70 percent of the local budget in most cases.^[22]

There were no local elections in 2012, though the more questionable results of the parliamentary elections in October could be attributed in part to the imperfect local governance system, which allowed the misuse of administrative resources. The OSCE reported that such abuses were observed in a significant number of electoral districts.^[23]

Over the past 16 years, the authorities have repeatedly attempted to implement a package of legislation on local governance reform. However, each attempt failed to reach completion, and

every successive government started the process anew. In May 2012, the Ministry for Regional Development drafted a Concept of Reform of Local Self-Government and Territorial Organization of Governance in Ukraine. According to the concept, the number of bottom-tier territorial units must be reduced from 31,000 to 1,000 and the number of raions from 490 to 150. The plan had yet to be approved at year's end. A new self-government concept may be developed within the framework of the Constitutional Assembly and presented alongside its other results.

Judicial Framework and Independence:

The authorities embarked on a new attempt to alter the constitution in 2012. On 17 May, Yanukovich issued a decree establishing the Constitutional Assembly,^[24] a special auxiliary body under the presidency with the task of drafting amendments to the constitution. The assembly has 95 members, selected from parliamentary factions, political parties, academia, and civil society organizations. Opposition parties refused to take part in the project, dismissing it as an instrument designed to fulfill the president's wishes rather than serve the public interest. The assembly started its work in September and had held three plenary sessions by the end of the year. However, these yielded no tangible results. During the last session on 6 December, independent experts in the assembly sought unsuccessfully to persuade the body to appeal to the president to cancel the new referendum law, which allows him to bypass the parliament in amending the constitution.

On 13 April, the parliament adopted a new code of criminal procedure. The president signed it on 14 May, and it came into force on 20 November. The code had been drafted by the presidential administration under pressure from the international community and was welcomed as a positive example of cooperation with experts from the Council of Europe.^[25] However, the Parliamentary Assembly of the Council of Europe emphasized that "this Code will only have the desired effect if it is implemented in its entirety and in good faith."^[26] The reform included equalization of the rights of the defense and the prosecution; introduction of the principle of adversarial argument; an end to the exclusive right of investigators and prosecutors to produce evidence; a requirement that the defense be conducted only by lawyers, whereas previous rules allowed the defendant to be represented by relatives; a ban on pretrial detention in cases that do not involve grave or extremely grave crimes; and a ban on detention in the investigatory isolation ward for commercial crimes. The new code received mixed assessments from Ukrainian experts. They noted that it had been drafted without input from Ukrainian specialists or the opposition, and that some provisions may be contrary to the constitution and existing legislation. For instance, the rule allowing people other than lawyers, including relatives, to represent defendants had been established by a Constitutional Court decision.^[27]

Long-awaited judicial reforms that would guarantee the independence and professionalism of judges were not undertaken in 2012. In his report on Ukraine, the Council of Europe's commissioner for human rights stated that "decisive action is needed on several fronts to remove the factors which render judges vulnerable and weaken their independence."^[28] Excessively lengthy judicial proceedings, lack of enforcement of judicial rulings, and abuse of pretrial detention have been identified by the European Court of Human Rights (ECHR) as structural problems in the administration of justice in Ukraine. In 2012, political powerbrokers continued to struggle over the chairmanship of the Supreme Court as a means of influencing the judicial system. The membership of the High Council of Justice still does not meet international standards, and the independence of the High Qualification Commission of Judges also remains insufficient.

The cases against former prime minister Tymoshenko and former interior minister Lutsenko continued to damage domestic political relations and international assessments of Ukrainian justice. The verdicts against both figures are generally considered by international community to have been "politically motivated convictions of members of the former government after trials which did not respect international standards as regards fair, transparent and independent legal process."^[29] In addition to a seven-year prison sentence she received in 2011 for abuse of power,

Tymoshenko faced a number of new charges and investigations in 2012, including a slow-moving trial for alleged tax evasion and accusations that she had organized the assassination of a lawmaker in 1996. In May she was transferred from prison to the premises of a hospital in Kharkiv oblast due to claims of inadequate treatment of health problems by prison officials. Doctors from Germany supervised her hospital treatment.

Meanwhile, Lutsenko was sentenced to four years in prison in February after being convicted of embezzlement and abuse of office. He was then sentenced to two years in prison in August in a separate case, having been convicted of ordering illegal surveillance of suspects in the poisoning of former president Viktor Yushchenko.

At the end of 2012, appeals on Tymoshenko's and Lutsenko's cases were pending before the ECHR. Ruling on an earlier appeal on 3 July, the court deemed Lutsenko's original arrest and detention a violation of human rights, obliging Ukraine to pay him €15,000 (\$19,000) in compensation.

Ukrainians widely distrust the country's law enforcement bodies, according to opinion surveys. In one recent poll, the police were positively assessed by only 26 percent of respondents, and negatively by 64 percent. Similarly, public prosecutor's offices were assessed positively by 23 percent and negatively by 64 percent, while courts were assessed positively by 20 percent and negatively by 69 percent.^[30]

Corruption:

International and Ukrainian experts see corruption as "the greatest threat to Ukraine's democracy and sovereignty."^[31] According to a 2012 poll, an estimated 48 percent of Ukraine's citizens see corruption among the authorities as the second major problem in the country, after unemployment.^[32]

A new anticorruption law entered into force in June 2011. It was welcomed by the Council of Europe and other international organizations, though it was also criticized in part because it failed to include mandatory declarations of expenditures by public officials or mandatory declarations of property, income, and expenses by their relatives. In January 2012, additional provisions of the law took effect, including Article 11, which introduced a system for the verification of data submitted by public officials. The law provides for the establishment of a National Anticorruption Committee under the supervision of the president, and although the body was formed in 2011, it did not meet during 2012.

In July 2012, the parliament passed new legislation on public procurements, marking the sixth amendment of the law since July 2010. Yanukovich signed it, and it came into force on 5 August. The amendment carved out extensive exceptions to the underlying law's transparency and competition requirements, exempting all procurements by public, municipal, and state-owned enterprises as well as private business entities in which the state interest exceeds 50 percent. According to Ukrainian expert assessments, the new rules effectively excluded 80 percent of all state procurements from the law's regulations.^[33]

Following the adoption of the law on access to public information in 2011, central executive bodies and regional state administrations gave some 50,000 answers to inquiries and declassified 230 documents. Answers to 92 percent of the inquiries were given within five days, and only 3 percent were refused.^[34] Nevertheless, the potential effect of the law in combating corruption was substantially impaired by the 2012 amendments to the law on state procurements.

In 2012, the National Anticorruption Strategy for 2011-15 and the State Program on Prevention and Combating Corruption for 2011-15 remained in force, though implementation was weak due

to the absence of necessary resources. In particular, the creation of a single web portal for administrative services by the Ministry for Economic Development was delayed indefinitely.^[35]

According to a report by the Council of Europe's Group of States against Corruption (GRECO), Ukraine's strategy and state program "still need to be adjustable instruments depending on needs expressed by the State institutions, by representatives of the civil society in Ukraine as well as by the international community."^[36] Generally assessing the implementation of recommendations to Ukraine in the field of fighting corruption, GRECO noted that "out of the 25 recommendations issued to Ukraine, in total only twelve recommendations have been implemented satisfactorily or dealt with in a satisfactory manner," and that "several fundamental issues ... still need considerable attention."^[37] GRECO found that "the pace of reforms so far has been very slow and that the legislative process has been full of obstacles."^[38]

Corruption scandals clouded the preparations for and conduct of the European football championship, hosted jointly by Ukraine and Poland in June 2012. The amount of public funds spent on the championship in Ukraine, including the construction of sports facilities and infrastructure, remains unclear. The government claims to have spent \$5 billion, while the opposition argues that the cost was twice as high, with \$4 billion siphoned off by officials and well-connected businessmen. The suspicions of corruption were bolstered by the fact that in 2010, state procurements for the upcoming event were excluded from the regulations in the law on state procurements, meaning the public had no guaranteed access to information on the expenses. In June 2012, a member of the European Parliament called on the European soccer federation's governing body to investigate why the Ukrainian authorities had canceled competitive tenders for projects related to the championship. Separately, Tymoshenko applied to the international Financial Action Task Force with a request to investigate corruption and money laundering by the current Ukrainian authorities. No results of any such investigations had been released by year's end.

Notes:

1 "Про Конституційну Асамблею" [On the Constitutional Assembly], President of Ukraine Decree No. 328/2012, 17 May 2012, <http://www.president.gov.ua/documents/14752.html>.

2 Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR), *Ukraine Parliamentary Elections, 28 October 2012, OSCE/ODIHR Election Observation Mission Final Report* (Warsaw: OSCE, 2013), <http://www.osce.org/odihr/elections/98578>.

3 Law on Civic Associations [Ukraine], No 4572-VI, 22 March 2012, <http://zakon2.rada.gov.ua/laws/show/4572-17>.

4 International Renaissance Foundation, "Civic Monitoring Makes TV News More Balanced before the Elections," news release, 1 November 2012, http://www.irf.ua/index.php?option=com_content&view=article&catid=81&id=38263&Itemid=43.

5 Council of the European Union, *Council Conclusions on Ukraine, 3209th Foreign Affairs Council Meeting* (Brussels: European Union, 2012), http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/134136.pdf.

6 Eastern Partnership Civil Society Forum, "Resolution of the Eastern Partnership Civil Society Forum on the Law on Referendums in Ukraine Adopted on November 30, 2012," news release, 30 November 2012, <http://www.eap-csf.eu/en/news-events/news/resolution-of-the-forum-on-the-law-on-referendums-in-ukraine/>.

[7](#) Ibid.

[8](#) The World Bank Group, "Ease of Doing Business in Ukraine," in *Doing Business 2013* (Washington: The World Bank Group, 2012), <http://www.doingbusiness.org/data/exploreeconomies/ukraine>.

[9](#) Terry Miller, Kim R. Holmes, and Edwin J. Feulner, *Highlights of the 2013 Index of Economic Freedom* (Washington: Heritage Foundation, 2012), <http://www.heritage.org/index/download>.

[10](#) OSCE/ODIHR, *Ukraine Parliamentary Elections, 28 October 2012, OSCE/ODIHR Election Observation Mission Final Report*.

[11](#) Ibid.

[12](#) ОПОРА, *ЗВІТ Громадянської мережі ОПОРА за результатами спостереження в день голосування на виборах народних депутатів 28 жовтня 2012 року* [OPORA report: The results of observations on the polling day for the parliamentary elections of 28 October 2012] (Kyiv: OPORA, 2012), <http://map.oporaua.org/content/allresults/60/>.

[13](#) National Institute for Strategic Studies, "Про стан розвитку громадянського суспільства в Україні" [On the development of civil society in Ukraine] (Kyiv: National Institute for Strategic Studies, 2012), <http://www.niss.gov.ua/content/articles/files/XXI-e3446.pdf>.

[14](#) Freedom House, *Sounding the Alarm Round 2: Protecting Democracy in Ukraine: A Follow-up Freedom House Report* (Washington: Freedom House, 2012), <http://www.freedomhouse.org/sites/default/files/Ukraine%202012%20English%20FINAL.pdf>.

[15](#) Law on Civic Associations [Ukraine].

[16](#) Freedom House, *Sounding the Alarm Round 2*.

[17](#) Richard Balmforth, "Ukraine Media Feel the Squeeze ahead of Election," Reuters, 9 October 2012, <http://uk.reuters.com/article/2012/10/09/uk-ukraine-election-media-idUKBRE8980AT20121009>.

[18](#) International Renaissance Foundation, "Civic Monitoring Makes TV News More Balanced before the Elections."

[19](#) Ibid.

[20](#) International Press Institute, "IPI Issues Report on Media Freedom in Ukraine," news release, 31 August 2011, <http://www.freemedia.at/home/singleview/article/ipi-issues-report-on-media-freedom-in-ukraine.html>.

[21](#) Ministry of Regional Development, "Адміністративно-територіальний устрій України станом на 1 липня 2012" [Administrative-territorial system of Ukraine as of 1 July 2012], accessed 22 January 2013, http://www.minregion.gov.ua/index.php?option=com_k2&view=item&id=1672:adm%D1%96n%D1%96strativno-teritor%D1%96alni-ustr%D1%96j-ukra%D1%97ni&Itemid=84&lang=uk.

[22](#) President of Ukraine, "Виступ Президента на урочистих зборах з нагоди 20-річчя створення Асоціації міст України" [The president's speech at a solemn meeting on the occasion of the 20th anniversary of the establishment of the Association of Cities of Ukraine], news release, 28 September 2012, <http://www.president.gov.ua/news/25563.html>.

[23](#) OSCE, *Ukraine Parliamentary Elections, 28 October 2012, OSCE/ODIHR Election Observation Mission Final Report*.

[24](#) "Про Конституційну Асамблею" [On the Constitutional Assembly], President of Ukraine Decree No. 328/2012.

[25](#) Council of Europe, "PACE Monitoring Rapporteurs Welcome Adoption of New Code of Criminal Procedure in Ukraine," news release, 13 April 2012, <https://wcd.coe.int/ViewDoc.jsp?id=1932859&Site=DC>; and Council of the European Union, *Council Conclusions on Ukraine, 3209th Foreign Affairs Council Meeting*.

[26](#) Parliamentary Assembly, *Honouring of Obligations and Commitments by Ukraine: Information Note by the Co-Rapporteurs on the Fact-Finding Visit to Kyiv (26-30 March 2012) and to Kyiv and Kharkiv (14-18 May 2012)* (Strasbourg: Council of Europe, 2012), http://assembly.coe.int/CommitteeDocs/2012/amondoc13rev_2012.pdf.

[27](#) "Проект КПК—це не просто правовий нігілізм" [Draft CPC is not just legal nihilism], *Dzerkalo Tyzhnya. Ukrayina*, 13 April 2012, http://dt.ua/LAW/proekt_kpk_tse_ne_prosto_pravoviy_nigilizm_-100525.html.

[28](#) Commissioner for Human Rights of the Council of Europe, *Administration of Justice and Protection of Human Rights in the Justice System in Ukraine* (Strasbourg: Council of Europe, 2012), <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2075485&SecMode=1&DocId=1883332&>

[29](#) Parliamentary Assembly of the Council of Europe, "PACE Monitoring Rapporteurs Welcome Adoption of New Code of Criminal Procedure in Ukraine," news release, 13 April 2012, <https://wcd.coe.int/ViewDoc.jsp?id=1932859&Site=DC>; and Council of the European Union, *Council Conclusions on Ukraine, 3209th Foreign Affairs Council Meeting* (Brussels: European Union, 2012), http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/134136.pdf.

[30](#) Democratic Initiative Foundation (DIF) and Razumkov Center (RC), *Оцінка населенням правоохоронної системи. Ставлення українців до самосуду* [Assessment of the law enforcement system by the public. The attitude of Ukrainians toward vigilantism] (Kyiv: DIF and RC, 2012), <http://dif.org.ua/ua/polls/2012-year/1756.htm>.

[31](#) Freedom House, *Sounding the Alarm Round 2: Protecting Democracy in Ukraine*.

[32](#) "Українці назвали найбільшими проблемами країни безробіття і корупцію" [Ukrainians named unemployment and corruption as the biggest problems for the country], *Dzerkalo Tyzhnya. Ukrayina*, 24 July 2012, http://news.dt.ua/SOCIETY/ukrayintsi_nazvali_naybilshimi_problemmi_krayini_bezrobittya_i_kor-105857.html.

[33](#) "Робота в Національному антикорупційному комітеті не приносить жодної користі" [Work in the National Anticorruption Committee brings no benefit], *Hazeta Po-Ukrayinsky*, 12 July 2012, <http://gazeta.ua/articles/comments-newspaper/445223>.

[34](#) President of Ukraine, "Практика виконання Закону 'Про доступ до публічної інформації' довела, що держава може оперативно надавати громадянам інформацію у зручний для них спосіб—Денис Іванеско" [Practice of implementation of the law 'On access to public information' has proven that the state can promptly give citizens information in a convenient form – Denys Ivanenko], news release, 12 October 2012, <http://www.president.gov.ua/news/25734.html>.

[35](#) Eastern Partnership Civil Society Forum, "The Statement of the Ukrainian Platform of Eastern Partnership Civil Society Forum Regarding the Implementation of State Anti-Corruption Policy in Ukraine," news release, 14 June 2012, <http://www.eap-csf.eu/en/news-events/articles-analytics/the-statement-of-the-ukrainian-platform-of-eastern-partnership-civil-society-forum-regarding-the-implementation-of-state-anti-corruption-policy-in-ukraine/>.

[36](#) Group of States against Corruption (GRECO), *Joint First and Second Evaluation Round: Second Addendum to the Compliance Report on Ukraine* (Strasbourg: Council of Europe, 2012), http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC1&2%282009%291_SecondAdd_Ukraine_EN.pdf.

[37](#) Ibid., 13.

[38](#) Ibid., 13.

Copyright notice: © Freedom House, Inc. · All Rights Reserved

Search Refworld

by keyword
and / or country

All countries

[Advanced Search](#) | [Search Tips](#)

Countries

- [Ukraine](#)

Topics

- [Corruption](#)
- [Democracy](#)
- [Elections](#)
- [Freedom of expression](#)
- [Independence of judiciary](#)
- [Opposition](#)
- [Political parties](#)