



**International  
Press  
Institute**

**Report on the IPI/SEEMO Joint Fact-Finding  
Press Freedom Mission to Ukraine**

**31 May – 3 June, 2011**

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## Introduction

The International Press Institute (IPI), in conjunction with the South and East Europe Media Organisation (SEEMO), conducted a joint, fact-finding press freedom mission to Kiev, Ukraine from 31 May to 3 June, 2011.

During its visit to the Ukrainian capital, the delegation met with representatives of government, including members of Parliament from the ruling Party of Regions and the opposition Yulia Tymoshenko Bloc, representatives of the Justice Ministry and the National Television and Radio Broadcasting Council, and a spokesperson for President Viktor Yanukovich. The delegates also met with journalists from state and private media, including print, broadcast and online media; representatives of Ukrainian media-related non-governmental organisations; and diplomats representing the European Union, the United States, the United Kingdom, Austria and Slovakia. The delegation met with more than 30 individuals in total.

The mission came at a worrying time for press freedom in Ukraine. Although the state of media freedom was poor in post-Soviet Ukraine, it improved following Viktor Yushchenko's rise to power in the 2004 "Orange Revolution", in which protesters forced a new presidential election after an allegedly-rigged vote in favour of Yanukovich. The conflict highlighted a growing divide in society between those perceived to look east to Russia, such as Yanukovich, and those who were thought to look west to Europe, such as Yushchenko.

Yushchenko, who was disfigured after having allegedly been poisoned, ultimately became president, but infighting among his Orange coalition – particularly between Yushchenko and his prime minister, Yulia Tymoshenko – allowed Yanukovich to return briefly as prime minister in 2006. Tymoshenko returned as prime minister in 2007 and sought the presidency in 2010, but was defeated by Yanukovich in a runoff election. The following month she resigned following a no-confidence vote in Parliament.

Although media laws remained the same during Yushchenko's presidency, media freedom overall is generally viewed to have improved during that time, one of the few positive developments attributed to his government, which was riven by infighting and an "implementation gap" between promises and actual reforms. This lack of progress is one of the factors that led to the resurgence of Yanukovich.

Following Yanukovich's election, media freedom is perceived to have deteriorated. The financial crisis that began in 2008, in addition to its other effects, has pushed more and more media into the hands of oligarchs, and critics complain that self-censorship – by journalists and by media owners who hold other, vulnerable business interests – has become the norm. Critics also accuse Yanukovich and his Party of Regions of applying economic pressure to consolidate indirect control over the media and of seeking to stifle critical reporting.

One case that received wide coverage outside of Ukraine was a court decision cancelling the allocation of analogue broadcasting frequencies to two privately-run television channels that have been critical of the government: Kanal 5 and TVi. Critics have accused Valeriy

Khoroshkovsky, a Yanukovich ally who heads the country's security service, the SBU, and whose wife reportedly owns rival media holding company Inter Media Group, of being behind the cancellation. Khoroshkovsky has denied the allegation.

Ukraine, as of the writing of this report, is chair of the Committee of Ministers of the Council of Europe, and the country is currently in the latter stages of negotiating a Deep and Comprehensive Free Trade Agreement (DCFTA) with the European Union. Ukraine will co-host with Poland next summer the UEFA European Football Championship (Euro 2012), and the country will hold Parliamentary elections in October 2012. Ukraine is also scheduled to complete the switch-over of television broadcasting from analogue to digital in 2015.

## Country Profile

**Full Name:** Ukraine

**Capital:** Kiev

**Independence:** Formerly a constituent republic of the Soviet Union (U.S.S.R.), Ukraine gained independence on 1 December, 1991.

**Government Type:** A republic, Ukraine is a presidential/parliamentary democracy. The president is head of state and is elected by popular vote every five years. The Prime Minister, currently Mykola Azarov, is head of government. Legislative power is vested in a unicameral parliament, the 450-seat Verkhovna Rada.



**Area:** Approximately 603,700 square kilometres. Ukraine is the largest country in Europe among those with entire boundaries within the European continent. In area, it is slightly smaller than Texas.

**Borders:** Ukraine occupies a strategic position at the crossroads between Europe and Asia, and sits on the Black Sea. The country is bordered by Romania, Moldova, Hungary, the Slovak Republic, Poland, Belarus and Russia.

**Population:** 45.4 million (UN, 2010). Ukraine is a multi-ethnic republic, consisting of more than 110 ethnic groups. The largest, Ukrainian, makes up nearly 73 percent of the population, followed by Russians, Jews, Belarusians, Moldovans, Bulgarians, Poles and Hungarians.

**Literacy:** 99.4 percent (male 99.7 percent, female 99.2 percent)

**Economy:** Ukraine has an estimated labour force of 22.06 million with approximately 15.8 percent engaged in agriculture, 18.5 percent in industry and 65.7 percent in services. Unemployment in 2010 was approximately 8.5 percent, and some 39 percent of the population lives under the poverty line. Ukraine's main exports include military equipment, metals, pipes, machinery, petroleum products, textiles, agricultural products

**History:** Ukraine is a land of wide, fertile agricultural plains, with large pockets of heavy industry in the east. The country shares common historical origins with Russia, but the west has closer ties with its European neighbours. Ukrainian nationalism is stronger in the west, where Ukrainian is spoken more widely and where parts of the country were at one time ruled by the Austro-Hungarian Empire. Russian culture and language have a greater presence in the east and in Crimea, an autonomous republic on the Black Sea which was part of Russia until 1954 and which continues to serve as the base for the Russian Black Sea Fleet.

Most Ukrainian territory was absorbed by the Russian Empire in the late 18th century. Ukraine saw a brief period of independence in 1917 following the collapse of czarist Russia, but became part of the Soviet Union in 1920. Under Communism, the country experienced famines in the 1920s and 1930s in which over eight million are estimated to have died. Another seven to eight million died during World War II in fighting between the German and Soviet armies. Josef Stalin deported many Crimean Tatars to Central Asia in 1944 on accusations of collaboration with the Nazis, but more than 250,000 are estimated to have returned since the late 1980s.

Ukraine became independent in 1991 upon the Soviet Union's dissolution, and has since veered between closer integration with the West and reconciliation with Russia, which supplies most of its energy. The economy declined and inflation spiralled under Ukraine's first post-Soviet president, former Communist Party official Leonid Kravchuk, but recovered under Kravchuk's successor, Leonid Kuchma. However, the perception that Kuchma conceded too much to Russian interests – as well as controls on media freedom, manipulation of the political system and cronyism – led to discontent and the Orange Revolution.

The country has been hit hard by the global financial crisis, and disputes over gas prices prompted Russia to briefly cut supplies to Ukraine in 2006 and again in 2009. Russia resumed supplies in 2006 after Ukraine agreed to pay almost twice the former price, and prices rose sharply again in 2007. The confrontation in 2009 was resolved when Tymoshenko, as prime minister, signed a new deal with Russia. The Yanukovich government has opened criminal proceedings against Tymoshenko over the deal and she was recently arrested on charges of contempt of court in her trial. Prosecutors have also accused Tymoshenko of misusing funds intended to combat climate change, and of misusing state vehicles during her 2010 campaign. Tymoshenko has dismissed the charges as being politically motivated.

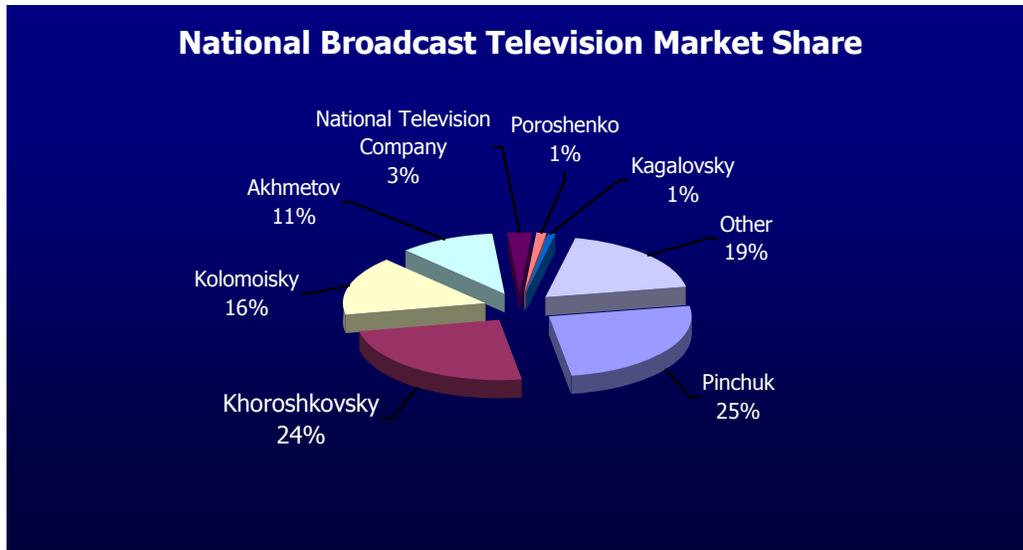
## Media

Regulation and licensing of television and radio broadcasting falls under the responsibility of the National Television and Radio Broadcasting Council of Ukraine. Television is the major media in terms of both audience and advertising revenue, with estimates that 80 percent of the population obtains its information from television. According to a report by Ukrainian Week in May 2011, 80 percent of the national television market is controlled by media companies owned by oligarchs and by the state broadcaster. However many observers said the respective degrees of ownership are obscured by a lack of transparency.

Major television networks include:

- **National Television Company of Ukraine:** a state-run broadcaster, the company is under government control and operates the UT1, UT2 and UT3 networks. Its Russian-language talk show hosted by Savik Shuster is one of the most popular shows on television.
- **Inter TV:** a commercial broadcaster reportedly owned by the wife of Khoroshkovsky. Critics allege that the connection with Khoroshkovsky leaves the channel close to government, and that the station creates a comfy picture of political competition. Some also charge that it gives coverage to straw men posing as “extremists” in order to make the current government appear moderate. The channel boasts Friday’s most popular show, “Big Politics” with host Yevgeny Kiselyov.
- **1+1:** a commercial broadcaster reportedly owned by Ukrainian/Israeli Igor Kolomoisky, who lives in Geneva. The channel is reportedly a second business for Kolomoisky, who is also active in banking, metals and aviation. Critics charge that Kolomoisky is dependent on government contracts and has to demonstrate loyalty.
- **STB, ICTV and Novy Kanal:** commercial stations reportedly owned by Victor Pinchuk, Kuchma’s son-in-law. Some allege that murder charges against Kuchma over the 2000 murder of opposition journalist Georgiy Gongadze are leverage to keep Pinchuk in line.
- **Ukraina:** a commercial station reportedly owned by Rinat Akhmetov, president of the football team FC Shakhtar. Akhmetov also holds interests in banking, mining and telecommunications.
- **Kanal 5:** a commercial, news-based station owned by businessman and politician Petro Poroshenko, a major backer of the Orange Revolution who served as foreign minister under Yushchenko and currently serves on the council of Ukraine’s National Bank. The channel is cited as an independent media voice, but critics allege that Poroshenko’s contract with the government to build buses for the Euro 2012 competition leaves him open to pressure.
- **TVi:** reportedly owned by exiled Russian businessman Konstantin Kagalovsky, who lives in the United Kingdom, the station has sought nationwide exposure and succeeded briefly when

it was awarded analogue broadcasting frequencies. However, revocation of those frequencies has limited the station to broadcasts on cable television.



Approximate amounts of market reportedly attributable to media companies controlled by oligarchs. Source: Ukrainian Week, No. 19 (184) 13-19.05.2011

Outside of Kiev, a number of regional television stations broadcast to Ukraine's provinces. Radio plays a larger role in the provinces, although the FM band in Kiev is home to more than 20 radio stations, including the state broadcaster. Print journalism is also more influential in the provinces, but readers in Kiev are served by a number of newspapers with Ukrainian and Russian-language editions. Several of the biggest-selling tabloids publish only in Russian. Despite an expanding market, advertising remains a weak source of revenue and many media outlets rely on the support of wealthy sponsors.

The Internet is becoming a popular news source, with more than a dozen sites that are neutral, pro-opposition and pro-government. There were reportedly 15.3 million Internet users in Ukraine by June 2010. About 30 percent of Ukrainians have access to the Internet, with Internet users in Kiev accounting for approximately 60 percent.

Despite some incidents of hacking, the Internet remains largely free, although critics say the government tends to ignore critical information posted online. One exception is news website *Ukrayinska Pravda*. Founded by opposition journalist Georgiy Gongadze, who was murdered in 2000 (see "Impunity", *infra*), it has drawn the ire of both the Yushchenko and Yanukovych governments. *Ukrayinska Pravda* reporter Serhiy Leshchenko and other bloggers have reportedly been summoned by the SBU to explain "uncareful expressions" about the president.

While some politicians have proposed increasing control over the Internet, representatives from government told the delegation that no current proposals to do so are under consideration.

## Press Freedom

Ukraine's media can be described as partly free. Reporters Without Borders (RSF) in 2010 downgraded the country from 89 to 131 on its World Press Freedom Index, citing what RSF called "the slow and steady deterioration in press freedom" since Yanukovich's election. RSF also pointed to "serious conflicts of interest ... menacing Ukraine's media pluralism".

One of Ukraine's main problems is a polar split in society. Often characterized as a divergence between those who look to closer ties with Russia and those who look to closer ties with the West, the split has cultural, linguistic and political aspects. While members of Yanukovich's Party of Regions dispute RSF's characterization, journalists who are critical of the current government or aligned with the opposition are more likely to focus on what they describe as a repressive environment that includes a pervasive climate of self-censorship.

Representatives of media, NGOs and diplomats generally indicated a belief that media freedom improved somewhat during the period following the Orange Revolution, but that it has deteriorated in the last three years. However, the degree of deterioration is a subject of disagreement. Some express concern that Ukraine is headed towards autocratic models like Russia or Belarus, while others indicate that the situation is merely "chillier" than in the past.

The overall perception among those with whom the delegation met who were not allied with the government was that journalists – investigative journalists in particular – have a difficult job, caught between a government that is viewed as discouraging reports on corruption unless the alleged culprits are members of the opposition; oligarchs who own the majority of television broadcast media and are reportedly loath to allow critical reporting that could undermine their other business interests or incur repercussions from the state; and a public that is increasingly viewed as valuing infotainment and political talk shows over news reporting.

Many observers said direct censorship from the government was down and that the government did not issue "temnyks" – official instructions during the Kuchma era detailing what events television stations should cover and how to do so. But the observers said they saw indirect control of the media by Yanukovich under a system of vertical integration through the state broadcaster and the oligarchs, and an unwillingness to tolerate criticism of the president. One subject that was reportedly off-limits, including to the state broadcaster, was any coverage of the president's 140-hectare estate outside of Kiev and how Yanukovich, a civil servant, was able to purchase the multi-million dollar property.

Observers cited a standardization of news across channels and a dilution of news content, and many decried the persistence of a Soviet mentality that views media not as an independent check on the state, but a subservient mouthpiece. Observers further expressed a belief that the current government, in seeking to exercise indirect control over the media and in bringing what appear to be politically-motivated prosecutions against former members of the Orange government, has demonstrated a fear that it cannot win in future elections. The observers said the prosecutions have set a precedent the government cannot allow the opposition to follow should it return to power.

Many of the observers also decried a perceived lack of attention in the West to Ukraine's media situation. A common fear voiced was that that economic interest – reflected by the proposed DCFTA between the EU and Ukraine – demonstrated that the West was interested in securing economic interests first, with human rights and other democratic issues to be addressed later.

Representatives of government and the Party of Regions disputed most of these characterizations, although some acknowledged a “complex” process in which private owners want to use the media to further their own interests. Some representatives also admitted that the Soviet mentality of media subservience remained a continuing problem in some quarters.

These representatives were critical of outside groups that they said spend little time in Ukraine, and they argued that recent reports downgrading the country's state of press freedom did not provide an accurate mirror. They noted that other European Union countries continue to experience problems with press freedom, and they maintained the opinion that the Party of Regions values a media independent from government. The representatives also said that Yanukovich places a priority on implementing changes he has pledged to make, but admitted that he will not be able to do so if his party does not secure a majority in next year's Parliamentary election.

## Impunity

Ukraine has made some progress with respect to impunity, and many commentators said that attacks on journalists are down overall. Representatives of government accused journalists in some instances of violating rules or regulations on purpose merely to create a scandal.

Some troubling high-profile cases remain, however, such as the 11 August, 2010 disappearance of Vasyl Klymentyev, editor-in-chief of the newspaper *Novy Stil*. The paper had written about corruption among law enforcement officers and others in the Kharkiv region before Klymentyev disappeared in Kharkiv. Some observers in media and government voiced rumours that Klymentyev might have been involved in criminal activity, but that remains speculation. Yanukovych reportedly ordered top law enforcement officials to make Klymentyev's case a priority, but little progress has been made and the journalist is presumed dead.

Members of civil society generally welcomed news in March of this year that Ukraine's state prosecutor opened a criminal case against Kuchma for his alleged involvement in the 2000 murder of Georgiy Gongadze. However, many observers expressed fear that the case was brought in order to put pressure on Kuchma's son-in-law Pinchuk and to warn him that there were consequences to negative reporting.

Gongadze, who was highly critical of Kuchma during the former president's two terms of office from 1994 to 2005, disappeared in Kiev in September 2000. His headless body was found six weeks later buried in a wooded area. A former bodyguard to Kuchma later released audio recordings allegedly containing Kuchma telling his then-chief of staff Volodymyr Lytvyn – currently Parliament chairman – and then-Interior Minister Yuri Kravchenko to “get rid of” Gongadze.

Kuchma and Lytvyn have denied involvement in the murder, and a technical analysis of the recordings could not conclusively establish the speakers' identities. Kravchenko was found dead in his apartment in 2005 two hours before he was scheduled to be questioned in the case. Despite reports that he suffered two gunshots to the head, authorities ruled his death a suicide and prosecutors in September 2010 formally identified him as the sole instigator of Gongadze's murder. Three former police officers were convicted in March 2008 of carrying out the murder and the former external surveillance chief at Ukraine's Interior Ministry, Oleksiy Pukach, is currently on trial for his alleged role in the killing.

## Economic Pressure and Corruption

Representatives of government agreed with most other commentators that the major problem faced by journalists in Ukraine was self-censorship, which was more likely to result from economic pressure rather than direct government interference. However, many observers accused the government of instigating economic pressure and of applying it to owners – who in turn applied pressure on individual journalists – to bring critical media to heel.

Observers within the media cited the multiple business interests of oligarchs who own a large part of the media, and they said government pressured owners through indirect tactics such as threats to deny broadcasting licenses, raids by tax inspectors and court cases, including the proceedings that revoked analogue broadcasting frequencies allocated to Kanal 5 and TVi.

Given weak levels of advertising following the 2008 financial crisis, which led to a large turnover in media ownership, observers said that most media need an owner with access to investment to survive, and that power equals business. However, they also said little could be done in the face of a monopoly on media ownership. Observers pointed specifically to a need by media owners to prevent government interference in their other business interests; a lack of any effective prevention of media cross-ownership; and a lack of transparency in ownership that left journalists and others unable to determine actual media ownership in many cases.

Other observers faulted the high level of corruption and what they called a dysfunctional judicial system. One diplomat said corruption in Ukraine is “cradle to grave”, and government officials acknowledged the presence of corruption at all levels of society, leading to the need for anti-corruption drives. However, many observers voiced fear that such drives target convenient scapegoats, providing cover for more large-scale, ongoing corruption. They also cited corruption as one way in which employers were able to use leverage over employees.

According to many observers, journalists in Ukraine are paid wages in an “official/unofficial” manner. Employers allegedly report only part of the wage to the government to avoid taxes and then pay the remainder via cash in envelopes and a 20-30 percent bonus calculated by management based on performance. Journalists who displease employers risk not only loss of bonus and “envelope” payments, but loss of their job in an economy where unemployment currently hovers above eight percent.

Many journalists are young, and journalists are not protected by strong trade unions. As one commented, “it’s still an employer’s game”, and many journalists allege the use of economic factors as a pretext to fire critical journalists. Representatives of government, however, as well as some diplomats, urged caution, noting that it is often difficult to tell whether adverse action was the result of an internal, non-editorial conflict. Citing a lack of standards by journalists, some government officials argued that incompetence was in many cases the true reason.

## Balance of Coverage

Like viewpoints on the state of media freedom in Ukraine, perceptions as to whether the media offers balanced coverage are also polarized. A general view among observers is that broadcasters give no coverage to the opposition, a view disputed by the government.

Some critics say that dissenting or critical views are not represented in the mainstream, and that the state broadcaster and others only cover the opposition in talk shows, or when members of the opposition are involved in scandals. The critics say that the invitation of guests can be business- or politically-motivated, and that certain facts or topics are ignored. These include not only the opposition view, but characterizations of times under Kuchma. Representatives of media complained that it was difficult to get speakers from the government, and indicated that to be “objective” was effectively equivalent to being labelled “opposition”.

Representatives of the government and the state broadcaster disputed this view, contending that the opposition has “constant access” to political talk shows. Pointing to the criminal charges against Tymoshenko, a representative from the state broadcaster emphasized that the opposition was given the chance to respond to allegations of wrongdoing in news reports.

A review of the state broadcaster’s news coverage of allegations against Tymoshenko on 2 June, 2011 showed that the broadcaster included footage of Tymoshenko at a press conference responding to the allegations. However, the footage of Tymoshenko was preceded by five other video clips in which government officials denounced her, and a banner was placed on screen under Tymoshenko indicating that prosecutors said she was lying.

Some observers said current coverage was a change from the Yushchenko years, in which the media worked hand in hand with politicians. However, the observers said, media organizations worked with different politicians across the political spectrum under Yushchenko, and were not confined to working with the ruling party.

## Journalists' Standards

With few exceptions, commentators told the delegation that journalists' standards are a problem and that corruption exists in the journalist community. Most Ukrainian journalists are young – the average age of a reporter at the state broadcaster is approximately 25 years old – and the “official/unofficial” nature of salaries leaves them vulnerable to pressure and self-censorship. As one journalist told members of the delegation, “This is not the time to be a hero.”

Many commentators – in and out of government – also criticized the continued presence of paid placement of advertisements disguised as news stories. The practice was a problem under the Orange government, observers said, but there was more “equality of corruption” in those years, rather than monopolization by one political force.

Observers indicated that journalists need help with professional development, especially given the lack of budgets for training, and that ethical practices with respect to fairness, accepting gifts from sources and placing advertisements as news need to be strengthened. They also cited problems with journalists retransmitting news and failing to check facts.

Representatives of government shared the view that journalists' standards need to improve, and that the practice of disguised advertisements was a problem. They heavily emphasized the concept that the right to free speech carries responsibilities, and they detailed instances of journalists allegedly demanding money not to print critical pieces. Some representatives criticized media outlets they said were waging an “ideological war” with the Party of Regions.

Government representatives also criticized what they said was inflammatory language, and singled out bloggers for allegedly demanding to be treated like journalists while refusing to live up to ethical standards. Some criticized the mixing of commentary with news and a lack of depth, saying the country experienced only the “illusion” of independent journalism. They also praised the president's “restraint” in not filing suit over allegedly defamatory news reports, and one representative indicated that the government plans to look into a proposal to regulate professional protection and standards in journalism.

## Non-Governmental Organisations

While foreign-funded non-governmental organisations have been helpful in shining light on issues regarding press freedom in Ukraine, their effectiveness is sometimes limited. Many in government continue to view the Orange Revolution as having been funded by the West through NGOs, and they demonize George Soros over the influence of his Open Society Foundations. Some government representatives expressed the view that too many NGOs were too close to the Orange government to remain objective. Others criticized foreign funding as a gravy train, and said that those who received foreign funds had a financial interest in prolonging funding by reporting only negative news.

Some legislators have proposed regulating or prohibiting foreign funding from NGOs. Any such restrictions could present problems in the event Ukraine takes steps to move closer to Europe, as NGOs are often one of the primary conduits for foreign funding to improve civil society and standards. Some civil society representatives said such a move was likely more a threat than a serious policy proposal.

Observers outside government held a more positive view of NGOs, and expressed a view that pressure on media freedom would be worse but for NGOs. The observers generally indicated a view that NGOs can have a positive impact because the government listens to criticism from outside the country and fears alienating powers in the West. The observers said the current government views its reputation in the West as important, and that officials fear sanctions such as having their names placed on blacklists for Schengen visas or seeing their assets frozen.

However, most observers said NGOs were somewhat weak, and that NGOs' work was often at a danger of being misused by the government for propaganda purposes. They cited instances in which the government cherry-picked positive items from NGOs' reports, or in which the government pointed to campaigns in support of journalists or training sponsored by foreign-funded NGOs as evidence of a free media. Some observers also criticized Western grants as leaving trainees dependent upon them and unprepared to deal with real life.

## Digital Switchover and the Regions

Individuals both in and out of government expressed the view that media freedom faces serious threats in the regions, where media are more closely tied to government and depend on government contracts, leaving them open to administrative and fiscal pressure.<sup>1</sup> The existence of local broadcast media is also threatened by the switchover from analogue to digital broadcasting, which is scheduled to conclude by 2015. The cost of converting from analogue to digital broadcast represents an existential threat to some local stations, but government representatives maintained that their hands were tied by international agreements.

## Kanal 5 and TVi Rulings

Last year, a court in Kiev cancelled the allocation of analogue broadcasting frequencies to Kanal 5 and TVi following a complaint by rival network Inter alleging irregularities in the manner in which the stations were awarded licences. Ukraine's Higher Administrative Court upheld the decision in January, but reportedly has not forwarded the stations' request for review to Ukraine's Supreme Court, a necessary prerequisite to seeking review by the European Court of Human Rights. The deadline for the digital switchover means that no further proceedings will be held to allocate the analogue frequencies. Kanal 5 continues to broadcast on other frequencies, but TVi is limited to broadcasts on cable television and posts to its website.

Independent observers generally agreed that the awarding of the frequencies to Kanal 5 and TVi was surrounded by irregularities. However, they indicated that the same was true for other networks that obtained frequencies, and the observers said the case against Kanal 5 and TVi – generally regarded as among the few Ukrainian television channels that provide independent news coverage – was selective enforcement aimed at bringing them under control. Representatives of TVi accused government regulators of using pretexts to pressure cable providers into not extending contracts with the channel.

Government representatives denied the charges and claimed that other channels that obtained licenses at the same time did not lose their frequencies because their applications had been vetted by the previous government. The representatives defended the decision stripping Kanal 5 and TVi of the analogue frequencies, arguing that the stations' application was approved too late given commitments to switch from analogue to digital broadcasting by 2015. The representatives also contended that the National Television and Radio Broadcasting Council lacked a quorum when it awarded the frequencies.

Representatives of Kanal 5 and TVi maintained that they did nothing wrong and that they should not be punished for mistakes made by the government in the awarding process. Both channels also faulted the Higher Administrative Court for failing to act timely on their request to refer the case to Ukraine's Supreme Court, which they said has effectively blocked the case.

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<sup>1</sup> Members of the IPI/SEEMO delegation were unable to meet with representatives of regional media while in Kiev.

## Extremist Rhetoric

Most sources with whom the mission delegation spoke indicated a view that extremist speech has traditionally not been a problem in Ukraine. However, two examples were generally raised: Crimea and the polarization between East and West. Crimea was home to Crimean Tatars, an ethnic minority, until Joseph Stalin's government forcibly expelled them to Central Asia. Since the fall of the Soviet Union, Tatars and other displaced groups have begun to return to the region, leading to tensions with ethnic Russians, the majority population.

Some observers criticized the coverage given to Tatars by regional media, with one describing "a sort of hysteria about how they live". The observers cited a "low culture" of criminal news, and the use of insulting language and portrayals of Tatars as extremists who were taking away land. The observers pointed to the use of negative connotations and a failure to provide broad explanations in coverage. Most observers said the coverage was not perceived as being the policy of the central government, and some suggested that an increase in integration among ethnicities in the region over the last 15 years had led to a decline in anti-Tatar sentiment.

Other observers cited an increased polarization between the East and the West, and they accused the central government of using this division to draw attention away from corruption or lack of democratic reform. They pointed specifically to an incident in Lviv in western Ukraine on 9 May, a holiday commemorating the capitulation of Nazi Germany to the Soviet Union in World War II. Nationalists allegedly connected with the right-wing Svoboda party seized a wreath from Russian diplomats who planned to lay it at a military cemetery and clashed with police.

Some observers alleged that elements within the government directed pro-Russian parties to come to Lviv with red banners, a provocative symbol in the West, while simultaneously inviting radical right-wingers to ensure a confrontation that would provide chaotic footage for news crews already present who had been directed to cover the event.

Beyond Crimea and Ukraine's polarized society, some observers said there was an increase in extremism on a regional level, and that minorities in certain regions were sometimes unfairly portrayed and the targets of slurs. The perception was that local governments tried "not to cross the line", but often "come close".

## Law on Access to Public Information

One bright spot in Ukraine's media freedom landscape is the enactment of a law on access to public information. Yanukovich signed the law in February, and it took effect on 9 May. The law requires public authorities to provide access to information about their activities and decisions, and provides for punishment for those who deliberately obstruct journalists or prosecute them for fulfilling their professional duties. It reportedly foresees a five-day period of response to an information request or a two-day period in the case of an emergency.

Government representatives, NGOs, diplomats and members of the media agreed that the law was a positive development. However, they also agreed that its ultimate effectiveness would depend on the degree to which the law was implemented. Representatives from government said they were working on implementation, and that efforts remained ongoing. They also noted that issues regarding privacy and protection of personal data were expected to arise and could impact implementation.

Overall, members of the media indicated a view that the government was making an effort to apply the law, and they said that response rates to requests for information had improved. But they cautioned that the time taken to release information sometimes made it “stale” for news purposes. They also said the law’s purpose was frustrated where some legislators and bureaucrats failed to file disclosures of financial status and ownership. Noting the Soviet tradition, one observer commented: “The fundamental problem is that, in government, information is power.”

Some diplomats echoed that thought, noting that implementation would depend on changing politicians’ mentality towards the release of information. They pointed to the example of Energy Minister Yuriy Boyko, who asked the SBU to investigate journalists after they reported in early June that Boyko agreed to a wildly-inflated price when he authorized the \$400 million purchase of a drilling rig for use on the Black Sea shelf.

### **Public Television**

Yanukovych has expressed support for establishment of a public broadcaster. However, that proposal was met with scepticism by many observers. Some government representatives expressed the view that society in general opposed the adoption of a law forming a public broadcaster. One indicated that the yearly expense that individual taxpayers would incur in supporting a public broadcaster made it difficult to generate support for the proposal, although the overall amount of taxes paid by individuals would presumably not be impacted by setting out the broadcaster’s costs separately. Other members of civil society downplayed the effectiveness of a public broadcaster, expressing the view that it would have no more credibility than the current state broadcaster.

## Recommendations

- **Respect Plural Views**

Interference by government in the media – whether real or perceived – harms not only the credibility of the state and the media, but undermines citizens’ fundamental right to knowledge and participatory democracy. IPI calls on the government – and on all political parties, media owners and others – not to exert pressure, directly or indirectly, on media, and to allow media to freely report on corruption and on views across the entire political spectrum.

- **Combat Impunity for Attacks on Journalists**

Journalists reporting on corruption and sensitive topics remain vulnerable to physical attack and harassment. Authorities need to ensure not only that such incidents are fully investigated in a transparent and timely manner, but that the masterminds who direct them – in addition to those who carry them out – are held to account in the legal system.

- **Fight Corruption**

Corruption at all levels of society hinders effective governance and the public’s fundamental right to know. IPI calls on authorities to allow media to report freely and openly on corruption and to offer critical commentary.

- **End ‘Envelope’ Payments**

The practice of paying journalists in an “official/unofficial” manner leaves them vulnerable to pressure by employers and leads to self-censorship. IPI calls on media owners to pay journalists their full salaries in an above-board manner, and not subject journalists to arbitrary reductions in salary based on commercial or political pressure over critical reporting.

- **Increase Transparency of Media Ownership**

Many private media owners reportedly hold interests in non-media businesses, creating pressures that can lead to restriction on critical coverage of government and influential companies. However, ownership is often unclear and the lack of transparency leads to self-censorship by journalists who fear that critical reporting can lead to repercussions. IPI supports steps to increase transparency of media ownership.

- **Dilute Media Concentration**

A large amount of Ukraine’s national television market is controlled by a relatively small group of oligarchs, leaving decisions over coverage of government and commercial interests in few hands. IPI supports steps to cap media ownership and increase media plurality. IPI also supports restrictions on media cross-ownership and the adoption of conflict of interest policies separating government officials from media holdings.

- **Create Public Broadcaster**

State broadcasters run a severe risk of serving as mouthpieces for governments and political leaders. IPI supports the implementation of a process whereby state media evolves into a fully-functioning independent public media with a mandate to satisfy the right of the public to be informed and to receive information that is accurate and factual.

- **Establish Media Self-Regulation and Journalistic Standards**

Self-regulation is the optimal means of media regulation. IPI, which opposes statutory regulation, supports steps to establish a media self-regulatory body in Ukraine. IPI also supports the adoption – on a self-regulatory basis – of ethical codes and procedures to establish journalistic standards.

- **Avoid Measures to Regulate the Internet**

The Internet serves increasingly as a source of independent news, and the medium is less subject to commercial or political pressures on critical coverage. IPI calls on the government of Ukraine to reject any proposals to regulate online media.

- **Fully Implement the Information Access Law**

Ukraine's new law on access to public information is a positive development for media freedom. IPI calls on the government to ensure that the law is fully implemented in a timely manner.

- **Monitor the Media Freedom Situation and Engage**

Foreign governments can make a positive contribution to media development in Ukraine. IPI calls on foreign governments and organisations to engage Ukraine's government and support constructive domestic policy initiatives to strengthen independent media and civil society. IPI also calls on foreign governments and organizations to continue to monitor Ukraine and to call attention to violations of media freedom or other actions inconsistent with democratic norms.