

Ukraine Loses Its Way

Shared Concern Initiative's Report on the Current Situation in Ukraine | August 2011

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Executive Summary

Since the presidential elections of 2010 (first round in January; second round run-off in February), Ukraine has experienced some significant reversals in democratic progress. Fundamental democratic freedoms such as freedom of assembly, freedom of expression and freedom of the media are coming under increasing pressure and there are examples of abuse of power. In November 2010, the European Parliament issued a resolution on Ukraine highlighting its concerns regarding deficiencies in the electoral process, recent pressures on democratic freedoms and an “overall lessening of respect for democracy and pluralism”.

Concerned with democratic developments, respect for human rights and mindful of Ukraine’s strategic importance, particularly with regard to European energy security, the Shared Concern Initiative has conducted extensive research on the current situation in Ukraine, particularly with regard to the state of internal politics, international relations, corruption, civil society and NGOs and the media.

Key concerns are a failure to tackle corruption, abuse of power for political purposes, harassment of the media and opposition leaders, undue influence of the oligarchy and an ineffective operating environment for civil society and NGOs. It is also clear that Ukraine’s relations with the EU need to be clarified and that the prospect of EU membership is essential for the country’s continued development.

The aim of this report is to strengthen discussions about the current situation in Ukraine, and to draw conclusions and recommendations to support the continuous development of the democratic process. We propose a follow-up meeting, organized within the framework of the Forum 2000 conference in Prague in October 2011, to offer a neutral platform for dialogue between experts and political leaders to identify potential routes to improving the current situation.

Introduction

Ukraine (2010/2011)

In the winter of 2010, the Shared Concern Initiative conducted extensive research on the current situation in Ukraine. Our research activities focused in particular on the situation regarding civil society, freedom of speech and the country's international position (and in particular, on Ukraine – Russia and Ukraine – EU relations). Our sources included consultations with experts and diplomats, as well as numerous reports, analyses, and articles from reputable media organizations. The Forum 2000 Foundation has been in touch with its partner NGO organizations, reliable contacts and other professionals working in Ukraine. Subsequently, a Shared Concern Initiative Fact Finding mission took place in November/December 2010. During the visit, SCI representatives met over 20 respected leading analysts, journalists, NGO representatives, scholars, politicians, government officials, representatives of EU organizations, and diplomats and conducted in-depth interviews with them about recent and current events taking place in the country. Information collection focused mostly on the following questions:

- What is the current situation of democracy in Ukraine, particularly with regard to freedom of expression and respect for basic civil rights?
- What is the current role and position of Ukrainian civil society, the independent media, and the younger generation in the political life of the country?
- What are the political prospects for the near future?

In most interviews, discussions focused on the media, civil society and NGOs, the EU, Russia, politics, economics, and corruption.

All the information gathered was analyzed, compared with other reputable information sources (studies, media articles, European Parliament resolution of 25 November 2010 on Ukraine, analyses etc.) and processed into this report.

The aim of the report is to strengthen discussions about the current situation in Ukraine, and to draw conclusions and recommendations to support the continuous development of the democratic process in Ukraine.

With regard to the delicate character of some information, the list of interviewees is not included in this report, but it is available at the Forum 2000 secretariat upon request. SCI Representatives thank all interviewees for their cooperation.

General information about Ukraine, background, and important events can be found at the end of this report.

Fact Finding Mission

Note on Methodology

This report from the SCI Fact Finding Mission presents information gathered from interviews with over 20 prominent stakeholders in various fields as well as information from open sources, such as media reports and reports and analyses by respected NGOs and international organizations.

The structure of every interview varied and all interviews were wide-ranging. The names of interviewees have been treated as confidential, unless agreed otherwise, or where the person interviewed is a public official. Where the interviews are quoted from directly, text is written in italics and indicated by quotation marks. (Where necessary, the English has been modified for the purpose of clarity.)

The information gathered was divided into the following categories: Internal Politics, International Relations, Corruption, Civil Society and NGOs; and the Media. In most interviews, these were the topics most discussed.

This report does not claim to be a full report on all details and aspects of life in contemporary Ukraine. Some of the themes partially overlap but they offer a valuable overview and give a general idea of how recent developments in important areas of public life in Ukraine are perceived by stakeholders.

Findings

Internal Politics

Constitutional changes in 2004 led to a reduction in the powers of the President and created a more parliamentary system. After the presidential elections in early 2010 and the appeal of the new President, Viktor Yanukovich, the Constitutional Court rescinded these reforms in the fall of 2010. The President now has control over Prime Ministerial nominations and the appointment and dismissal of members of the Cabinet. Since President Yanukovich assumed office, significant consolidation of power has been under way focused on creating a hierarchical power structure within the Presidential administration. Observers consider President Yanukovich to be an authoritarian politician who is seeking to concentrate power and to control all branches: the executive, the legislature and the judiciary. *“Surprisingly, oligarchs seem not to be reacting yet to this concentration of power”*, has been noted by one analyst.

In comparison with the previous Orange government, the efficiency of state bureaucracy seems to be increasing. As observed by an NGO consultant, *“the new administration act like social engineers, they are ‘reform communists’ and consider themselves crisis managers running the country like a ‘state enterprise’”*. According to foreign observers of Ukrainian politics, the current government, unlike its predecessors, speaks openly about the problems of the country. It is also considerably more active in comparison with the previous one. The increased efficiency of the Yanukovich administration, in comparison with the Yuschenko – Tymoshenko era, is acknowledged even by his opponents who see its goal as securing Yanukovich a second term.

Information from the stakeholders who were interviewed as well as the EP point to *“increased and politically motivated activity by the Ukrainian Security Service (SBU) and the misuse of administrative and*

judicial resources for political purposes”¹. There is evidence of individuals, NGOs and journalists being threatened or subject to surveillance.

The East-West split of the country remains but is less visible now as general discontent serves as a unifying force. People are disappointed. Disturbingly, some extremist parties are emerging e.g. the far right organization, Svoboda, which is believed to be partially used by the government to put pressure on the more moderate opposition in the Western parts of the country. The political opposition is fragmented and there are criminal proceedings against its leading members (this is positioned as “fighting corruption”) – for example, former Minister of Economy Bohdan Danylyshyn was charged both with causing damage to the state and with alleged fraud, and was later granted political asylum by the Czech Republic. Former Interior Minister Yuri Lutsenko was arrested as he was alleged to have conspired with his driver to misuse state funds; Mr. Yevhen Korniychuk, former Deputy Justice Minister, was arrested and jailed for two months in December 2010, and former Ukrainian Prime Minister Yulia Tymoshenko was accused of misusing public funds whilst in office, and arrested in August 2011.

According to various sources, e.g. observations and reports from the civil network Opora and from Konrad Adenauer Stiftung², the local elections which were held in October 2010 were manipulated and did not meet European standards. Changes in electoral law came into effect shortly before the elections, there was a short campaigning period, electoral commissions were “unbalanced”, and the registration process was manipulated. Ukrainian authorities were informed but “nothing happened”.

The European Parliament resolution³ also pointed to some deficiencies: “...Ukraine changed its electoral law a few months before holding local and regional elections, leaving too little time to improve the law and prepare to conduct elections in a sound, democratic manner...” The European Parliament also regretted “the fact that because registration requests from the opposition parties were not accepted by electoral commissions before the submission of the Party of Regions’ list, the ruling party in effect gained first place on the lists in approximately 85% of the constituencies”. The EP resolution noted that “owing to the anomalies in the electoral law, which failed to provide sufficient safeguards to protect the established political parties’ right to compete, some parties, such as *Batkivshchyna*, were unable to register their candidates in several districts and participate in the elections”.⁴

The Presidential administration creates working groups for various purposes, and claims to include Western experts and NGOs as well as ensuring wide public consultation. Some interviewees disputed this, saying that legislation is generally adopted very quickly, laws can contradict each other, and there is seldom any discussion or criticism. There is (and should be) pressure to clarify electoral legislation, and a need for essential reforms – “in particular the consolidation of the rule of law” – as expressed in the EP resolution on Ukraine.

According to one political analyst who met SCI representatives, several groups influence current political life in Ukraine:

1. Donetsk Group, which controls a significant part of Ukrainian exports;
2. “Energy oligarchs” e.g. billionaire Dmitry Firtash;
3. The bureaucracy, public officials e.g. Prime Minister Mykola Azarov;
4. “Special friends” of the President, often people with criminal backgrounds.

¹ European Parliament resolution of 25 November 2010 on Ukraine can be found online, see:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0444+0+DOC+XML+V0//EN>

² Konrad Adenauer Stiftung Country report from November 5, 2010, see: http://www.kas.de/wf/doc/kas_21063-1522-2-30.pdf?101109145329

³ EP resolution on Ukraine

⁴ EP resolution on Ukraine

Foreign direct investment was falling which may be related to the current reversals of democratic progress. Little economic reform has been introduced although the current system is widely considered unsustainable. Certain IMF requirements and recommendations from the Council of Europe need to be met. Despite this, oligarchs still exert enormous influence and want to maintain the status quo.

Corruption, particularly in government procurement, is a major issue. The need “*to strengthen the credibility, stability, independence and effectiveness of institutions*” and the need to “*support and promote a system of effective checks and balances in connection with the legitimate working of government*” were mentioned repeatedly in the European Parliament resolution of 25 November 2010 on Ukraine.⁵

International Relations

Given its geographic, economic, and political situation, there are two key partners in Ukraine’s foreign policy: Russia and the European Union. President Yanukovich is sometimes perceived to be pro-Russian, but according to analysts and observers interviewed by SCI representatives, he is managing a skillful balancing act between Moscow and Brussels, while seeking to remain as independent as possible.

60% of the population still favors entry into the EU. However, there is a widespread belief that the EU lacks a coherent policy towards Ukraine and even though it is expected to speak with one voice, it on occasions fails to do so and indeed may convey “contradictory” messages. The restrictive visa regime has a negative impact on public perceptions of the EU and contributes to euro-skeptical attitudes within the Ukrainian political élite and society in general.

There is little evidence of European values at any level of society although Ukraine’s oligarchs often prefer to do business with western partners rather than with their Russian counterparts. As one of the interviewees put it, “*the Soviet thinking prevails*”. There is nevertheless a strong desire for a better, European standard of living, albeit a lack of understanding and willingness to accept the necessary entry procedures, new legislation, etc. Even though Ukraine receives billions of euro from the EU intended to support the modernization of its administration, there has been little visible improvement.

Ukraine’s leadership proclaims its willingness to join the EU but there is little evidence of progress in that direction. “*Ukraine and its leaders declare their intention of joining the EU but this is on the declaratory level only*”. Populist declarations are meant for domestic public consumption. Some government practices lay these declarations open to question. “*For the government, the EU is a business case. They do not understand that they are asking for membership in a club with certain rules. They believe both parties are trying to cheat each other and the smarter one can get the greatest benefits.*”

Relations with Ukraine’s other key partner, Russia, have strengthened since President Yanukovich came to power. “*People in Ukraine want to live like EU citizens, but the ‘Soviet’ mentality is still strong here*”. In 2010, there were 12 senior level meetings between Russia and Ukraine. Patriarch Kirill, Head of the Russian Orthodox Church, also visits Ukraine more than his predecessor.

Economic ties between the two countries are very strong. Russia is an important market for Ukrainian industry and Ukraine remains dependent on Russia for most of its energy imports. However, Ukraine has been relatively successful in diversifying into other markets and its exports to the EU now exceed those to Russia. In the opinion of some of those interviewed, if trade with Russia proves more profitable than with the EU, Ukraine will turn to Moscow instead of Brussels - and vice versa. Generally speaking, “*the honeymoon with Russia is over*”, and President Yanukovich aims to remain independent.

⁵ See: <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=P7-RC-2010-0650&language=EN>, quoted January 2011

Corruption

Corruption is consistently mentioned as the most important problem in Ukraine today. No effective measures have been taken in the past 20 years. Fighting corruption will be a major challenge for Ukrainian society in the coming years. Corruption is believed to be endemic throughout the system: police, secret service, administration, government, NGOs, prosecutor's office, courts, etc. Despite this, the most important "issue" for the average Ukrainian is obtaining a better standard of living.

The gravity of the situation is illustrated by the disappearance of the journalist Vasyl Klymentyev (who was the editor-in-chief of a newspaper *Novyi Styl*, which focuses on corruption in the Kharkiv region), which was never fully investigated. The case is due to be "closed" even though President Yanukovich had promised to take personal control of the investigation.

Combating corruption is a long-term struggle, but it must start. Ukrainian authorities must *"step up efforts to fight corruption; expects, in this regard, that positive political statements will be matched by decisive action in combating corruption at all levels, on the basis of political impartiality; calls for the establishment of a level playing field for business and for application of the same rules to domestic and foreign investors; in that connection, deplors the over-involvement of big business in political life"*.⁶

Economic wellbeing is the most important issue in Ukraine; "democracy" itself is secondary. The majority of the stakeholders interviewed consider corruption to be the biggest problem for the economy, as well as for other areas of public life.

Civil Society and NGOs

NGOs are considered to be weaker than before. There are cases of administrative harassment of NGOs, which is recognized by the administration but it is attributed to local officials. *"The situation is even more problematic on the local level, caused probably by 'overzealousness of local officials', bureaucracy"*.

Cases of harassment of NGOs were documented by various organizations and are publicly available. Human Rights House Network (which unites 70 NGOs in 15 countries) wrote an open letter to Ukrainian officials, EU and UN representatives, which pointed to several specific cases. Two examples are:

"On 14 October 2010, Oleksiy Verentsov, Ukrainian lawyer and human rights defender – leader of local human rights NGO "Vartovi zakonu" (Guards of the Law) and his colleague Ihor Tanyachkevych, were arrested after organising a peaceful demonstration in front of the Regional Prosecutor's Office in Lviv, calling for proper investigation of criminal cases. He was charged with violations of the rules of organising demonstrations (Article 185 and 185-1 of the Code of Ukraine on Administrative Offences), namely disregard of lawful instructions of a police officer to cease the demonstration in absence of a permit whereas under Article 39 of the Ukrainian Constitution a permit is not required for peaceful demonstrations. During the court hearing of his case in Halytsky District Court in Lviv, Oleksiy Verentsov's and Ihor Tanyachkevych's lawyer was not granted access to the courtroom and the witnesses were not interrogated.

At 11pm on 15 October 2010, the police raided the office of Vinnitsa Human Rights Group without a court order, which is required under Article 8 of the European Convention. Financial reports, confidential information about the clients and refugee cases and written confidential communication between the Vinnitsa Human Rights Group and the European Court of Human Rights regarding the cases Kulik v. Ukraine, Zabolotni v. Ukraine, and Aleksei Makarov v. Ukraine were among the documents and materials that were confiscated during the raid".⁷

⁶ European Parliament Resolution on Ukraine, November 2010

⁷ Human Rights House Foundation Open Letter to officials, see: <http://humanrightshouse.org/Articles/15321.html>

During the interviews, some representatives of NGOs expressed a belief that the “first generation” of NGOs had become too comfortable during Yuschenko’s presidency. Some of their leading representatives had become involved in politics and public service, been “absorbed” by it, and so had been ineffective in introducing positive change. No specific examples were cited

The majority of those interviewed agreed that the general conditions for the functioning of civil society had not deteriorated dramatically. One of the reasons given was that the government is wary about possible international reaction, in particular from the EU, in the event of any major restrictions on NGOs. Others felt that the government simply does not consider them to be important enough.

The principal problem is that there is no functioning legislative framework for NGOs, and authorities are doing little to change the situation. *“It is more difficult to establish an NGO than to establish a business.”* However, even representatives of civil society and NGOs often lack a clear concept of what legislation is required.

In general, as mentioned above, NGOs are mostly ignored by the government, probably because it considers them of little importance. On the other hand, when there were large protests of people representing small and medium-sized entrepreneurs against tax reform in Kiev and other Ukrainian cities in November 2010, the President reacted and a dialogue ensued which resulted in his vetoing the legislation. The protests were the largest in several years and the protesters did not belong to any specific party but were *“a grassroots movement led by labor unions and advocacy groups”*⁸.

Civil society itself is in crisis and there is a certain amount of corruption within NGOs. *“NGOs became a business here”*, there is a need for greater education of NGOs. *“The level of professionalism in most of NGOs is very low.”* Nevertheless, there are also many strong and professional NGOs.

Some of the interviewed NGO representatives described NGOs to a certain extent as *“a kind of ghetto”* (although some objected strongly to this). There is no comprehensive legal framework for civil society organizations. Various influences are present; there are still some strong interest groups within NGOs as well. According to the Civil Society Development Programme of UNDP, civil society in Ukraine faces three main problems: 1. Confusing legal framework and regulations; 2. sector rather than institutional or organizational focus of donor support; 3. insufficient networking and collaboration, sometimes leading to competitive practices.⁹ Nevertheless, NGOs are slowly growing more professional.

According to our interviewees, *“there is no real dialogue with the government, just imitation of a dialogue, consultations with civil society are just formal, and therefore civil society builds its parallel activities”*. NGOs still have very limited access to the media who have little interest in their work. *“Little more than 20% of citizens in Ukraine trust non-governmental organizations, a situation that has not changed since the early 1990s”*.¹⁰ Some local rich entrepreneurs, generally opposition supporters, also tend to support NGOs. Some oligarchs even have their own foundations to support specific sectors or issues.

To support and develop civil society, government needs to ensure a better operating environment and transparent financing. Genuine inclusion of NGOs in policymaking is essential. Corruption needs to be eliminated. NGOs also require external support, greater education and professionalization.

⁸ Financial Times, see: <http://www.ft.com/cms/s/0/7c074988-f1a5-11df-bb5a-00144feab49a.html#ixzz1LNTquCUC>

⁹ See: <http://www.undp.org.ua/en/projects-list-all/34-democratic-governance-/880-civil-society-development-programme>

¹⁰ Interviewees and Razumkov Centre public opinion poll, see: http://www.razumkov.org.ua/ukr/poll.php?poll_id=81

Media

The situation of the media in Ukraine is complicated. The majority of the “television sector” is controlled by a narrow group of oligarchs:

- billionaire Igor Kolomoisky controls 1+1;
- billionaire gas trader Dmytro Firtash, and Valery Khoroshkovsky (Head of Security Service of Ukraine), control the U.A. Inter Media Group of television channels (Inter, NTN, K2, K2, Megasport);
- Rinat Akhmetov, the wealthiest man in Ukraine, controls TRK Ukraina;
- billionaire Victor Pinchuk, son-in-law of the former president Leonid Kuchma controls STB, Novy Kanal and ICTV.

Various sources imply that most of these are close to President Yanukovich’s Party of Regions.¹¹ *“Like the politicians with whom they are often linked, they have a distinct tendency to see the media as tools in the service of their ambitions.”*¹²

There is evidence to indicate that the media is being harassed, for example by administrative obstruction. It was clear from most interviews that there is some form of censorship present. *“It is a combination of informal ‘auto censorship’ of journalists, and censorship directly by ‘phone calls’ from the Administration of the President”*. Critical articles about the government still appear, but there is little criticism of President Yanukovich himself. *“Acts of censorship that favor the new government have been growing steadily in the strategic broadcasting sector. Broadcast media pluralism has been seriously eroded”*.¹³

A figure with a very influential position in the media world is Valery Khoroshkovsky who owns the most important media group in the Ukraine, Inter Media Group, which covers 96% of the country. In addition to this, he is the head of the Ukrainian security service (SBU), is a Council Member of the National Bank of Ukraine and sat on the High Council of Justice. (Khoroshkovsky resigned as a member of the High Council of Justice on December 22, 2010. A combination of such important positions in the state administration and positions in the media field naturally raises issues of conflict of interest.

During the meeting with SCI representatives, Hanna Herman, Deputy Head of the President’s Administration, stated that the question of the director of the secret service being the owner of a private TV channel was soon to be dealt with. However, even though Khoroshkovsky has resigned as a member of the High Council of Justice, his position in the SBU and the media market remains unchanged.

According to a media watchdog representative, *“under President Yanukovich, there is less pluralism in the media field than before”*. A lack of balance and objectivity in reporting was also mentioned: *“Practically all channels avoided covering the criticism included in the EP resolution”*. (European Parliament resolution was adopted on November 25, 2010, and, among other things, it criticized the decline in respect for democracy and pluralism, and expressed concern at developments undermining media freedom and pluralism). A series of serious abuses of journalists were also reported by the Reporters Without Borders in their report¹⁴, following their visit in July 2010.

¹¹ Interviews and <http://www.kyivpost.com/news/politics/detail/70071/> and http://www.aej.org.ua/Statements_en/192.html

¹² See: http://en.rsfsf.org/IMG/pdf/_rapport_ukraine_anglais.pdf

¹³ Report of fact-finding visit to Ukraine from Reporters Without Borders, see: <http://en.rsfsf.org/ukraine-temptation-to-control-report-of-01-09-2010,38249.html>

¹⁴ Report of fact-finding visit to Ukraine from Reporters Without Borders, see: <http://en.rsfsf.org/ukraine-temptation-to-control-report-of-01-09-2010,38249.html>

Conclusions and Recommendations

SCI Representatives would like to draw the following conclusions and recommendations:

All of those interviewed agreed that greater discussion with European institutions is needed and the prospect of EU membership is essential for Ukraine's development. European institutions must speak with one voice, have clarity on their objectives for the region, and avoid double standards and sending contradictory messages. A balanced but firm approach is needed and pressure on important matters must continue. The EU must have a clear foreign policy strategy and treat Ukraine as a partner. Both sides must fulfill their mutual obligations.

EU – Ukraine cooperation needs to continue, as Ukraine is an important “player” in the region. However, the EU must insist that the country play by the rules in every situation and stress the need for modernizing the administration and eliminating corruption. It must insist on both expert and public debate about the election rules, and the completion of the electoral framework well ahead of the parliamentary elections in 2012. The EU should work more with regions, assist with community building, and be ready to offer specific technical help. It should also focus on new projects such as energy or migration. It should look to stimulate bottom-up demand for “europeanization” and maintain or perhaps increase the number of active European missions and observers.

Politically, the EU should engage further. The visa regime needs to be clarified, with transparent rules that are publicly comprehensible and accessible. Measures should be taken to prepare for the abolition of the visa requirement.

Exchanges of Ukrainian students and professionals from NGOs must be supported. More scholarships should be provided and programs such as Erasmus (Only 100 Ukrainian students and professors had the chance to benefit from the EU-funded Erasmus Mundus programme in 2010)¹⁵, or Fullbright should also be supported. EU support for NGOs is needed. The EU should put pressure on the Ukrainian government to specify a framework for NGO/civil society activities and create a better environment for NGO operations. Government should also create transparent financing for NGOs. Public demand for civil society activities has to be shaped with the help of the EU who should encourage the government to include NGOs in policymaking. Demand for “Europeanization” from the public is needed. The EU should work more with the regions. All stakeholders agreed on one thing: greater discussion with the EU is essential.

Corruption needs to be tackled. The EU and the international community need to press Ukraine to take the necessary measures. All international projects and activities in the country need to be closely monitored to eliminate any prospects of corruption.

¹⁵ See: http://www.enpi-info.eu/maineast.php?id=22253&id_type=1

Follow Up

Forum 2000 Foundation plans a public panel discussion to be organized within the framework of the Forum 2000 Conference in October 2011 which would be organized as a follow-up to the Ukraine Fact Finding Mission. The objective of such a meeting would be:

1. To explore and analyze, by inviting selected experts and political leaders, the current situation in the country and to identify possible routes for improvement;
2. To provide a neutral platform for dialogue about the situation in the country;
3. To raise awareness among professionals and the general public.

General Information

General Information, Background, and Important Events in 2010

Ukraine is Europe's second largest country with an area of 603,700 sq km (233,090 sq miles). Its capital city is Kiev. Its population of 45.4 million (UN, 2010) speaks mostly Ukrainian (official) or Russian and its major religion is Christianity. The main exports of Ukraine are military equipment, metals, pipes, machinery, petroleum products, textiles and agricultural products. Since the collapse of the Soviet Union in 1991, Ukraine is an independent semi-presidential / semi-parliamentary republic. The political situation is complex and ambiguous. Independent observers assess some events as free, fair and democratic, other events, on the other hand, as problematic and controversial. The international status of Ukraine is also ambiguous: the EU is declared to be a key partner by Ukrainian officials but Russian influence on Ukrainian foreign policy remains strong. Economic wellbeing is the most important issue in Ukraine, but the biggest problem in economics is corruption. Oligarchs still exert a very strong influence on the Ukrainian economy.

In 2010 and 2011, several very important events took place in Ukraine:

In February 2010, Viktor Yanukovich was declared the winner of the second round of the presidential election. His main rival, Prime Minister Yulia Tymoshenko, refused to accept the result, alleging fraud.

In March, Yulia Tymoshenko stepped down from the premiership after a number of her supporters in Parliament switched sides and she lost a no-confidence vote. President Yanukovich appointed his long-standing ally Mykola Azarov to succeed her.

In April, Ukraine agreed to eliminate its stockpile of weapons-grade nuclear material ahead of the Washington nuclear security summit. Russian Prime Minister Vladimir Putin visited Ukraine. He proposed cooperation with Ukraine on aircraft manufacturing, shipbuilding, and nuclear power. Parliament ratified an agreement to extend Russia's lease on the Black Sea fleet base at Sevastopol in Crimea for a further 25 years, in return for cheaper gas imports. Opposition MPs attempted to disrupt the vote.

In June 2010, Parliament voted to abandon NATO membership aspirations.

In July, international media freedom watchdogs (for example, Reporters Without Borders) criticized a Kiev court's decision to cancel the allocation of broadcasting frequencies to two privately-run TV channels.¹⁶

In October 2010, the Constitutional Court overturned the amendments to the Constitution introduced in 2004. The return to the 1996 Constitution strengthened the role of the President and raised legal questions. Secretary of the Venice Commission Thomas Markert advised that the country should continue with constitutional reform by parliamentary two-thirds majority votes. He added that further constitutional reform should not be limited to a return to the constitution of 1996 by the Verkhovna Rada. *"I think that we should not be oriented to the simple return of the constitution of 1996 by the Verkhovna Rada, on the contrary we should move in the opposite direction and make amendments to the constitution," the secretary of the Venice Commission said.*¹⁷

Local elections also took place in October and the ruling Party of Regions won clear majorities in most regions and big cities.

¹⁶ BBC News – Ukraine Timeline, see: http://news.bbc.co.uk/2/hi/europe/country_profiles/1107869.stm , quoted January 2011

¹⁷ See: <http://www.kyivpost.com/news/nation/detail/91781/#ixzz1JPbTYM3E>

Former Minister of Economy Bohdan Danylyshyn was charged with causing damage to the state and with alleged fraud; he was detained in the Czech Republic, and extradition proceedings began in October. However, Mr. Danylyshyn applied for political asylum in the Czech Republic. (This was granted in January 2011).

In November, President Yanukovich reacted to the protests of business owners and opposition by vetoing a controversial tax reform.

In December 2010, investigators launched an inquiry into former Ukrainian Prime Minister Yulia Tymoshenko (the main opposition leader), accusing her of misusing public funds while serving as Prime Minister. Ukrainian police also arrested one of Tymoshenko's allies, former Interior Minister Yuri Lutsenko. Prosecutors alleged that Mr Lutsenko conspired with his driver to misuse state funds.¹⁸

Mr. Yevhen Korniychuk, Former Deputy Justice Minister, was also arrested and jailed for two months in December 2010.

European Commission for Democracy through Law (Venice Commission) published an opinion on the constitutional situation in Ukraine in December. It expressed the opinion that “*a true and comprehensive constitutional reform*”, which will lead to “*strengthening of the stability, independence and efficiency of state institutions through clear division of competencies and effective checks and balances*”, is needed in Ukraine.¹⁹

In March 2011, Ukrainian Ex-President Leonid Kuchma was charged over the 2000 murder of journalist Georgiy Gongadze. He denied any part in the killing.

In April 2011, former interior minister official Olexiy Pukach, who is the main suspect in the killing Georgiy Gongadze, went on trial.

*Former Prime Minister of Ukraine, Yulia Tymoshenko, was put on trial and charged with abuse of office over a gas deal with Russia. She was remanded in custody in August 2011.*²⁰

¹⁸ See: http://news.bbc.co.uk/2/hi/europe/country_profiles/1107869.stm

¹⁹ See: [http://www.venice.coe.int/docs/2010/CDL-AD\(2010\)044-e.pdf](http://www.venice.coe.int/docs/2010/CDL-AD(2010)044-e.pdf)

²⁰ See: http://news.bbc.co.uk/2/hi/europe/country_profiles/1107869.stm

Political Parties in Ukraine

Political parties in The Verkhovna Rada of Ukraine²¹

Name of the Party / Deputy Faction	Number of Members
Faction of The Party of Regions	184
Faction of "The Yulia Tymoshenko Bloc-Batkivshchyna"	105
Faction of The Bloc "Our Ukraine – People's Self-Defence" (People's Union "Our Ukraine", Political party "Forward, Ukraine!", People's Movement of Ukraine (Rukh), Ukrainian People's Party, Ukrainian Republican Party "Sobor", Christian-Democratic Union Party, European Party of Ukraine, Civic party "PORA", Party of Motherland Defenders)	68
Faction of The Communist Party of Ukraine	25
Faction of the People's Party in The Verkhovna Rada of Ukraine	20
Group "Reforms for the Future" in The Verkhovna Rada of Ukraine	20
Non-Affiliated People's Deputies	28

Relations Ukraine–Russia

Ukraine has always struggled between integrating with Europe and keeping traditionally close ties with Russia. Issues that affect relations between Ukraine and Russia in the long-term are gas, NATO membership, and the Black Sea Fleet/Crimea.

In 2010, two of these issues were on the agenda, when Ukraine's parliament ratified a deal to keep Russia's Black Sea fleet in Sebastopol in exchange for cheaper gas. Russia's fleet will stay in Sebastopol until 2042 (its present lease expires in 2017). Ukraine will get a 30% discount on its gas, worth as much as \$40 billion over the next ten years. The opposition accused the President of betraying Ukraine's interests. The deal increased Ukraine's energy dependence on Russia, and on the other hand, decreased (stopped) its chances of joining NATO.²²

Since the election of Viktor Yanukovich in February 2010, there has been increased rapprochement between Ukraine and Russia. This is strongly supported by the Russian authorities, who are also encouraging Ukraine to join a customs union of post-Soviet republics.

Moscow is Ukraine's largest individual trading partner. Ukraine depends on Russia for its gas supplies and forms an important part of the pipeline transit route for Russian gas exports to Europe.²³

²¹ See: <http://gska2.rada.gov.ua/site/eng/factions.htm>, quoted in August 2011

²² See: <http://www.economist.com/node/16015359>, quoted in January 2011

²³ See: http://news.bbc.co.uk/2/hi/europe/country_profiles/1102303.stm

Relations Ukraine–EU

Even though Viktor Yanukovich is considered to be a “pro-Russian” President, his first official foreign visit as President was to Brussels. During this visit at the beginning of 2010, he expressed his willingness to continue his predecessor’s efforts to forge stronger ties with the West.

In November 2010, President Yanukovich again visited Brussels and met with José Manuel Barroso, President of the European Commission, and European Council President Herman Van Rompuy. The European Union encouraged Ukraine to make democratic and economic reforms. Talks on a free trade deal and other ties between Ukraine and EU should have been completed by mid-2011, and plans for visa liberalization are also being prepared. Trade with the EU now exceeds that with Russia.²⁴

The European Parliament adopted a resolution on Ukraine on November 25, 2010. It emphasized Ukraine’s right to apply for EU membership. Beside other things, it expressed a need to improve electoral legislation, to fully investigate all reports of infringements of rights and freedoms, and to remedy any violations that are identified.²⁵

The current legal framework for EU–Ukraine relations is provided by the Partnership and Co-operation Agreement (PCA). In March 2007, negotiations on a new **EU–Ukraine Association Agreement** were launched to replace the Partnership and Cooperation Agreement. Since negotiations and ratification of the EU-Ukraine Association Agreement will take some years, the two sides decided to adopt the EU–Ukraine Association Agenda. This can be found at the webpage of the Delegation.

In January 2011, the Commissioner for Enlargement and European Neighborhood Policy, Štefan Füle, visited Ukraine. Discussions covered the future development of relations between the EU and Ukraine in 2011, including negotiations of the Association Area, including the Deep and Comprehensive Free Trade Agreement. They touched upon the latest political developments in Ukraine and on economic reforms and the business climate in the country.²⁶

²⁴ See: <http://www.nytimes.com/2010/11/23/world/europe/23iht-ukraine.html?scp=10&sq=Ukraine&st=nyt>

²⁵ See: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0444+0+DOC+XML+V0//EN>

²⁶ See: http://ec.europa.eu/delegations/ukraine/eu_ukraine/political_relations/index_en.htm

Shared Concern Initiative's Statement

Motivated by the Fact Finding Mission and as a result of this Report, Shared Concern Initiative has issued the following statement, which focused on the deteriorating condition of democracy and the rule of law in Ukraine since the election of President Viktor Yanukovich in 2010.

Ukraine Loses Its Way

August 2011

PRAGUE – Since the election of President Viktor Yanukovich in 2010, Ukraine has experienced a significant and alarming deterioration in its democratic framework. Fundamental tenets of a democratic society, such as freedom of expression, freedom of assembly, and freedom of the press are increasingly coming under pressure. And the prosecution of opposition members, which has now culminated in the arrest and detention of former Prime Minister Yuliya Tymoshenko during a trial that most of the West has deemed political, seems to confirm that the rule of law is being brushed aside.

Given Ukraine's strategic importance, the country's fate has become an urgent matter of concern for not only Europe but the entire international community. Among the most worrying factors underlying Ukraine's anti-democratic turn are the following:

Consolidation of power. After Viktor Yanukovich's election last year, the Constitutional Court rescinded constitutional changes made in 2004 as part of the settlement that brought about a peaceful end to the Orange Revolution. By doing so, a consensus was reversed that aimed to reduce the presidency's powers and move toward a more parliamentary system. Instead, Ukraine's president is now increasingly consolidating his total control over the executive, the legislature, and the judiciary.

Endemic corruption. Corruption is widely believed to be endemic in the country's police, secret service, administration, government, and Prosecutor's Office. On Transparency International's Corruption Perceptions Index 2010, Ukraine scored 2,4 on the scale from 10 (very clean) to 0 (highly corrupt). Efforts to combat corruption are at best half-hearted and are not bringing any apparent results. Corruption cripples the country's institutions and the government's inaction on this problem is also having an economic impact.

Increased Security Service (SBU) activity. Evidence of increased SBU activity with political motives was presented in various human rights groups' reports. Individuals, NGOs, and journalists have been either overtly threatened or placed under surveillance. For example, in July 2010, Nico Lange, the head of the Ukrainian office of the Konrad Adenauer Foundation, was detained at the Kyiv airport after publishing a critical report on the process of Ukrainian regional elections (the incident, however, was subsequently presented as a "misunderstanding"). In September, SBU searched the offices of organizations funded by philanthropist George Soros, and offices of Vinnitsa Human Rights Group were also searched by police in October 2010 without a court order.

Harassment of opposition parties and independent media. The ongoing criminal proceedings against opposition politicians, including Tymoshenko, together with the impact of changes in the electoral law to favor the president and his supporters, are weakening opposition forces.

Harassment of the independent media ranges from administrative obstruction to much worse. The disappearance of Vasyl Klymentyev, the editor-in-chief of *Novyi Styl*, a newspaper which focuses heavily on corruption in the Kharkiv region, has never been fully investigated. Most television channels are in the

hands of four groups, most of which have close links to the ruling Party of Regions. Valery Khoroshkovsky's continued ownership of Inter Media Group, in addition to his roles as head of the country's security service and as a Council Member of the National Bank of Ukraine is an obvious conflict of interest. Overall, there is clear evidence of a decline in media pluralism since President Yanukovich came to power.

A weak civil society. While observers believe that further harassment of NGOs is constrained by the administration's wariness of international reaction, particularly from the EU, the operating environment for civil-society organizations remains extremely difficult, and they have no opportunities for genuine inclusion in policymaking.

Ukraine has reached a crossroads. One signpost points towards democracy; the other towards autocracy. The former path leads to membership in the European Union; the latter would take Ukraine to a darker and more dangerous destination. Millions of Ukraine's citizens favor EU membership, but their enthusiasm is tempered by the absence of a clear EU policy towards Ukraine.

Meanwhile, the administration of President Yanukovich proclaims its willingness to join the EU, but has failed to introduce the changes needed to meet the qualifying criteria. As a result, Ukraine is unlikely to be invited to start membership negotiations anytime soon.

It is in the EU's vital interest to strive for a far more active policy towards Ukraine than it has so far. The current Polish EU presidency should hark back to the origins of Poland's thriving democracy, and recall the essential support that it received from the West a generation ago. A similar effort is needed for Ukraine today, and that effort should not be set aside for reasons of political expedience, or, for that matter, pursued for reasons of simple economic self-interest. We urge EU and the member states to insist demanding that the rule of law is respected. At the very least, the EU should demand that Tymoshenko and the other opposition leaders are set free on bail so that they can more vigorously defend themselves in court.

H.R.H. El Hassan bin Talal
 H.H. the Dalai Lama
 André Glucksmann
 Václav Havel
 Michael Novak
 Yohei Sasakawa
 Karel Schwarzenberg
 Desmond Tutu
 Richard von Weizsäcker
 Grigory Yavlinsky

All signatories are members of the Shared Concern Initiative.

About Shared Concern Initiative

The Shared Concern Initiative is an open and informal group of recognized personalities representing various cultures, historical backgrounds, religions, and traditions. In the interest of fostering principles of good governance, respect for human rights, and tolerance, the SCI contemplates to address, by the issuance of joint-statements, the important challenges of today's world with the understanding that changes towards the better can be effectively promoted with a common voice.

Current members of the Shared Concern Initiative are:

H.R.H. El Hassan Bin Talal, Chairman, West Asia-North Africa Forum, Jordan
H.H. the Dalai Lama, Spiritual Leader and Head of State, Nobel Peace Prize Laureate, Tibet
Frederik Willem de Klerk, Former President, Nobel Peace Prize Laureate, Republic of South Africa
André Glucksmann, Philosopher, France
Vartan Gregorian, President, Carnegie Corporation of New York, USA
Václav Havel, Former President, Czech Republic
Hans Küng, President of the Foundation for Global Ethics, Germany
Michael Novak, Theologian and Political Scientist, USA
Shimon Peres, Nobel Peace Prize Laureate, Israel
Yohei Sasakawa, Chairman, The Nippon Foundation, Japan
Karel Schwarzenberg, Minister of Foreign Affairs, Czech Republic
Desmond Tutu, Nobel Peace Prize Laureate, Republic of South Africa
Richard von Weizsäcker, Former President, Germany
Grigory Yavlinsky, Economist and Politician, Russia

About Forum 2000 Foundation

The Forum 2000 Foundation was established in 1996 as a joint initiative of Czech President Václav Havel, the Japanese philanthropist Yohei Sasakawa, and the Nobel Peace Prize Laureate Elie Wiesel.

Forum 2000 Foundation aims are:

- To identify the key issues facing civilization and to explore ways in which to prevent the escalation of conflicts which are primarily driven by religious, cultural or ethnic tensions;
- To provide a platform to discuss these important topics openly and to enhance global dialogue;
- To promote democracy in non-democratic countries and to support civil society, respect for human rights and religious, cultural and ethnic tolerance in young democracies.

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Shared Concern Initiative's Report on the Current Situation in Ukraine
August 2011

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