

Ukraine

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Capital: Kyiv
Population: 47.1 million
GDP/capita: US\$6,810
Ethnic Groups: Ukrainian (77.8%), Russian (17.3%),
Belarusian (0.6%), Moldovan (0.5%),
Crimean Tatar (0.5%),
Bulgarian (0.4%), Hungarian (0.3%),
Polish (0.3%), Romanian (0.3%),
other (2.0%)

The economic and social data on this page were taken from the following sources:

GDP/capita, Population: *Transition Report 2006: Finance in Transition* (London, UK: European Bank for Reconstruction and Development, 2006).

Ethnic Groups: *CIA World Fact Book 2007* (Washington, D.C.: Central Intelligence Agency, 2007).

Nations in Transit Ratings and Averaged Scores

	1999	2001	2002	2003	2004	2005	2006	2007
Electoral Process	3.50	4.00	4.50	4.00	4.25	3.50	3.25	3.00
Civil Society	4.00	3.75	3.75	3.50	3.75	3.00	2.75	2.75
Independent Media	5.00	5.25	5.50	5.50	5.50	4.75	3.75	3.75
Governance*	4.75	4.75	5.00	5.00	5.25	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	5.00	4.50	4.75
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	5.25	5.25	5.25
Judicial Framework and Independence	4.50	4.50	4.75	4.50	4.75	4.25	4.25	4.50
Corruption	6.00	6.00	6.00	5.75	5.75	5.75	5.75	5.75
Democracy Score	4.63	4.71	4.92	4.71	4.88	4.50	4.21	4.25

* 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 of this report. The opinions expressed in this report are those of the author. 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

After the change of regime in late 2004, Ukraine experienced dramatic challenges that posed questions about the nature of political development in the country. Since the Orange Revolution, Ukraine reconfirmed the nation's positive trend toward pluralistic democracy, human rights, and media freedom, but the transition process remains incomplete, and the efficiency of Ukraine's democratic governance is still doubtful. Since independence in 1991, Ukraine has witnessed four presidential (1991, 1994, 1999, 2004) and four parliamentary (1994, 1999, 2002, 2006) elections. Now, the third president and the fifth Parliament are in power. The Constitution, adopted in 1996, was amended in 2004, introducing in 2006 a new model of power, with a stronger role for the Parliament and decreasing the power of the president. This model remains unique in Europe, providing a "dual executive" that is dependent on both the president and the parliamentary majority. Viktor Yushchenko, the third president of Ukraine, has been in power since 2005. The new Parliament was elected in March 2006 by proportional vote, which replaces the mixed 50-50 majoritarian-proportional electoral system previously used.

Ukraine's economy is growing steadily, and the gross domestic product growth increased from 2.4 percent in 2005 to 7 percent in 2006. Real monthly wages increased from US\$180 as of late 2005 to approximately US\$210 as of late 2006, which slightly out paces the 11 percent inflation rate. Media freedom proved to be sufficient for the time being: No censorship or government pressure on the media was detected in 2006. However, the Ukrainian media sector still needs strengthening, restructuring, and systemic reforms. The influence of political and economic groups in the media sphere remains strong, and public television has not yet been introduced. The government of Ukraine is divided, with the parliamentary coalition representing both President Yushchenko and opposition forces. Former Yushchenko rival Viktor Yanukovich, who lost in the presidential elections of 2004, was appointed prime minister in August 2006 by a parliamentary majority. In 2006, Ukraine stayed the course toward democracy, but the country's transformation is still incomplete.

National Democratic Governance. On January 1, 2006, a new constitutional model of governance was introduced in Ukraine. Formally, the new model is closer to those in other Central and Eastern European countries and stipulates a substantially stronger role for the Parliament and government and limitations on the president's powers. At the same time, the new model introduces a risky "dual executive" approach that lacks an efficient system of checks and balances. It

also allows for a divided government preoccupied by internal fights for real power, incapable of implementing sustainable policies. The new regime has proved to be substantially more transparent and democratic than the previous one. However, stable and mature institutions ensuring the rule of law and the irreversibility of democratic changes have not yet been built. The political forces that supported the Orange Revolution in 2004 reconfirmed their credibility in the parliamentary elections of March 2006, winning a majority in the new Parliament. However, long-term intrigues surrounding the creation of the “Orange Coalition” and, finally, the shift of the Socialist Party toward an alliance with the Party of Regions led by Viktor Yanukovich opened a way for the return to power of the political group that was thrown out of government following the dramatic events of 2004. The situation in Ukraine during 2006 was complicated by the permanent fight for power between presidential and governmental branches of the executive. *The encroaching dysfunction caused by the president and prime minister being at loggerheads and the increasing unpredictability in the country’s application of law have thwarted governance, so Ukraine’s rating for national democratic governance worsens from 4.50 to 4.75.*

Electoral Process. The parliamentary elections took place on March 26, 2006, along with elections for local and regional councils and mayors of cities and villages. According to reports by major international observation missions, the elections were free and fair. Some Western observers considered this election as the most open and democratic in Ukraine since independence and the most fair in the whole Commonwealth of Independent States (CIS) in recent years. Electoral law amendments passed by the Parliament on March 14 provide extra compensation for election commission members, broaden the categories from which commission members can be recruited, and allow commission members to cast their ballots in the polling station where they work on election day. For the first time, national, regional, and local elections were held according to a proportional voting system, which replaces the mixed 50–50 majoritarian-proportional vote (for the Parliament) and majoritarian vote (for local and regional councils) previously used. The government did not interfere in the process: Parties enjoyed equal access to media, and no administrative barriers to political activity were detected. At the same time, some irregularities took place—namely, late openings of polling stations, overcrowding in polling stations, and missing names on voters lists. Observers indicated more irregularities during local elections, and some mayoral election results were canceled by the courts. Five political forces passed the 3 percent threshold to gain seats in the Parliament: Party of Regions (32.12 percent), Bloc of Yulia Tymoshenko (22.27 percent), Our Ukraine (13.94 percent), Socialist Party of Ukraine (5.67 percent), Communist Party of Ukraine (3.66 percent). *Owing to the free and fair nature of the March 26 parliamentary elections, Ukraine’s rating for electoral process improves from 3.25 to 3.00.*

Civil Society. Ukraine’s civil society continues to be an important factor in domestic politics; however, the third sector remains dependent on imperfect legislation and

foreign funds. Current authorities do not interfere by levying permanent taxes, accusing nongovernmental organizations (NGOs) of serving foreign powers, or creating additional barriers and obstacles to NGO activity. At the same time, the overall public environment surrounding NGOs is worsening, as the ruling Party of Regions expresses no positive sentiments toward civil society groups and considers them representatives of the other side of the political spectrum. Public participation in civil society is stagnating compared with the situation in the first months after the Orange Revolution, and only a few established civic councils at the executive bodies provide regular and vocal input. In November, the new minister of justice, Oleksandr Lavrynovych, announced that according to the ministry's inquiries, at least 10 percent of registered Ukrainian NGOs do not actually exist and that inquiries will continue. The Parliament failed again to provide essential improvements to outdated NGO legislation. *Ukraine's rating for civil society remains at 2.75.*

Independent Media. Media freedom in Ukraine proves to be sufficient at the national level, but the local and regional media sectors still lack restructuring and real independence. Citizens currently enjoy wide-ranging pluralism in both electronic and print media. Governmental censorship was not detected; however, there were some reports that local authorities had attempted to censor media (for instance, in Kyiv and Lugansk oblast). Nationwide television channels in most cases provided balanced news coverage; representatives of the ruling parties as well as the opposition had equal access to the media. Most nationwide media are privately owned by leading financial and industrial groups, which provides a basis for the misuse of media, especially during election campaigns, and conflicts around large business properties. Many regional and local TV channels, radio stations, and newspapers remain in the hands of state bodies and administrations. The process of public television formation has been practically blocked. The advertising market is growing slowly, which restricts the development of an independent media sector. Some new independent media projects emerged as a result of growing Western investment in Ukrainian media. Russian print media continue to have an essential stake in the Ukrainian media market. Some of these demonstrate neutral and professional journalism (for example, *Kommersant*), but most express an ideological bias. *Ukraine's rating for independent media remains at 3.75.*

Local Democratic Governance. Administrative and territorial reforms were initiated in Ukraine in 2005. Their enactment and implementation were postponed until after the 2006 parliamentary and local elections, but no progress was made to put these initiatives into practice in 2006. A draft Law on Introduction of Changes to the Constitution of Ukraine on Improvement of the System of Local Government (#3207-1) was brought before the Constitutional Court of Ukraine. Although the new government, created on the basis of the Anticrisis Coalition (members are: Party of Regions of Ukraine, Socialist Party of Ukraine and Communist Party of Ukraine), stated the need for strengthening the role of local self-government,¹ it did not propose any alternative reform strategy in this sphere. Parliamentary and

local election campaigns were held simultaneously on March 26, 2006, according to a new proportional election system. The new system consolidated the political players on the upper parliamentary level, but not yet at the local level, which prevented some local leaders who were not members of any party from taking part in the elections. This diminished the quality of the local elections. In spite of the enthusiastic initiatives of 2005, attempts to reform the local governance system did not continue in 2006. Without first eliminating the shortcomings of the existing unbalanced local governance system, the 2006 election campaigns deepened the problem with ambiguities introduced by the new election system. *Ukraine's rating for local democratic governance remains at 5.25.*

Judicial Framework and Independence. The Ukrainian Constitution's new wording did not alter the 1996 Constitution regarding fundamental political, civil, and human rights, including freedom of expression, freedom of conscience and religion, freedom of association, and business and property rights. At the beginning of 2006, the judicial system was represented with 766 general courts and around 8,000 judges. Although large, the Ukrainian judicial system is frequently inefficient; there were also examples of the misuse of judicial power in 2006. These practices are rooted in old problems of the Ukrainian judicial system, such as corruption, lack of respect for court decisions and the judicial system as a whole, lack of finances, and a nontransparent and inefficient process for appointing judges. These long-standing problems have made reforms necessary, and attempts at judicial reform were made in 2006. On March 20, President Yushchenko adopted the Action Plan for 2006 on Improvement and Providing Fair Judicial Framework in Ukraine According to the European Standards. On May 10, the National Commission within the Ministry of Justice on Strengthening Democracy and Providing Rule of Law adopted the Concept of Improvement of Judicial Framework and Providing Fair Court Proceedings in Ukraine. At the same time, these reforms were met with strong resistance by acting judges at all levels, and the proper, timely implementation of the concept is doubtful. The 2006 attempts at judicial reform did not take on a systematic and comprehensive character. Ukraine's past Soviet shortcomings remained almost unchanged, which could hamper any further attempt to reform the judicial system. *Owing to a dysfunctional, bloated, and inefficient system and the slow progress of reforms, Ukraine's rating for judicial framework and independence worsens from 4.25 to 4.50.*

Corruption. The 2006 parliamentary elections and months-long process of creating a coalition government under the new constitutional amendments placed corruption in Ukraine on the back burner, reflecting a backslide into the higher corruption rates prior to 2005. In the Ukrainian business sphere, corruption almost reached the high 2004 level, yet receiving a service in return for corrupt practices became much less certain. There were efforts to initiate anticorruption legislation in 2006, but none was systematic. The president's initiatives against corruption did not gain the necessary support of the government and the Parliament, contribut-

ing little to the fight. Likewise, little has been accomplished in the area of financial disclosure and disallowing conflicts of interest among state officials. The 2005 initiatives to divide state power and business did not gain further traction in 2006. There were attempts to strengthen the state's involvement in Ukraine's economic life aimed at reshaping property rights in favor of the state. *Owing to the backward slide in corruption to higher, pre-2005 levels, which was mitigated only slightly in 2006 by lackluster anticorruption efforts by the president and government, Ukraine's rating for corruption remains at 5.75.*

Outlook for 2007. After the democratic parliamentary elections on March 26, 2006, Ukraine entered a period of uncertainty determined by the country's unprecedented cohabitation of different political forces in power, which will affect political life during 2007. Permanent disputes between the camps of the president and the prime minister, attempts to extend the ruling coalition in the Parliament, and difficult consolidation and restructuring processes within the opposition will hamper further democratic reforms as the major efforts of political players will be concentrated on the fight for power. No regular elections are scheduled for 2007. The overall prognosis for 2007 is uncertain owing to the unpredictable effects of constitutional changes on Ukrainian politics. It is unlikely that there will be any deep and systemic reforms at national and local levels in the areas of rule of law, democratic governance, media, justice, and the like. At the same time, a reverse trend toward authoritarianism is not a realistic scenario.

MAIN REPORT

National Democratic Governance

1999	2001	2002	2003	2004	2005	2006	2007
n/a	n/a	n/a	n/a	n/a	5.00	4.50	4.75

Beginning January 1, 2006, a new constitutionally mandated model of governance was introduced in Ukraine, following earlier constitutional amendments approved by the Parliament on December 8, 2004. Formally, the new model of governance is closer to those in other Central and Eastern European countries, stipulating a substantially stronger role for the Parliament and government and limitations on the president's powers. At the same time, the new model introduces a risky "dual executive" approach that lacks an efficient system of checks and balances. This dual executive also risks creating a divided government preoccupied by the internal fight for real power and incapable of implementing sustainable policies. Therefore, despite the fact that the new wording provides a more pluralistic and democratic model of power than what was previously enshrined in the Constitution from 1996 to 2005, the overall system of national governance may lead Ukraine further away from the principles of good governance and efficient checks and balances.

This ambivalent trend became visible during April–July 2006, when political parties failed to create a democratic and sustainable government based on a majority coalition. The political forces that supported the Orange Revolution in 2004 reconfirmed their credibility during the parliamentary election in March, securing a majority of seats in the new Parliament, but the lack of trust between President Yushchenko (leader of the Our Ukraine bloc) and former prime minister Yulia Tymoshenko (whose Bloc of Yulia Tymoshenko [BYT] took the lead among the "Orange" part of the political spectrum with 22 percent of votes) made it impossible to create a sustainable coalition despite long-term official negotiations and informal consultations.

Ultimately, the three "Orange" forces—Our Ukraine, the BYT, and the Socialist Party—signed a late June coalition agreement and stipulated the appointment of Yulia Tymoshenko as prime minister and the representative of Our Ukraine as Speaker of the Parliament. However, after unofficial talks some days later, the Socialist Party changed its position, and party head Oleksandr Moroz was appointed Speaker of the Parliament on July 6 with support from the largest faction in the Parliament, the Party of Regions. The Socialists withdrew their signatures in the coalition agreement with the BYT and Our Ukraine and created the Anticrisis Coalition together with the Donetsk-based Party of Regions and the leftist Communist Party of Ukraine. The unexpected shift of the Socialist Party toward an alliance with the Party of Regions, led by Viktor Yanukovich, opened a way for the

political group to return to power after it was thrown out of the government in the wake of the dramatic events of late 2004.

On August 4, the Parliament appointed Viktor Yanukovich, leader of the Party of Regions, as prime minister of Ukraine. Yanukovich was a rival of Yushchenko in the 2004 presidential elections, which were followed by the Orange Revolution. At that time, his team was accused of mass election fraud; however, neither Yanukovich nor any of his close allies in the matter was convicted of any charges.

Prior to the formation of the new government, the president, future prime minister, and Speaker of the Parliament signed the so-called Universal of National Unity, an informal consensus-based memorandum with a list of national policy priorities, including fast accession to the World Trade Organization, closer cooperation with NATO, and integration into the European Union. Later, the president, who initiated the document, accused his counterparts of ignoring its provisions.

With the president and prime minister belonging to different political camps, the formation of Yanukovich's government posed the challenge of "cohabitation." This was the first time that Ukraine had experienced this particular political phenomenon in the country's history, and the Constitution and existing laws provided insufficient mechanisms to deal with it. This inconsistency in national governance was clearly indicated in the different positions taken by the president and prime minister on the issue of Ukraine's eventual NATO membership. President Yushchenko urged the government to submit an application to join NATO's Membership Action Plan. However, while in Brussels in mid-September, the prime minister refused to do so, arguing that the Ukraine public was not ready for NATO membership for the time being. Currently, there is no consolidated position in Ukraine on the issue of NATO membership.

Until August 2006, Ukraine was without a functioning Constitutional Court owing to the refusal of the Parliament to swear in the members already appointed by the president and Congress of Judges, effectively preventing the Constitutional Court from forming a quorum as prescribed by law. Later, once a quorum was achieved and despite there being several cases submitted to the Court, the Constitutional Court failed to take any decision by year end.

The dual executive model urges the president to properly use the legitimate instruments of power vested in the position by the constitutional reform. The most important of these powers is the position of the president as head of the National Security and Defense Council (NSDC). The president has control over NSDC staff and a competence to issue decisions on NSDC matters that are then binding to all executive bodies. A new secretary of the NSDC, Vitaly Hayduk, was appointed in October 2006. The president also has the right to veto legislation from the Parliament and suspend acts of the Cabinet of Ministers. This right has been frequently used during conflicts with the ruling coalition. The new regime has proved to be more transparent and democratic than the regime of former president Leonid Kuchma. However, stable and mature institutions ensuring the rule of law and the irreversibility of democratic changes in Ukraine have not yet been built.

The current situation is complicated by the seemingly permanent fight for power between the presidential and governmental branches of the executive.

In 2006 Ukraine still lacked legislation mentioned in the country's Constitution but not yet adopted, such as laws on the president, the Cabinet of Ministers, the Parliament's temporary investigative and special commissions, pretrial inquiry bodies, and the Parliament's rules of procedure. Conflict around the Law on the Cabinet of Ministers (the president and government both presented their own draft versions) became a building block in a growing political crisis. The lack of clear legal provisions resulted in numerous conflicts after the Party of Regions gained control of the Cabinet of Ministers. One conflict centered on the "counterassignment" of presidential decrees: The Constitution says that some decrees should be confirmed by the prime minister's signature, but it is not clear whether the prime minister is obliged to sign decrees in every case or if he has the right to refuse.

During 2006, Ukraine showed no progress in the area of economic freedom. According to the 2006 Cato Institute report on economic freedom, Ukraine ranked 111 out of 130 countries with a score of 5.4, which is a bit worse than its rating in 2005 (5.5). Russia, Armenia, Georgia, and Azerbaijan all scored higher than Ukraine. In order to address a crisis in the grain market after the 2006 harvest, the Yanukovych government imposed severe restrictions on grain exports, which led to an evident conflict with exporters who failed to fulfill their contract obligations. The conflict was solved only after intervention by Western embassies. There is still a need to simplify the taxation system, and the government has expressed an intention to introduce new tax changes in the 2007 budget process.

The Ukrainian Parliament (Supreme Rada) is responsible for the executive (government) formation, and the current parliamentary majority (Anticrisis Coalition) is in fact in opposition to the president. President Yushchenko has lost all means to control the Parliament through administrative pressure, and his party (Our Ukraine) declared itself to be in opposition to the government after non-productive attempts to create a "wide coalition" in August–September 2006.

Parliamentary sessions are broadcast live on the 1st Channel of the National Radio and TV channel Rada. Access to public information is regulated by the Law on Information of 1991, which is considered to be relatively good but lacks proper procedures for granting access to public documents, obtaining information from state officials, and so forth. In reality, however, access to important information is constrained by archaic bureaucratic practices.

The country's military and security services face gradual reforms and transformations. Defense Minister Anatoly Grytsenko, being an active supporter of Ukraine's membership in NATO, continued transparency and accountability reforms in line with aims fixed in the NATO-Ukraine Action Plan. The security service is less subject than other areas to public oversight reforms, and the old Soviet-minded security elite is still in place in Ukraine.

Electoral Process

1999	2001	2002	2003	2004	2005	2006	2007
3.50	4.00	4.50	4.00	4.25	3.50	3.25	3.00

Parliamentary elections took place in Ukraine on March 26, 2006, along with elections for local and regional councils and mayors of cities and villages. According to the reports of major international observation missions, these elections were free and fair. The environment surrounding the 2006 parliamentary elections was generally free of pressure, intimidation, or harassment against any political party or bloc or any specific parts of the electorate. Some Western observers noted that this election was the most open and democratic in Ukraine since independence and the most fair in the whole CIS in recent years.

In particular, the report of the Parliamentary Assembly of the Council of Europe (PACE) stated: "Parliamentary elections in Ukraine on 26 March 2006 were in general in line with OSCE Organization for Security and Cooperation in Europe and Council of Europe commitments as well as other international standards for democratic elections. Overall, fundamental civil and political rights were respected. This enabled voters to make an informed choice between distinct alternatives and to freely express their will on election day."²

The electoral law amendments passed by the Parliament on March 14, 2006, provide extra compensation for election commission members, broaden the categories from which commission members can be recruited, and allow commission members to cast their ballots in the polling station where they work on election day. Ukraine does not have a unified election code or a proper national database of voters.

The parliamentary election campaign was competitive and dynamic and was covered comprehensively by the media. This enabled parties and blocs to communicate their messages to voters. For the first time, national, regional, and local elections were held according to a proportional voting system, which replaced the mixed 50-50 majoritarian-proportional vote (for the Parliament) and majoritarian vote (for local and regional councils) previously used. Elections were administered by a three-tiered election administration consisting of the Central Election Commission, 225 District Election Commissions, and over 34,078 Precinct Election Commissions. Forty-five parties and blocs, with a total of 7,747 candidates, were registered for these elections by the Central Election Commission and reflected the entire political spectrum of Ukraine. Five political forces passed the 3 percent threshold and gained seats in the Parliament (see following table).

	Party/Bloc	% Votes	Number of Votes	Number of Seats*
1	Party of Regions	32.12	8,144,485	186
2	Bloc of Yulia Tymoshenko	22.27	5,648,345	129
3	Our Ukraine	13.94	3,536,459	81
4	Socialist Party of Ukraine	5.67	1,439,624	33
5	Communist Party of Ukraine	3.66	928,501	21
6	Bloc of Natalia Vitrenko: People's Opposition	2.93	743,125	
7	People's Bloc of Lytvyn	2.43	618,060	
8	Ukrainian People's Bloc of Kostenko and Plyushch	1.87	475,636	
9	Viche Party	1.74	443,559	
10	Civil Bloc: Pora-PRP	1.47	372,931	
11	Opposition Bloc: Ne Tak	1.01	256,836	

* Number of seats according to election results. Actual structure of the Parliament (as of November 2006) is as follows: Party of Regions, 186; Bloc of Yulia Tymoshenko, 125; Our Ukraine, 80; Socialist Party of Ukraine, 31; Communist Party of Ukraine, 21; nonfaction parliamentarians, 5. Total: 448. Note: Some MPs were fired from factions for violating regulations, which explains why these numbers differ slightly from the ones in the above table.

The government did not interfere in the election process, nor were there any detected administrative barriers to political activity. The parties enjoyed equal access to the media. At the same time, some irregularities took place—namely, late openings at polling stations, overcrowding in polling stations, and missing names on voters lists. International observers expressed concerns on these matters before the poll,³ but not all problems were solved by election day. Observers indicated more visible irregularities during the local elections, and some of the mayoral election results were later canceled by the courts due to irregularities that took place prior or during election day.

Owing to the simultaneous elections, voters could cast up to five ballots on election day in national (parliamentary), regional (oblast councils), local (councils and mayors), and district (*raion*) elections. The PACE mission noted that holding local and regional elections on the same day as parliamentary elections had regrettably undermined the progress made in improving election efficiency and reiterated the proposal that local and regional elections be organized separately from parliamentary elections.⁴

While isolated, there were some incidents of pressure and intimidation during the campaign period. Cases of campaigning by government officials (not permitted by law) were reported, as were a small number of cases of administrative pressure. For example, employees of the Poltavagaz factory were bussed to a rally and threatened with job loss if they refused to participate. Also reported in Poltava, the director of School 29 forced teachers to campaign for the Party of Regions.⁵

The key concerns in the organization of election day were disorder at the precincts, including lines inside and in front of polling stations, especially during the first half of the day. These disruptions were caused largely by the time needed to issue ballots; with more than 40 candidates, most were extremely long (up to 80 centimeters—31.5 inches).

Regional and local elections used a proportional voting system from “closed lists,” which proved to be an inefficient instrument to represent local community interests. Unreasonable politicization of local councils was evident in the first months after the elections. Owing to the lack of transparency of the party lists, a number of candidates with suspicious and even criminal pasts won seats on regional and local councils.

The parliamentary and local elections confirmed regional divisions in the political preferences of voters. For example, the Party of Regions won about 74 percent in Donetsk and the Lugansk oblasts in the east of Ukraine and only 2 percent in Ternopil and the Ivano-Frankivsk oblasts in the west. The BYT received about 44 percent in the Kyiv region (center of Ukraine) and Volyn oblast (west), but only 2.47 percent in Donetsk.

The mayoral reelections in Cherkasy, Kirovograd, and Chernihiv in November 2006 demonstrated a traditional set of irregularities and attempts to use the judiciary system for political infighting. The Kirovograd election was not completed until the end of 2006, as the city’s electoral commission invalidated the earlier outcomes.

Civil Society

1999	2001	2002	2003	2004	2005	2006	2007
4.00	3.75	3.75	3.50	3.75	3.00	2.75	2.75

Ukraine’s civil society is an important factor in domestic politics; however, the sector continues to be dependent on imperfect legislation and foreign funds. NGOs are still not authorized to sell services in order to support their activities, and grants and membership fees are their only legitimate sources of income. The current authorities have not created barriers to NGO activity, nor have they interfered in the third sector by levying permanent taxes or accusing NGOs of serving foreign powers. Ukrainian NGOs lack sustainable funding, which makes them dependent on grants from foreign foundations.

At the same time, the public environment surrounding NGOs is worsening, as the ruling Party of Regions has expressed no positive sentiments toward civil society groups, considering them representatives of the other side of the political spectrum. As most Ukrainian NGOs supported the Orange Revolution in 2004, the ruling party demonstrates a rather cool attitude toward the third sector. Furthermore, the government no longer makes promises to support NGOs or to improve legislation

and allocate budget funds for NGO activities. Leadership of the Cabinet of Ministers suspended the practice of inviting nongovernmental experts to attend sittings of governmental committees. Only a few civic councils at the executive bodies provide regular and vocal input.

Public participation is stagnating compared with the situation in the first months after the Orange Revolution, and central and local authorities demonstrate less interest now in cooperating with NGOs than they did in 2005. Many NGOs have campaigned actively to reveal any backsliding toward the old regime after the return of the Party of Regions to the government. Their Web sites report on the corrupt activities of officials. Groups have held public hearings on issues of social transformation, and they study the transparency and effectiveness of current policy.

In November 2006, the new minister of justice, Oleksandr Lavrynovych, announced that according to ministry inquiries, at least 10 percent of registered Ukrainian NGOs do not actually exist and that inquiries will continue. Some experts consider this information as a signal of forthcoming administrative pressure and unreasonable inquiries. The Parliament failed again in 2006 to provide essential improvements to outdated NGO legislation, and the new Parliament has yet to express interest in NGO legislation.

Some parties, political organizations, and business groups have established their own NGOs with goals that are different from those of “typical” NGOs in other countries. Over the last few years, branches of radical NGOs have been established in Ukraine that use aggressive campaign rhetoric, such as “Slavic union,” “canonic orthodoxy,” and so on. Some of these groups call for the territorial decomposition of Ukraine and reunification of the east and south with Russia.

The Ukraine media are receptive to civil society groups as independent and reliable sources of information. NGO experts are interviewed on a regular basis by media on different policy and public issues and are invited to participate on television and radio programs. Experts detect a negative correlation between the current state of civil society and major social and political practices in Ukraine: “The general political and sociocultural context strongly shapes societal practices, as they needed to survive in a society with a high level of corruption, disrespect for the rule of law, clientelism, an indifferent attitude of government, distrust, and intolerance. This eventually determines NGOs’ advocacy practices, since organizations cannot use the legal mechanisms for protecting the interests of their stakeholders, and leads to government ignoring any propositions submitted by civil society.”⁶

Ukraine’s civil society remains comparatively stronger than those in other CIS states, but a current stagnation trend is evident. The positive explosive impact of the Orange Revolution is now in the past; thus the civil sector needs to find a solid ground for continuing growth in the current, relatively “peaceful” era.

Independent Media

1999	2001	2002	2003	2004	2005	2006	2007
5.00	5.25	5.50	5.50	5.50	4.75	3.75	3.75

Media freedom in Ukraine appears to be sufficient at the national level, but the local and regional media sectors still lack restructuring and real independence. Citizens currently enjoy wide-ranging pluralism in both electronic and print media. Governmental censorship was not detected in 2006; however, there were some reports of local authorities attempting to censor media reports (for instance, in Kyiv and Lugansk oblast). In particular, in November a small-circulation local newspaper, *Vechirniy Kyiv*, produced by the Kyiv city administration, accused local authorities of censorship “by telephone.”⁷ A similar case was detected in August in the Lugansk Oblast State TV and Broadcasting Company when director Vitaly Garkusha issued an order to delete a sensitive political subject from the news.⁸ Cases of this kind prove that state-owned media in Ukraine remain the most vulnerable to violations of basic journalistic rights.

Nationwide television channels in most cases provide more or less balanced news coverage, but some biases are present in almost all of them. This is no surprise, since representatives of ruling parties as well as the opposition have equal access to the media. According to available monitoring data, opposition leaders are frequent guests on TV.

Most nationwide media in Ukraine are privately owned by leading financial and industrial groups, which creates a basis for misuse of the media, especially during election campaigns, and conflicts around large business properties. Many regional and local TV channels, radio stations, and newspapers remain in the hands of state bodies and administrations. The process of public TV formation has all but stagnated. After the recent change of government, the Parliament appointed Eduard Prutnik as the new chief of the State Committee on TV and Radio Broadcasting. Prutnik is strongly associated with the Party of Regions, which is unlikely to conduct unbiased, democratic, and independent media policy.

Ukrainian journalists are for the most part free from pure political pressure, but sometimes they are targeted by corrupt officials and local criminals. For example, in 2006 Reporters Without Borders condemned the violent beating of Ihor Mosiyshuck, editor of the privately owned local daily *Vechirniy Vasylkiv*, by unidentified youths on a street in his hometown of Vasylkiv in August. Mosiyshuck published a series of articles claiming that members of the town council profited greatly from the privatization of municipal land. He also ran an investigative report on the desire of certain officials to reopen a controversial fuel storage depot that was closed a year ago because it emitted toxic gases.⁹ Another case involved Margarita Zakora, editor of the newspaper *Dzerzhynets* published in Dniprodzerzhynsk, who has been targeted since the paper first appeared in January 2006 and gained popularity for denouncing corrupt judges, police, and local members of Parliament. Nineteen

legal complaints have been lodged against her by local figures.¹⁰ There were no known cases of punishment of journalists as a result of their investigative activities.

The advertising market in Ukraine is growing slowly, which restricts the development of the independent media sector. Some new independent media projects emerged as a result of growing Western investment in Ukrainian outlets. Russian publications continue to have an essential stake in the Ukrainian print media market.

The Ukrainian Internet audience continued to grow in 2006, reaching eight million users (both regular and infrequent), or about 18 percent of the population. Internet media proved to be efficient mediators between politics and society. For example, the Web site *Ukrainska Pravda* (Ukrainian Truth), founded by Georgy Gongadze in 1999, became a self-sustaining media project with a substantial impact comparable to that of leading TV channels and newspapers. The full spectrum of political views is presented in Internet media in Ukraine.

Local Democratic Governance

1999	2001	2002	2003	2004	2005	2006	2007
n/a	n/a	n/a	n/a	n/a	5.25	5.25	5.25

Administrative and territorial reforms were initiated in Ukraine in 2005, but their enactment and implementation were postponed until after the 2006 parliamentary and local elections. Still, 2006 did not see these initiatives put into practice. For the second time, a draft Law on Introduction of Changes to the Constitution of Ukraine on Improvement of the System of Local Government (#3207-1) was submitted to the Constitutional Court. This envisages the creation of *bromadas*, or administrative and territorial entities, which are created voluntarily by already existing self-governance entities. The efficiency of this draft law is questionable, as it could minimize the rights of inhabitants of small localities. That question may be compounded by the fact that the initiatives were not supplemented with corresponding budgetary and administration reforms.

Although the new government, created on the basis of the Anticrisis Coalition, claimed the need to strengthen the role of local self-government,¹¹ it did not propose any alternative reform strategies in this sphere. Despite declarations of the new government to quickly enhance regional self-governance by giving more authority to regional and local councils, the government did not present a clear strategy to implement this vision. The 2007 state budget also does not foresee any decentralization of budget relations between central and regional authorities.

Parliamentary and local elections were held simultaneously on March 26, 2006, according to a new proportional election system. The new order consolidated political players on the upper parliamentary level, but not yet at the local level. This situation prevented some local leaders who were not members of any party

from taking part in the elections and, therefore, hampered the quality of local elections overall. Additional problems related to deputies of opposition parties (BYT, Our Ukraine) who left their factions in local councils to join the leading Party of Regions. Consequently, it was proposed to implement imperative mandates for deputies of local councils.

Ukrainian local governance has a four-level administrative territorial hierarchy: the Autonomous Republic of Crimea, oblasts (24), and cities with oblast status (Kyiv and Sevastopol); raions (oblast districts) and cities with raion status; cities; and villages and townships. Each raion is divided into a number of local councils (village or small-town councils).

Local governance is represented by a dual system of authorities: state administration and a self-governance council. Heads of the executive in the oblasts and raions are appointed by the president. Top executives of cities and the heads of local councils are elected by citizens. The divisions among bodies at different levels are not precise, and some administrative bodies—such as urban communities, village councils, and township councils—are not prescribed in the Constitution. Citizens are not ensured meaningful participation in local government decision making, and regional and local authorities remain less transparent in comparison with the central government. Public participation is sometimes formal and sometimes non-existent.

After the constitutional reform, the duality of Ukraine's regional self-governance became more evident: On the one hand, regional and local councils, elected by proportional vote, tried to push through politicized decisions (for example, the issue of NATO or use of the Russian language) that went beyond their competences; on the other hand, the strengthened Cabinet of Ministers launched attempts to gain a key role in appointing oblast and raion heads of administration, invoking a constitutional provision that states the president may appoint and dismiss those officials only by approval from the cabinet. This situation reflected the potential confrontations that can occur between the president and the Cabinet of Ministers at the local level.

Some eastern and southern regional councils with Party of Regions majorities gave a no-confidence vote to administration heads previously appointed by the president. The most vocal conflict among these happened in Kharkiv between oblast administration head Arsen Avakov (Our Ukraine) and the head of the oblast council, Vassyl Salygin (Party of Regions). The oblast council voted "no confidence" in Avakov with a two-thirds majority. This obliges the president to dismiss the governor, but that has not yet occurred. Irregularities detected during the mayoral elections and refusals by some elected mayors to start their work left a long period during which there were no newly elected mayors presiding in the oblast centers of Cherkasy, Kirovograd, and Chernihiv.

Judicial Framework and Independence

1999	2001	2002	2003	2004	2005	2006	2007
4.50	4.50	4.75	4.50	4.75	4.25	4.25	4.50

The new Ukrainian Constitution did not change the provisions of the 1996 version concerning fundamental political, civil, and human rights, including freedom of expression, freedom of conscience and religion, freedom of association, and business and property rights. Ukraine has also ratified major international instruments protecting human rights at the global (UN) and regional European levels.

Following the appointment of the parliamentary quota of judges for the Constitutional Court in August 2006, the Constitutional Court obtained a quorum, which it had been lacking during 2005. This was the result of a compromise reached by the president and the Anticrisis Coalition of the Parliament after signing the Universal of Political Unity in August 2006. However, the amended Constitution also introduced instability and difficulties in the state's implementation of internal and foreign policy measures, which has raised cries to abolish the December 2004 constitutional changes. But by the end of the year, no political party had taken action to do so.

In Ukraine, judges of different jurisdictions in the same courts can read and apply Ukrainian law differently according to each case. Though the principle of equality before the law is one of the basics of the rule of law, so far, none of the high officials from the Kuchma years accused of corruption and misuse of office has been prosecuted.

At the beginning of 2006, there were 766 general courts and around 8,000 judges in Ukraine's judicial system. Although large, the court system is frequently inefficient. This dysfunction is rooted in old problems plaguing the judicial system, such as a lack of public respect for court decisions and the judicial system as a whole, insufficient financing of the court system, and the inefficient and nontransparent process for appointing judges.

The current system for appointing Ukrainian judges does not fully guarantee their independence. According to the Constitution, the president may appoint new judges for an initial five-year term following the recommendations of a qualification committee. All other judges, except for those on the Constitutional Court, are elected without term limits by the Parliament. Currently, this election process lacks objectivity, transparency, or qualification standards for candidates. There is also no procedure for monitoring the work of the qualification committee or any strict links between the recommendations of the committee, the decisions of the president, and parliamentary voting. Neither the president nor the Parliament is obliged to explain a particular decision in the appointment of judges.

These long-standing problems in the judicial system have necessitated reforms, and some steps were taken during 2006. On June 1, the Law on Access to Court Decisions came into force,¹² and on February 23, the Law on Implementation of the Practice of the European Court of Human Rights was adopted. On March

20, the president adopted the Action Plan for 2006 on Improvement and Providing Fair Judicial Framework in Ukraine According to European Standards. The Concept of Improvement of Judicial Framework and Providing Fair Court Proceedings in Ukraine was adopted on May 10, 2006, for a 10-year period by the National Commission within the Ministry of Justice on Strengthening Democracy and Providing Rule of Law. The concept was expected to bring the Ukrainian judicial system in line with European norms. The concept was criticized by judges, who argued that the proposed reforms were not systematic and did not eliminate all shortcomings of the existing judiciary. Additionally, the concept does not stipulate necessary constitutional amendments; therefore, proper implementation of the concept is doubtful.

In order to implement the concept, the Law on Amending the Law of Ukraine on Judicial Framework and the Law on the Status of Judges were developed. By the end of 2006, these draft laws had not been submitted to the Parliament by the president. Although judicial reform is stipulated in the agreement of the Anticrisis Coalition, the government has not played an active role in initiating it, and no comprehensive reform program has been proposed.

Corruption

1999	2001	2002	2003	2004	2005	2006	2007
6.00	6.00	6.00	5.75	5.75	5.75	5.75	5.75

Unlike the previous year, 2006 did not feature a significant campaign to fight corruption in Ukraine. The parliamentary elections and the months-long process of creating a coalition under the new constitutional amendments put anticorruption measures on the back burner; consequently, the country witnessed a backward slide into the higher corruption rates of previous years.

The Ukrainian business environment is a good illustration. After a decrease in corruption in 2005, the problem almost returned to earlier levels.¹³ The average level for bribery increased significantly in 2006 to 3.4 percent of annual sales. The same indicator in 2005 reported the level at 1.4 percent and in 2004 at 6.5 percent.¹⁴ At the same time, 63.5 percent of business representatives were not sure whether they would receive a service as a result of bribes.¹⁵ This differs greatly from the situation in 2004, when the figure was estimated at 29.6 percent. In the 2006 Ukrainian business environment, corruption almost reached the levels of 2004, but receiving a service in return became much less certain. This phenomenon can be considered a reflection of the general instability of Ukraine's political and social life, rooted in the long pre- and post-parliamentary election periods.

Yet there were some legislative initiatives in the fight against corruption in 2006. On September 11, President Yushchenko adopted the Concept on a Way to Honesty, which envisaged a set of measures intended to reduce corruption in executive, judicial, and local self-government bodies. Simultaneously, the president

submitted to the Parliament the draft Law on Ratification of the UN Convention Against Corruption, Law on Ratification of the Council of Europe Criminal Law Convention on Corruption, and Law on Ratification of Additional Protocol to the Council of Europe Criminal Law Convention on Corruption.

In order to implement these documents, the president also submitted corresponding draft laws aiming to clarify the notion of corruption, legislative provisions, and civil society participation in fighting corruption. For example, the draft Law on Responsibility of Legal Entities for Corrupt Offenses envisages assigning responsibility for prosecuting cases of bribery to both central and local authorities. Other bills included the Law on Principles of Prevention and Countering Corruption and the Law on Amendment of Some Legislative Acts of Ukraine Concerning Responsibility for Corrupt Offenses. The Parliament endorsed the laws on accession to international treaties but returned supplementary draft laws for finalization.

Corruption remains an intractable feature of Ukrainian society. With 2006 levels rising to previous highs after some improvements in 2005, it was worrisome to see the presidential initiatives in the fight against corruption fail to gain the necessary support of the government and the Parliament. Consequently, there was little practical or real improvement in this sphere.

The president issued a decree on October 2, 2006, that brought amendments to his November 19, 2001, decree (No. 1098) concerning the rules of recruitment for governmental posts. According to the new decree, the president's secretariat, acting on the request of the president, will have the right to vet individuals applying for official positions. But little was accomplished in the area of financial disclosure and disallowing conflicts of interest among state officials. The 2005 initiatives concerning the division of state power and business were not followed up with action in 2006, and job placement procedures at central- and local-level governmental bodies still lack transparency and public accountability. In the matter of obtaining a position, professional qualifications still were not prioritized over personal or party loyalty.

Although there were no examples of authorities limiting media investigations into corruption and bribery, a tendency toward nontransparency made these types of investigations more difficult in 2006 compared with 2005. Many civil councils initiated under state bodies in 2005 have either not been formed or stopped their activity after only a few sittings. This demonstrated the low effectiveness of civil advisory councils and their generally limited impact on official decision-making and implementation processes.

In 2006, there were attempts to strengthen the state's involvement in Ukraine's economic life, aimed in particular at reshaping property rights in favor of the state. The most illustrative example here is draft Law No. 1129, amending the Law on Business Societies, which was submitted by the representative of the parliamentary majority. The bill proposed reducing the quorum for taking lawful decisions at shareholder meetings from 60 to 50 percent of votes of all eligible voters (amendments to Articles 41 and 60) for commercial enterprises where the state holds more than 50 percent of the shares. For some businesses, this legislation might come into force on the day of its publication; for others, enforcement will begin July 1,

2007. These provisions could discriminate against minor stakeholders in favor of the state, which gains almost total control over such enterprises. Once in force, this law allows for an increase in hostile takeovers and opens the way for initiating the nationalization of private enterprises.¹⁶ Despite these arguments, the Parliament adopted the bill, but the president vetoed it.

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