

Ukraine 2019



Total: 55.84

Quick facts

Population:	42.037 million
Unemployment rate:	9 %
GDP:	130.857 billion \$
GDP growth rate:	3.3 %
GDP per capita:	9290 \$ PPP

Political Freedom

Free and Fair Elections : 7.14

In 2019 Ukraine has gone through both presidential and parliamentary elections, which were followed by a peaceful transition of power and have dramatically reshaped the country's political landscape. The Presidential elections, which took place on March 31st followed by a runoff on April 21st, were generally labeled free and fair, albeit with minor issues which did not ultimately influence the outcome. It could be however argued that the outcome of the elections was influenced by media coverage and access of the candidates to television.[i] Instances of misuse of state resources and vote-buying were also reported by the international observers.[ii] The parliamentary elections, which were held on July 21st, have also been deemed free and fair with minor incidents. These elections were conducted under a mixed electoral system with one half of the members of parliament chosen through proportional representation and the other half via single-candidate constituencies. Many observers have reported that the single-candidate contests were subject to much more irregularities and malpractices than the nationwide one, among them vote-buying, self-nominated candidates pretending to run under the brand of a party they did not represent[iii]. Still, the parliamentary elections of 2019 have shown a significant change in the traditional voting patterns in Ukraine, with many incumbents and locally well-known SMD candidates with a history of election victories losing to the largely unknown representatives of the "Servant of the People" party. The parliamentary election has thus resulted in a first single-party majority in the history of Ukraine, with the presidential "Servant of the People" party securing 254 of the total 450 seats. The traditional mixed electoral system has been criticized many times for its perceived susceptibility to manipulation and vote-buying. In July 2019 the parliament has adopted a new electoral code providing for open-list proportional representation at the future parliamentary

elections. However in September 2019 the adopted legislation has been vetoed by the president which leaves the expected electoral reform in uncertainty.

Absence of Unconstitutional Veto Players : 5

Ukraine is governed by its democratically elected authorities, who have effective power to govern the country. Still, threats remain to the country's sovereignty, rule of law and democracy. Firstly, the democratically elected authorities still do not have control over the Russian-occupied Crimea and the occupied territories in Donetsk and Luhansk regions. Secondly, Ukraine's oligarchs and powerful business groups who control most of the country's media and have ties to some of the country's officials are believed to be able to influence the decision-making process. The election of a political outsider Volodymyr Zelensky to the country's presidency and the overwhelming victory of his party at the parliamentary elections has sparked fears of the concentration of power in the hands of oligarch Ihor Kolomoisky due to the allegations of close ties between him and Zelensky. The validity of these claims, albeit supported by the overwhelmingly positive coverage of Volodymyr Zelensky and his "Servant of the People" party, remains to be tested. Despite the fact that the executive authority is shared between the President and the Prime Minister, President Zelensky and his administration enjoy significant influence over the executive and legislative branches. It was namely reported that many MPs of the ruling majority did not know the names of the government members they were going to appoint until shortly before the vote itself. The President has also not shied from openly setting the Cabinet's agenda at its first session, seen giving assignments to the Prime Minister and the Cabinet members on camera. This makes the country's political system akin to that of a presidential republic, even though it is stated otherwise in the Constitution. Corruption among public officials is widespread and remains one of the most serious problems in the Ukrainian society.

Freedom of Press : 6.75

Freedom of the press is guaranteed by the Ukrainian Constitution and Laws of Ukraine, but in fact this freedom is only partially upheld. There is a variety of different media in Ukraine which are diverse and free to present different views and opinions, including criticism of government which is featured there very often. However, the majority of Ukrainian media outlets are owned by oligarchs and representatives of business interest groups who are known to exert influence on their content. This makes media diversity in Ukraine mostly a representation of diverse interests of different oligarchs and business groups. Another threat to the objectivity of the media is that journalists tend to report about sensitive issues in a way that is seen as "patriotic". This includes but is not limited to the benevolent or neutral portrayal of some far-right or even neo-Nazi groups, that are often not referred to as such in the media. In August 2019 a Kyiv court has ordered a Ukrainian online media outlet Hromadske.TV to pay a fine to a far-right organization C14 and retract its earlier statement referring to C14 as a "neo-Nazi" group. This decision has sparked further concerns about the freedom of expression and the ability of the Ukrainian media to report on far-right violence.[i] Due to the conflict with Russia, most Russian TV channels are banned from broadcasting in Ukraine. Several Russian social media outlets and search engines have also been banned. After the transition of power in 2019 concerns have arisen about the relationship between the new presidential administration and the press, which has been often described as disrespectful and manipulative. Since the election of Volodymyr Zelensky to the presidency there has been a number of alarming signals which has led many to question the new administration's openness to the media. Such incidents include, among other things, the claim of Andriy Bohdan, the influential chief of staff to the President, that the Head of State's team "does not need journalists to talk to the people" and the behavior of the President's press secretary Yuliia Mendel in regard to certain

journalists which has been described as “rude” and “unethical”. However, President Volodymyr Zelensky’s 14-hour press conference in October 2019 that allowed the representatives of diverse media outlets to ask questions and get answers might be a sign of the President’s wish to mend his relationship with the media. Press freedom in the occupied parts of Donbas ranks low, with journalists facing severe violations of freedom of expression including censorship by the de-facto authorities.

Rule of Law

Independence of the Judiciary : 4.28

The lack of the rule of law is an issue that has continued to plague Ukraine for yet another year. Bribery and corruption are widespread in the judicial system, in courts and in the prosecutors' offices. Judges often proceed to make questionable decisions that come under criticism by watchdog organizations. The decision of the Baryshyivskyi District Court to suspend the license of a local low-cost airline is an example of such disputable rulings, as the issue in this case falls out of the Court’s jurisdiction. This court decision has since been overruled by the Court of Appeal.

In 2016, a comprehensive reform of the judiciary system has been launched. It has since come under heavy criticism by the NGOs who criticized the lack of transparency in the selection of candidates for the Supreme Court, as well as the quality of the qualification assessment procedure which was supposed to evaluate professionalism and integrity of sitting judges. The reform has, however, led to a successful creation of the new High Anti-Corruption Court which has officially started its work in September 2019.

In October 2019 the Ukrainian Parliament has adopted the law aimed at fixing the flaws of the original reform of the judiciary of 2016. Nevertheless, it has become a subject of controversy, with some of its measures praised, others heavily criticized. Experts have mostly approved of the reboot of the High Qualification Commission of Judges with new members selected on a competitive basis and the creation of an Integrity and Ethics Commission under the High Council of Justice. The legal measure to decrease the number of the Supreme Court judges from 200 to 100 without a definitely outlined procedure and the subordination of the yet to be rebooted High Qualification Commission of Judges to the High Council of Justice have, however, come under criticism from the NGOs and the expert community. The ambassadors of Canada, the UK, Germany and the EU, have authored a joint appeal to the Chairman of the Ukrainian Parliament, urging the ruling majority to review the questionable articles of the law and inviting its members to discuss alternative solutions.

In September 2019, the Parliament has passed a law aimed at reforming the prosecution bodies in Ukraine. The Prosecutor General’s Office has since launched a large scale re-attestation campaign for the prosecutors who wished to continue their work in the future reformed prosecution system. The positions that would be left vacant after the completion of the attestation process are supposed to be filled by new employees through a selection procedure on a competitive basis. The law also provides for a substantial expansion of powers of the Prosecutor General, a position currently held by Ruslan Riaboshapka, for the interim period, which gives him personal responsibility for the outcome of the reform.

Corruption : 3.2

Corruption has been pervasive in Ukraine and the situation has only seen minor changes over the past few years. In 2018 Ukraine has kept the title of the most corrupt in Europe after Russia, being on the 120th place out of the 180 countries, together with Liberia, Malawi and Mali. Politicians and citizens continue to recognize corruption as one of the most important problems in Ukraine. The newly elected President Volodymyr Zelensky had also run for office on a platform of combatting corruption and his party has been able to secure a majority in the Parliament this year, but it remains to be seen whether the political will to deliver on that promise is there.

In September 2019 the long-awaited High Anti-Corruption court has finally officially launched its work, marking the completion of Ukraine's new infrastructure aimed at battling high corruption. Shortly after, the Verkhovna Rada has passed amendments to the Law of Ukraine "On the High Anti-Corruption Court", which narrows the specter of cases falling under the new Court's jurisdiction, saving it from being overloaded and allowing it to start its operation smoothly.

Shortly after the newly elected Parliament started its work a few other anti-corruption initiatives have been adopted. One of them is a law which allows the National Anti-Corruption Bureau (NABU) to conduct wiretapping on its own without involvement of the Security Service Ukraine (SBU). The former reliance of the NABU on the SBU to intercept telecom networks has long been recognized as an impediment to the Bureau's independence.

Another one is a "reboot" of the National Agency for Corruption Prevention (NACP), an agency the independence and effectiveness of which was questionable from the very beginning, with all of its members being dismissed and a temporary acting Head appointed by the government. The amendments the Parliament has passed in regard to the NACP pose both risks and opportunities, whereby much will depend on how the selection of new members is conducted.

Protection of Human Rights : 5.93

The respect for and awareness of human rights is a field that has improved the most since the success of the Maidan protests. A strong civil society has developed since then, with NGOs being able to successfully influence decision-making in the government. The repeatedly criticized 2017 law that increased monitoring of anti-corruption NGOs has been deemed unconstitutional and annulled by the Constitutional Court of Ukraine in June 2019. In general, the right to free speech is upheld in Ukraine. However the ongoing armed conflict in the Eastern regions of Donetsk and Luhansk has contributed to the polarization of opinions in the society, which has made it somewhat more difficult to publicly express pro-Russian opinions due to the possible societal pressure. The right to free speech is being constantly violated in the Russian-controlled Crimea and the occupied parts of the Donbas. The Ukrainians are free to practice their religious beliefs. Tensions between members of the different Orthodox Churches of Ukraine that have increased since the beginning of the conflict in the Donbas have carried on after the Kyiv Patriarchy and the Autocephalous Church as well as some parishes of the Moscow Patriarchy have been unified in the new Orthodox Church of Ukraine. The unified Orthodox Church of Ukraine and the Ukrainian Orthodox Church of Moscow Patriarchy do not recognize the legitimacy of each other on the official level. Religious freedom is constantly violated in Crimea and the occupied parts of the Donbas. The Russian authorities that currently control Crimea and the de-facto authorities in the occupied parts of the Donbas continue to put pressure on the Orthodox Church of Ukraine and the Greek Catholic Church. There are reports that the de-facto authorities in the occupied parts of

Donbas have also been persecuting members of the protestant church. The right to assembly is generally upheld in Ukraine and the government does not restrict it. Still, some public manifestations and rallies, such as pro-LGBT demonstrations, are subject to violence from non-state actors, often from the extreme right. The annual Kyiv Pride is well-protected by the police and usually goes without interruptions, although threats and attempts of physical violence remain. Independent journalists and civic activists, especially those who investigate and expose corruption remain vulnerable to physical violence.

Economic Freedom

Security of Property Rights : 4.84

Private property rights in Ukraine are still not protected sufficiently due to the persistence of corruption in the judiciary system. In addition to that, high costs of going to court hinder the enforcement of contracts. The inefficient land cadaster and complicated valuation rules make registering a property a very long and expensive process. The temporary ban on the sale of agricultural land remains in force since 2001 which interferes with the right to dispose of property making it impossible for land owners to sell or give away their land. The new government has promised to lift this ban while preserving some restrictions such as limiting land ownership to citizens of Ukraine and companies registered in Ukraine (even if their beneficiary owners are foreign nationals). Prime Minister Oleksiy Honcharuk has proposed to start a dialogue with the stakeholders to determine the modalities and details of how the new open agricultural land market would function. Up until now the privatization process has not been transparent and fair, and it remains to be seen whether or not the new privatization wave announced by President Volodymyr Zelensky and Minister of Economic Development Tymofiy Mylovanov will be carried out differently. Russian companies are banned from participating in the privatization process because of concerns over Russian influence in the country. In the occupied parts of the Donbas private enterprises have been “nationalized” by the de-facto authorities. The Index of Economic Freedom gives Ukraine a grade of 52.3 out of 100 in 2018, thereby falling under the category “mostly unfree”.

Size of Government: Expenditures, Taxes, and Enterprises : 6.44

Over the past three years government spending in Ukraine has reached around 42.1% of GDP, which is comparable to other European countries. Ukraine's public-debt to GDP ratio has decreased as compared to the previous year for the second time in a row, falling from 81% in 2016 to 71.8% in 2017, and to 62.7% in 2018. Ukraine's inflation rate was 9.0 in July 2019, which puts Ukraine on the 22-24th place in the world. Corruption remains as a critical problem and causes huge losses to the country's GDP. Ukraine has a large number of state-owned companies, many of which are costly and ineffective. In October 2019 the Parliament has abolished the list of state-run enterprises that are not subject to privatization, which opens the door for a new large-scale privatization process. According to the Minister of Economic Development Tymofiy Mylovanov, government has already approved privatization of 800 state-owned companies. The privatization process has been slow and largely unfair, and it remains to be seen whether or not it would change under the new government. The top individual income tax rate is 20% while the top corporate tax rate is 18%. The overall tax burden is 33,1% of the total domestic income.

Regulation of Credit, Labour, and Business : 4.76

In 2017 Ukraine was ranked 61st out of 190 in "doing business". In two years, Ukraine's position went up 15 places but there is still room for improvement. The ranking has gone up due to the multitude of economic reforms the country has conducted over the last few years. According to a World Bank report, Ukraine adopted improvement measures in six areas. The government eased the construction permit process by eliminating the need for an external supervisor and by introducing an online notification system, as well as made the contribution fee for a construction permit cheaper. It also became easier to get electricity, thanks to the implementation of a geographic information system. The transparency of the land administration system has also been increased. New public credit registry was established in the National Bank, which helped improve access to credit information. Apart from that, the time to import has been reduced due to the simplification of conformity certification requirements for auto parts. In April 2019 then-President Petro Poroshenko signed the new bankruptcy code into law, which is believed to ease resolving insolvency. The new government has also expressed its intention to continue its work to ease doing business in the country. One of the new regulations announced by the Cabinet of Ministers is the legalization of gambling. The draft law has already been prepared by the Cabinet and is yet to be voted on in the Parliament. The new Verkhovna Rada has already passed a number of measures which are thought to boost Ukraine's next-year ranking in "Doing Business", among them the introduction of a single account for paying taxes, the simplification of customs procedures and a law on increased protection of property rights. However, there have been setbacks too, as the Parliament adopted laws which strengthened the oversight of the tax office over private entrepreneurs, obliging most of them to either use a cash register or an app designed for the same purpose. Still, after these initiatives led some entrepreneurs to protest, President Volodymyr Zelensky initiated a two-year moratorium on the fiscal inspection of most individual entrepreneurs with the exception of the listed "high-risk" sectors.

Freedom to Trade Internationally : 7.5

Freedom to trade internationally is largely being upheld in Ukraine. The country has been a member of the World Trade Organization since 2008. Since 2016, Ukraine has been a part of a Deep and Comprehensive Free Trade Area with the European Union. Ukraine's main export partners are the EU, China, Russia and Turkey. The imports of the country come primarily from

the EU, China, Russia and Belarus. Ukraine's exports have been declining before 2014 already, but the outbreak of war in 2014 has worsened the trend. The Ukrainian export slightly increased in 2017, but decreased again by the end of the year. Since 2014 there has also been a decline in direct foreign investment, leading to negative growth. However, in 2017 there was a slight recovery of investment activity. Most of the investor countries belong to the European Union: the Netherlands, Germany, France, Austria, Luxembourg, the United Kingdom. Among the main factors that limit foreign investment in Ukraine are the ongoing military actions in Donbas, lack of trust towards the judicial system, lack of free circulation of land and inhibition of large privatization. The new Ukrainian government has so far publicly pledged to resolve some of these issues, namely to open the agricultural land market, conduct a large scale privatization and implement a new reform of the judiciary. Over the past five years the importance of the EU market for Ukraine's trade has risen significantly. In 2018 the EU's share in the structure of both exports and imports of goods in Ukraine amounted to 43%. The PrivatBank litigation remains one of the biggest threats to the Ukrainian economy. The stalling of talks on the new loan program between the International Monetary Fund and the Ukrainian government has been attributed to the IMF's concerns over government's commitment to transparency and independence of the banking sector. If Ukraine's dispute with the PrivatBank's former owners ends in the victory of the latter, it could seriously harm the country's economy and would likely spell the end to the cooperation with the IMF.