



# UKRAINE

	2012	2013
<b>INTERNET FREEDOM STATUS</b>	<b>FREE</b>	<b>FREE</b>
<b>Obstacles to Access (0-25)</b>	7	7
<b>Limits on Content (0-35)</b>	8	7
<b>Violations of User Rights (0-40)</b>	12	14
<b>Total (0-100)</b>	<b>27</b>	<b>28</b>

**POPULATION:** 45.6 million  
**INTERNET PENETRATION 2012:** 34 percent  
**SOCIAL MEDIA/ICT APPS BLOCKED:** No  
**POLITICAL/SOCIAL CONTENT BLOCKED:** No  
**BLOGGERS/ICT USERS ARRESTED:** Yes  
**PRESS FREEDOM 2013 STATUS:** Partly Free

\* 0=most free, 100=least free

### KEY DEVELOPMENTS: MAY 2012 – APRIL 2013

- While there was an increase in pressure on mainstream journalists toward self-censorship on political topics, there was also an increase in the use of ICTs for political mobilization (see **LIMITS ON CONTENT**).
- Online journalist and activist Mustafa Nayyem was reportedly beat up by the guards of a member of the Party of Regions in August 2012 (see **VIOLATIONS OF USER RIGHTS**).
- DDoS attacks occurred against election monitoring websites and opposition websites on the day of parliamentary elections (see **VIOLATIONS OF USER RIGHTS**).

## INTRODUCTION

Although Ukraine has not made notable progress in using internet and digital technology to strengthen its civil society over the past few years, the citizens of Ukraine enjoy largely unhindered access to the internet. With internet infrastructure rapidly developing since the early 1990s, information and communication technologies (ICTs) have some influence over the political process, with diverse and generally independent online media and social networks playing a key role with minimal pushback from the authorities. This comes in part as a result of the 2004–2005 Orange Revolution, in which ICTs played a significant role.<sup>1</sup>

Though Ukraine has relatively liberal legislation governing the internet and access to information, a number of state initiatives were introduced in 2011 that aimed to control electronic media, exercise surveillance over internet content on ethical grounds, and limit other forms of “undesirable” content. These efforts have the potential for direct and indirect controls over political and social content online. Direct action against online piracy websites and distributed denial-of-service (DDoS) attacks against civic initiatives online, although sparse, reveal the potential of Ukrainian authorities to engage in further limiting activities. In March 2013, the National Expert Commission on the Protection of Public Morals (NECPPM) issued a statement saying they had found immoral and discriminatory content hosted on YouTube and that the Internet Association of Ukraine should avoid “violating Ukrainian internet legislation.” Nonetheless, no further action was specified.

Social media platforms are popular and increasingly used by activists for organizing and promoting ideas such as election monitoring, rights campaigning, and reporting bribery and corruption. Political parties and the government also use the internet as a tool for political competition, engaging in legitimate forms of communication such as social media profiles and blogging, as well as more manipulative techniques such as trolling and “astroturfing,” or making partisan content seem independent. Social media and crowdsourcing platforms were used to monitor the parliamentary elections in 2012; many of these websites were also victims of DDoS attacks.

## OBSTACLES TO ACCESS

Internet penetration in Ukraine continues to grow steadily, due in part to diminishing costs and the increasing ease of access, particularly to mobile internet. According to the International Telecommunication Union (ITU), Ukraine had an internet penetration rate of 33.7 percent in 2012,<sup>2</sup> a major increase from 6.6 percent in 2007.<sup>3</sup> At the same time, statistics from InMind show

<sup>1</sup> Joshua Goldstein, “The Role of Digital Networked Technologies in the Ukrainian Orange Revolution,” Berkman Center Research Publication No. 2007-14, December 2007,

[http://cyber.law.harvard.edu/sites/cyber.law.harvard.edu/files/Goldstein\\_Ukraine\\_2007.pdf](http://cyber.law.harvard.edu/sites/cyber.law.harvard.edu/files/Goldstein_Ukraine_2007.pdf).

<sup>2</sup> Differing from ITU statistics, the research company, InMind, found that there were 14.3 million Ukrainians ages 15 and up who used the internet at least once a month in September 2011,<sup>2</sup> comprising 36 percent of the total population. InMind, “Поєр

that 19.7 million Ukrainians over the age of 15 use the internet regularly, which is close to 50 percent of all adult Ukrainians.<sup>4</sup> For fixed-broadband subscriptions, the penetration rate was approximately 7 percent in 2012, while mobile broadband had a penetration rate of 4.4 percent.<sup>5</sup> Meanwhile, Ukraine ranks eighth in the world for download speeds, with an average download speed of 1190 Kbps,<sup>6</sup> and access to broadband internet in Ukraine is fairly affordable. A monthly unlimited data plan with a 1 Mb broadband channel costs UAH 80–120 (\$10–15), while the average monthly wage in the country was UAH 3,377 (\$414) in December 2012.<sup>7</sup>

Of current internet users, 56 percent live in urban areas, while internet penetration in smaller towns and rural areas is currently below 20 percent.<sup>8</sup> The level of infrastructure differs between urban and rural areas, contributing to the gap in number of users. Most people access the internet from home or work, though many middle- and higher-end cafes and restaurants often provide free Wi-Fi access. Access is also common in public libraries and schools. Internet cafes still exist, but are gradually losing popularity.

Mobile phone penetration has also continued to grow, reaching 132 percent in 2012.<sup>9</sup> Use of mobile internet is gaining in popularity, and an estimated 14 percent of Ukrainian mobile subscribers own smartphones.<sup>10</sup> Cost continues to be the main barrier to higher mobile internet use. Mobile operators are still waiting for access to third-generation (3G) mobile phone frequencies, which the Ministry of Defense had promised to convert for use by mobile operators in 2012, but failed to do so.<sup>11</sup> The only commercial 3G license was previously owned by formerly state-run Ukrtelecom, which was privatized in March 2011, and its 3G division is a separate company currently reported to be looking for a buyer, so the issue of frequency conversion remains stalled.<sup>12</sup>

---

уровня проникновения интернета в Украине существенно замедлился” [Growth of Internet Penetration Level in Ukraine Has Slowed Significantly], AIN.UA, October 19, 2011, <http://ain.ua/2011/10/19/62100>.

<sup>3</sup> International Telecommunication Union (ITU), “Percentage of individuals using the Internet,” 2006 & 2012, accessed July 6, 2013, <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

<sup>4</sup> InMind, В Украине почти 20 млн пользователей интернета [Ukraine has almost 20 million Internet users], AIN.UA, October 24, 2012, <http://ain.ua/2012/10/24/99561>.

<sup>5</sup> “Broadband: State of Broadband 2012,” Broadband Commission for Digital Development, September 2012, <http://www.broadbandcommission.org/Documents/bb-annualreport2012.pdf>.

<sup>6</sup> Pando Networks, “Report: U.S. Broadband Speeds Remain Slow, 26th in the World,” SiliconFilter, September 20, 2011, <http://siliconfilter.com/report-u-s-broadband-still-slow-ranks-26th-in-the-world/>.

<sup>7</sup> State Statistics Service of Ukraine, “Average monthly wage by region in 2012,” accessed on February 15, 2013, [http://www.ukrstat.gov.ua/operativ/operativ2012/gdn/reg\\_zp\\_m/reg\\_zpm12\\_u.htm](http://www.ukrstat.gov.ua/operativ/operativ2012/gdn/reg_zp_m/reg_zpm12_u.htm).

<sup>8</sup> InMind, “Рост уровня проникновения интернета в Украине существенно замедлился” [Growth of Internet Penetration Level in Ukraine Has Slowed Significantly], AIN.UA, October 19, 2011, <http://ain.ua/2011/10/19/62100>.

<sup>9</sup> International Telecommunication Union (ITU), “Mobile-cellular telephone subscriptions,” 2012, accessed July 6, 2013, <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

<sup>10</sup> Olga Karpenko, “Смартфоны есть у 14% украинских абонентов, устройств Android втрое больше, чем iPhone” [14% of Ukrainian subscribers own smartphones, Android’s share three times that of iPhone,] AIN.UA, February 20, 2013, <http://ain.ua/2013/02/20/113303>.

<sup>11</sup> Ihor Burdyga, “Операторов свяжут с третьим поколением” [Operators To Be Connected To Third Generation], Kommersant Ukraine, December 12, 2011, <http://www.kommersant.ua/doc/1833438>.

<sup>12</sup> Dmitry Kuznetsov, “Единственного в Украине 3G-оператора «ТриМоб» опять хотят продать?” [The only 3G operator in Ukraine up for sale again?], August 22, 2012, <http://ain.ua/2012/08/22/93759>.

There are no known instances of the authorities requiring internet service providers (ISPs) to block any Web 2.0 applications, protocols, or instant messaging tools. The backbone connection of UA-IX (Ukrainian internet exchange, a mechanism of traffic exchange and connection to the wider internet for Ukrainian ISPs) to the international internet is not centralized, and major ISPs each have their own channels that are managed independently.

The Ukrainian telecommunications market is fairly liberal and currently undergoing gradual development. The state previously owned 93 percent of the largest telecom company and top-tier ISP, Ukrtelecom, but in March 2011 the company was privatized.<sup>13</sup> Though no longer state-owned, Ukrtelecom is still the largest ISP in the country and possesses Ukraine's primary network, trunk, and zone telecom lines.<sup>14</sup> Other telecommunications providers are dependent on leased lines, since Ukrtelecom owns the majority of the infrastructure, and many alternative providers do not have sufficient resources to build their own networks. However, Ukrtelecom does not exert any pressure or regulatory control over these other ISPs.

Among the major private ISPs in Ukraine are Volia, Triolan, Vega, and Datagroup; however, major mobile service providers, like Kyivstar and MTS, are also starting to provide broadband internet access.<sup>15</sup> There are about 400 ISPs in Ukraine, according to the State Commission on Communications and Informatization.<sup>16</sup> Regional ISPs are usually smaller local businesses, and regional dominance largely depends on business and other connections in a specific region, making the market prone to corruption.

Ukrchastotnaglad, the Ukrainian frequencies supervisory center, reports that 86 operators have licenses to provide satellite communications services in Ukraine. Companies providing internet access using satellite technologies in Ukraine include Ukrsat, Infocom-SK, Spacegate, Adamant, LuckyNet, Ukrnet, and Itelsat. With the exception of Infocom-SK,<sup>17</sup> all these companies are private.<sup>18</sup> The three major players in the mobile communications market are Kyivstar (owned by Dutch VimpelCom Ltd.), MTS Ukraine (owned by Russian AFK Sistema), and "life:)" (owned by Astelit, whose main shareholders are the Turkish company Turkcell and Ukrainian System Capital Management). Together, these players hold 94.6 percent of the mobile communications market.<sup>19</sup>

There are no obvious restrictions or barriers to entry into the ICT market, but any new business venture, be it an ISP or an internet cafe, faces the usual bureaucracy and corruption, as well as the

<sup>13</sup> 92.8 percent of shares sold to ESU, a Ukrainian subsidiary of the Austrian company EPIC. Source: "Укртелеком продан" [Ukrtelecom Sold], Dengi.Ua, March 11, 2011, [http://dengi.ua/news/77761\\_Ukrtelekom\\_prodan\\_.html](http://dengi.ua/news/77761_Ukrtelekom_prodan_.html).

<sup>14</sup> "Ukraine: Country Profile 2010," OpenNet Initiative, December 21, 2010, <http://opennet.net/research/profiles/ukraine>.

<sup>15</sup> "Количество пользователей широкополосного доступа в Украине достигло 5,6 млн" [Number Of Broadband Internet Users in Ukraine Reaches 5.6 Million], AIN.UA, December 16, 2011, <http://ain.ua/2011/12/16/68574>.

<sup>16</sup> "Во 2 квартале количество абонентов провайдеров Интернет увеличилось на 6,4%" [In Second Quarter Number Of Subscribers Of Internet Providers Grew By 6.4%], Delo.Ua, July 26, 2007, <http://bit.ly/18A2eL4>.

<sup>17</sup> Infocom-SK was founded in 1991 jointly by state-owned Ukrtelecom and Controlware, a German telecommunications company. "History," Infocom, accessed on June 15, 2012, <http://infocom.ua/catalogue.jsp?catalogueId=3000&cataloguerId=6070&lang=3>.

<sup>18</sup> "Ukraine: Country Profile 2010," OpenNet Initiative.

<sup>19</sup> iKS-Consulting, "В Украине почти 55 млн абонентов мобильной связи [Ukraine has almost 55 million mobile subscribers], AIN.UA, July 31, 2012, <http://ain.ua/2012/07/31/92177>.

legal and tax hurdles common to the Ukrainian business environment. In particular, the Ukrainian ICT market has been criticized for its difficult licensing procedures for operators, and under the 2003 Law on Communications, operators are required to have a license before beginning their activities.

The ICT sector is regulated by the National Commission on Communications and Informatization (NCCIR). Members of the NCCIR are appointed by the president of Ukraine.<sup>20</sup> Due to widespread corruption in the political system and the lucrative nature of business in the ICT sector, appointments to the commission often lack transparency. The NCCIR's work has often been obstructed by claims of non-transparent decisions and operations. For instance, in July 2011 the NCCIR (then the NCCR) refused to prolong the operating license of mobile provider Kyivstar for GSM 900/1800 frequencies.<sup>21</sup> Furthermore, the 2003 Law on Communications does not guarantee the independence of the NCCIR.

A new parliamentary committee on informatization and information technologies was created in December 2012,<sup>22</sup> ostensibly to promote the president's promise of further development of the Ukrainian ICT market.<sup>23</sup> So far, the committee has not made any significant decisions relating to the ICT industry.

## LIMITS ON CONTENT

There is no practice of institutionalized blocking or filtering, or a regulatory framework for censorship of content online, although there have been attempts at creating legislation which could censor or limit content. Many of these initiatives present indirect threats to freedom of information online. For example, in September 2012, members of parliament introduced a draft bill which suggested implementing jail sentences of three to five years for cybercrimes such as hacking, cyberscams, and information espionage.<sup>24</sup> Additionally, there were calls to create a national cybersecurity system as part of the strategic law "On the main foundations of development of

<sup>20</sup> National Commission on Regulation of Communications and Informatization, accessed on January 10, 2012, <http://en.nkrz.gov.ua/>.

<sup>21</sup> "НКРС отказалась продлевать «Киевстар» лицензию на мобильную связь" [NCCR Refused to Prolong Kyivstar's mobile communications license], ITC.ua, July 8, 2011, <http://bit.ly/19KAAt3>. The NCCR said Kyivstar first acquired their license in 1996 for 15 years under the acting Law on Telecommunications, while in 2004 a new Law on Telecommunications came into power, thus making the old Law (and any agreements under it) void. NCCR believed Kyivstar was not entitled to simply pay 30 percent of the license price to prolong said license, but ought instead to pay 200 percent of the license price to acquire two new licenses for GSM 900 and GSM 1800 each. This would cost Kyivstar around 19 million UAH. As a result, in September 2011 Kyivstar had to pay the full price for two new licenses in order to continue their activities in the market. See also, "Киевстару выдали новые лицензии на мобильную связь" [Kyivstar Given New Mobile Communications Licenses], LigaNet, September 8, 2011, <http://bit.ly/164BamS>.

<sup>22</sup> "Верховна Рада України прийняла Постанову "Про комітети Верховної Ради України сьомого скликання"" [Ukrainian Parliament adopts Decree "On committees of Parliament of Ukraine, seventh session], Official Parliamentary portal, December 25, 2012, <http://portal.rada.gov.ua/news/Top-novyna/71350.html>.

<sup>23</sup> Olga Karpenko, "В парламенте появился комитет, отвечающий за IT-отрасль" [Parliament gets committee to regulate ITC sphere], AIN.UA, December 25, 2012, <http://ain.ua/2012/12/25/107173>.

<sup>24</sup> Olga Karpenko, "За компьютерные преступления депутаты предлагают сажать на 3 года" [MPs suggest jail sentences for up to 3 years for cybercrimes], AIN.UA, September 19, 2012, <http://ain.ua/2012/09/19/95861>.

information society in Ukraine for 2007–2015.”<sup>25</sup> In some cases, such laws obligate ISPs to remove or block the offensive or illegal content within 24 hours or, if such content is found to be hosted outside of Ukraine, ISPs would have to limit Ukrainian users’ access to such content, effectively introducing a practice of filtering content.

The law “On Protection of Public Morals” deals with pornography, eroticism, hate speech, violence, and explicit language, and was amended in October 2011. However, these amendments have been criticized for being overly vague, since they fail to narrowly define what is considered erotic, hateful, or explicit. Critics have argued that the amended law is in violation of Article 10 of the European Convention of Human Rights and the Declaration of Human Rights, both ratified by Ukraine.<sup>26</sup>

Aside from the vague definitions, experts are worried that the law gives extraordinary powers to the National Expert Commission on the Protection of Public Morals (NECPPM), allowing it to issue orders to block websites and online content within 24 hours, without a court order or any means for website owners or content authors to appeal. At the moment, access providers and content hosts are not responsible for the content transmitted or hosted, and may block or require a user to remove content only when provided with a court order. The NECPPM, which has been slated for dissolution since January 2013,<sup>27</sup> is known for outlandish requests and recommendations, such as its letter to the Internet Association of Ukraine (INAU) in March 2013, which stated that the Commission had analyzed the website YouTube.com and discovered content which was immoral and discriminatory. The letter asked INAU to “consider avoiding [the] violation of Ukrainian Internet legislation,” but did not specify further action.<sup>28</sup>

In one of the more notable cases of website closure, on August 6, 2012, Ukrainian authorities shut down Demonoid, one of the world’s largest bittorrent tracker websites hosted in Ukraine, which was violating Ukraine’s copyright laws.<sup>29</sup> Previously, all IP addresses within Ukraine were merely blocked from accessing the site, although the site was still available to outside users and those with circumvention tools. Many media outlets connected the shutdown to First Deputy Prime Minister Valery Khoroshkovsky’s visit to the United States,<sup>30</sup> and portrayed it as an attempt to demonstrate

<sup>25</sup> “НКРЗІ пропонує зміни до Закону України “Про Основні засади розвитку інформаційного суспільства в Україні на 2007-2015 роки” [NCCIR proposes changes to the Law of Ukraine “On the main foundations of development of information society in Ukraine for 2007-2015”], National Commission on Communications and Informatization official website, August 9, 2012, [http://nkrzi.gov.ua/uk/activities\\_nkrzi/news/1344519940/](http://nkrzi.gov.ua/uk/activities_nkrzi/news/1344519940/).

<sup>26</sup> “Генсек “Репортерів без кордонів” стурбований наміром депутатів обмежити ЗМІ” [Reporters Without Borders General Secretary Concerned With MP’s Intention To Limit Mass Media], *Ukrainska Pravda*, October 28, 2011, <http://www.pravda.com.ua/news/2011/10/28/6711923/>.

<sup>27</sup> “В Україні ліквідируют Комісію по морали” [Morals Commission to be liquidated in Ukraine], *Segodnya,UA*, January 31, 2013, <http://www.segodnya.ua/politics/laws/V-Ukraine-likvidiruyut-Komissiyu-po-morali.html>.

<sup>28</sup> Serhiy Pishkovtsiy, “Нацкомісії з захисту моралі не сподобався YouTube” [National Morals Protection Commission does not like YouTube], April 2, 2013, <http://watcher.com.ua/2013/04/02/natskomisiyi-z-zahystu-morali-ne-spodobavsya-youtube/>.

<sup>29</sup> Veronica Khokhlova, “Ukraine: Authorities Shut Down BitTorrent Tracker Demonoid,” *Global Voices*, August 14, 2012, <http://globalvoicesonline.org/2012/08/14/ukraine-authorities-shut-down-bittorrent-tracker-demonoid/>.

<sup>30</sup> Doug Palmer, “UPDATE 2-IMF to visit Ukraine to assess budget-Ukraine official,” *Reuters*, August 1, 2012, <http://in.reuters.com/article/2012/08/01/imf-ukraine-idINL2E8IVKRK20120801>.

Ukraine's tough stance on copyright infringement.<sup>31</sup> In response to Demonoid's closure, the hacktivist group Anonymous launched a series of DDoS attacks on Ukrainian government websites, including the National TV and Radio Broadcasting Council, the Agency for Copyright, and the Anti-Piracy Association.<sup>32</sup>

In February 2013, the weekly news magazine and website *Focus* suddenly removed its latest issue from the website and stalls.<sup>33</sup> Journalists and observers claimed that the issue was removed because of several articles critical of the presidential administration. The four articles in question were dedicated to the third anniversary of the election of President Viktor Yanukovich and contained revealing infographics about the administration's expenses. *Focus's* editor-in-chief, Yana Moiseenkova, disputed claims of self-censorship, claiming that the removals were due to technical reasons and that the articles would be back online later, although the articles were never returned to the website. Other explanations of why the stories were removed from the website included a speculation that *Focus* was engaging in a self-promotion campaign.

Attempts to manipulate the online news landscape are not numerous, but there are some examples of online media which support certain political figures or political ideas, in addition to progovernment news websites. Some online news websites belong to media holdings owned by oligarchs close to the ruling Party of Regions and other political forces. By and large, though, online media are varied and represent many opinions on the political spectrum, with a key cluster of independent media playing the role of watchdogs and conducting investigative journalism. Political and social issues are discussed freely on internet forums and in the comments on news sites like *Ukrainska Pravda* and *Korrespondent*. Access to international media websites is also unfettered. Prior instances of politically affiliated paid commentators trolling on news websites and social networks did not occur as frequently in 2012–2013.

YouTube, Facebook, Twitter, and international blog-hosting services such as Wordpress and LiveJournal are freely available. Increasingly, Ukrainian politicians are realizing the value of social media, and many have accounts on social media platforms in the hopes of engaging their voters.<sup>34</sup> During the 2012 parliamentary elections, many politicians engaged with voters on their social media platforms.

The Ukrainian blogosphere is fairly active, although less so than the Russian LiveJournal community, which houses many more politically active citizens. Around 60 percent of Ukrainian online users regularly went online in 2012 to use social networks.<sup>35</sup> According to Yandex, in 2011 there were 1.1 million Ukrainian blogs, up from 700,000 in 2010, and blogs are increasingly

<sup>31</sup> Jon Partridge, "Pirate Bay Competitor Demonoid Taken Out as a Present For the US," *Gizmodo*, August 7, 2012, <http://www.gizmodo.co.uk/2012/08/pirate-bay-competitor-demonoid-taken-out-as-a-present-for-the-us/>.

<sup>32</sup> Steve Ragan, "Anonymous Attacks Ukrainian Government After Demonoid Takedown," *Security Week*, August 8, 2012, <http://www.securityweek.com/anonymous-attacks-ukrainian-government-after-demonoid-takedown>.

<sup>33</sup> Olga Karpenko, "Журнал «Фокус» снял материалы с сайта из-за цензуры?" [Focus Magazine Removed Articles From Website Because of Censorship?], AIN.UA, February 25, 2013, <http://ain.ua/2013/02/25/113849>.

<sup>34</sup> Yelena Gladskih, "Как используют блоги украинские политики" [How Ukrainian Politicians Use Blogs], Delo.Ua, February 12, 2011, <http://delo.ua/ukraine/kak-ispolzujut-blogi-ukrainski-152081/>.

<sup>35</sup> UANet 2012 Digest, Prodigy Digital Agency, December 11, 2012, <http://slidesha.re/UxQ5v7>.

appearing as a genre of online news websites.<sup>36</sup> In addition, there are about 500,000 Ukrainian Twitter accounts, with a large majority of them in Kyiv.<sup>37</sup> The number of Ukrainian users on Facebook grew from nearly 2 million users as of April 2012 to 2.3 million in December 2012.<sup>38</sup>

Ukrainian bloggers, journalists, NGOs, and citizen activists have been joining forces and creating online projects aimed at scrutinizing government policies, monitoring elections, and uncovering corruption in the higher ranks of power.<sup>39</sup> During the recent parliamentary elections in October 2012, a number of NGOs and civic organizations used online tools to keep the election process transparent and accountable, providing tools for citizens to help monitor the elections. Some of these networks sprung out of the Orange Revolution, but activists are now exploring new tools to fight election corruption. The OPORA civic network, for example, created an interactive map with all 33,000 polling stations, and its 3,800 professional observers documented violations on the map.<sup>40</sup> Regular citizens could also submit reports of violations through an online form.

Another project called “Maidan-monitoring,”<sup>41</sup> launched by the online citizen-activism hub Maidan, used crowd-mapping and the Ushahidi platform to create a map of violations with textual and visual evidence supporting the reports.<sup>42</sup> Maidan-monitoring activists made it a point to verify all incoming information, also calling on election commission members and voters to join the People’s Central Election Commission (CEC)<sup>43</sup> and post digital photographs of the final voting protocols that were later posted online in order to prevent any manipulations of the election results.

ElectUA,<sup>44</sup> a nonpartisan crowdsourced election monitoring project by Internews Ukraine, grew out of the practice of using Twitter hashtags to report possible voting violations during previous elections in 2009 and 2010.<sup>45</sup> Voters were able to submit messages to ElectUA in 2012 via e-mail, SMS, and phone, as well as through the project’s website, Facebook or Twitter. All three election monitoring websites experienced DDoS attacks on the day of the elections, October 28, 2012.<sup>46</sup>

<sup>36</sup> Yandex, “Антон Волнухін, Яндекс «Дослідження української блогосфери 2011»” [Anton Volnukhin, Yandex “Research on Ukrainian Blogosphere 2011”], presented at Microsoft BlogFest 2011, shared by Microsoft Ukraine, November 19, 2011, <http://docs.com/G65I>.

<sup>37</sup> “Яндекс дружит с Твиттером” [Yandex Gets Friendly With Twitter], Yandex Company Blog, February 21, 2012, <http://clubs.ya.ru/company/43938>.

<sup>38</sup> Maksym Savanevsky, “Українська аудиторія Facebook в 2012 році зросла на 630 тис” [Ukrainian Facebook Audience in 2012 Grew by 630 Thousand], Watcher.com.ua, December 25, 2012, <http://bit.ly/ZxsYKi>.

<sup>39</sup> Examples include the New Citizen partnership’s initiative ЧЕХО (Honestly, a movement for transparent and fair parliamentary elections), and PRYAMA DIYA<sup>39</sup> (Direct Action, a movement of student unions organizing street protests on relevant issues).

<sup>40</sup> ELECTIONS 2012. Observation, OPORA network, accessed February 26, 2012, <http://map.oporaua.org/en/>.

<sup>41</sup> Natalka Zubar, New Interactive Map of Electoral Violations in Ukraine, Maidan.org, July 10, 2012, <http://bit.ly/1fRTFP3>.

<sup>42</sup> Майдан Моніторинг: Вибори 2012 [Maidan Monitoring: Elections 2012], Maidan, accessed on February 27, 2013, <http://maidanua.org/vybyory2012/>.

<sup>43</sup> Запис до Народної ЦВК [Join the People’s CEC], Maidan, accessed on February 27, 2013, <http://bit.ly/18eUg9i>.

<sup>44</sup> Veronica Khokhlova, Ukraine: Crowdmapping Election Violations, Global Voices, October 26, 2012, <http://globalvoicesonline.org/2012/10/26/ukraine-crowdmapping-election-violations/>.

<sup>45</sup> “(прес-реліз) 1700 повідомлень про можливі порушення – результат Twitter-трансляції місцевих виборів” [(press-release) 1700 Tweets About Possible Violations – Result of Local Elections Twittercast], Blog of Elections Twittercast Project, November 3, 2010, <http://electua.blogspot.com/2010/11/1700-twitter.html>.

<sup>46</sup> Tetyana Bohdanova, Ukraine: Election Monitors’ Websites Under DDoS Attack, Global Voices, October 28, 2012, <http://globalvoicesonline.org/2012/10/28/ukraine-election-monitors-websites-under-ddos-attack/>.

The attacks lasted for several hours, and the sites were inaccessible for a period of time, but activists were not able to provide direct proof that these were intentional DDoS attacks.<sup>47</sup>

## VIOLATIONS OF USER RIGHTS

The security situation for journalists and online users further declined in 2012–2013. Traditional journalists continue to face regular intimidation and threats of physical violence, although this trend has not been seen as frequently in regard to online journalists. However, in August 2012, a well-known online journalist for the internet publication *Ukrayinska Pravda* was reportedly beaten up by the guards of a member of the Party of Regions. Additionally, during the parliamentary elections in October 2012, there was an increase in the number of DDoS attacks against election monitoring and opposition websites.

The right to free speech is granted to all citizens of Ukraine in Article 34 of the constitution, although the article also specifies that the state may restrict this right in the interest of national security or public order. In practice, this right has been frequently violated. Part three of Article 15 of the constitution forbids censorship, though this norm is routinely violated, with especially grave violations observed during the time of President Leonid Kuchma, who served before the 2004–2005 Orange Revolution. In addition, Article 171 of the criminal code provides fines and detention sentences for obstructing journalists' activity. The Ukrainian judiciary, however, is prone to the same level of corruption evident in other branches of power. Many businesses, including media companies, often resort to bribes to influence the consideration of their affairs in the courts.<sup>48</sup>

In 2011, online journalists achieved similar status and privileges as traditional journalists, such as being able to obtain accreditation for parliamentary sessions and other official meetings frequented by the press. Nevertheless, there has been an ongoing discussion about the need for online media to register, with some suggesting that registration would provide additional mechanisms for protecting journalists, while others refute this idea, considering any form of registration to be an impediment to press freedom and internet freedom.<sup>49</sup>

On September 18, 2012, a draft bill calling for up to five years of jail time for defamation (both offline and online) passed the first reading in the parliament.<sup>50</sup> The bill caused a wave of indignation from Ukrainian journalists and activists, and international organizations such as Reporters Without Borders appealed to the parliament to reconsider adopting the bill that would recriminalize

<sup>47</sup> OPORA Citizen Network (Facebook page), October 28, 2012,

<https://www.facebook.com/cn.opora/posts/10151093684415108>.

<sup>48</sup> "Судова реформа не розвіяла сутінків у бізнес-настроях" [Judiciary reform does not banish twilight in business mood], *Deutsche Welle*, June 1, 2012, <http://www.dw.de/dw/article/0,,15992775,00.html>.

<sup>49</sup> Ukrainian Internet Association, "Підсумки прес-конференції: "Саморегулювання вітчизняних електронних медіа як альтернатива державному регулюванню в Українському сегменті Інтернет" [Summary of Press-Conference: "Self-regulation of Ukrainian Electronic Media As An Alternative To State Regulation In The Ukrainian Internet Segment"], InAU (Ukrainian Internet Association), July 19, 2011, <http://www.inau.org.ua/170.3675.0.0.1.0.phtml>.

<sup>50</sup> Tetyana Bohdanova, "Ukraine: Protesting the Controversial Defamation Bill," *Global Voices*, September 29, 2012, <http://globalvoicesonline.org/2012/09/29/ukraine-protesting-the-controversial-defamation-bill/>.

defamation.<sup>51</sup> A number of online media outlets and active online users launched a wide-reaching campaign against the defamation bill, creating a Facebook group with over 7,700 members, placing stark banners on the front pages of many media outlets, and posting calls to “Say ‘No’ to Defamation Law” throughout social networks.<sup>52</sup> As a result of the campaign pressure, the bill was rejected at its final reading on October 2, 2012.<sup>53</sup> However, some pointed out that Vitaly Zhuravsky, a member of parliament (MP), might have agreed to recall the draft bill to improve his chances in the coming parliamentary elections.<sup>54</sup>

In June 2012, a criminal investigation was initiated against the news website *Levy Bereg* (*Left Bank*), reportedly upon request of MP Volodymyr Landyk, who claimed the website published his private text messages without his consent.<sup>55</sup> Sonya Koshkina, the editor-in-chief of *Levy Bereg*, temporarily left the country, citing pressure and fears for her life. Koshkina claimed she would not return until the criminal investigation was dropped.<sup>56</sup> The Kyiv Prosecutor’s Office later dropped the case, citing that “there was no significant harm done by the publication to the claimant.”<sup>57</sup>

There is no obligatory registration for either internet users or mobile phone subscribers. Nevertheless, the pervasiveness of extralegal surveillance of Ukrainians users’ activities is unclear. From 2002 to 2006, mechanisms for internet monitoring were in place under the State Committee on Communications’ Order No. 122, which required ISPs to install so-called “black-box” monitoring systems that would provide access to state institutions. This was mainly done to monitor the unsanctioned transmission of state secrets. Caving to pressures from public protests and complaints raised by the Internet Association of Ukraine and the Ukrainian Helsinki Human Rights Union, the Ministry of Justice abolished this order in August 2006. Since then, the Security Service has seemingly acted within the limits of the Law on Operative Investigative Activity, and must obtain a court order to carry out surveillance.<sup>58</sup> At the same time, some human rights groups are concerned that the Security Service is still keeping intercepted messages and carrying out internet surveillance on a large scale.<sup>59</sup>

Physical attacks against online journalists and activists are rare; however, the intimidation and harassment of traditional journalists is a regular occurrence. In August 2012, the activist Mustafa

<sup>51</sup> “In Victory for Journalists, Recriminalization of Defamation Rejected,” Reporters Without Borders, October 2, 2012, <http://en.rsf.org/ukraine-appeal-on-parliament-about-02-08-2012,43153.html>.

<sup>52</sup> “Скажи ні закону про наклеп. Це стосується кожного” [Say ‘No’ to Defamation Law. This is Everyone’s Business], Facebook group, accessed on February 27, 2013, <https://www.facebook.com/groups/naklep/members/>.

<sup>53</sup> “In Victory for Journalists, Recriminalization of Defamation Rejected,” Reporters Without Borders, October 2, 2012, <http://en.rsf.org/ukraine-appeal-on-parliament-about-02-08-2012,43153.html>.

<sup>54</sup> Tetyana Bohdanova, “Ukraine: Protesting the Controversial Defamation Bill,” Global Voices, September 29, 2012, <http://globalvoicesonline.org/2012/09/29/ukraine-protesting-the-controversial-defamation-bill/>.

<sup>55</sup> Olga Karpenko, “В отношении интернет-издания LB.ua возбуждено уголовное дело (дополнено)” [Criminal Case Started Against Online Publication Levy Bereg (updated)], AIN.UA, July 17, 2012, <http://ain.ua/2012/07/18/91273>.

<sup>56</sup> “Соня Кошкіна виїхала з України” [Sonya Koshkina Has Left Ukraine], *Ukrainska Pravda*, June 30, 2012, <http://www.pravda.com.ua/news/2012/06/30/6967733/>.

<sup>57</sup> “Повідомлення” [Notification], Kyiv Prosecutor’s Office official website, August 3, 2012, <http://www.kyiv.gp.gov.ua/ua/news.html? m=publications& c=view& t=rec&id=109821>.

<sup>58</sup> “Ukraine: Country Profile 2010,” OpenNet Initiative.

<sup>59</sup> Kharkiv Human Rights Group, “Права людини в Україні - 2006. V. Право на приватність” [Human Rights in Ukraine in 2006. V. Privacy Rights], Human Rights in Ukraine, March 5, 2010, <http://www.khpg.org/index.php?id=1186147137>.

Nayyem, who is a well-known TV and online journalist, was on his way to a Party of Regions congress when he was attacked by the guards of a party member.<sup>60</sup> The Prosecutor's Office in Kyiv has started an investigation into the attack, in which Nayyem was beaten and had his phone stolen.

In March 2013, Andriy Dzindzya, a journalist with *Road Control*, an online crowdsourcing website documenting road police corruption, was arrested on charges of hooliganism—a common charge for activists in Ukraine.<sup>61</sup> Earlier, in February 2012, journalists from *Road Control* had an altercation with police. After other journalists and NGO activists arrived at the police station, Dzindzya was released on bail. Observers claimed his arrest was unwarranted, as were the hooliganism charges.<sup>62</sup>

On March 22, 2013, police officers arrived at the offices of the website Censor.net and claimed they had a warrant, based on a preliminary investigation, to obtain information about the website's users. They were unable to present any proof or documentation, but threatened to remove the servers from the office.<sup>63</sup> Further comments from the local cybercrime division officials indicated that police had acted due to a post on an online forum and comments on Censor.net criticizing a local judge for parking her car illegally in the backyard of her apartment complex.<sup>64</sup> The judge then instigated criminal proceedings to determine who was criticizing her on the website. Censor.net reported the actions and alleged motivations of the police on its website, after which the police dropped the matter.

Cyberattacks are not very common in Ukraine, although some recent cases were recorded during the parliamentary elections of October 2012. Several crowdsourced election monitoring websites were attacked,<sup>65</sup> as well as the websites of opposition parties.<sup>66</sup>

In March 2013, several regional news websites reported that they had been the victims of DDoS attacks. Three outlets based in Cherkassy—*Procherk*, *Provintsiya* and *Dzvin*—were taken down on March 6, 2013 during President Yanukovich's visit to the region. According to *Procherk* editor Nazariy Vivcharyk, their website was also subject to cyberattacks during most of the day.<sup>67</sup>

<sup>60</sup> "Мустафа Найем рассказал, кто его избил на съезде Партии регионов" [Mustafa Nayyem Told Of Who Beat Him Up At The Party Of Regions Congress], ZN.UA, August 3, 2012, <http://bit.ly/18A2lpT>.

<sup>61</sup> "Журналіста "Дорожного контролю" арештували за рішенням суду – міліція" [Road Control Journalist Arrested on Court Warrant – Police], Ukrainska Pravda, March 15, 2013, <http://www.pravda.com.ua/news/2013/03/15/6985666/>.

<sup>62</sup> "Суд відпустив журналіста "Дорожного контролю" під заставу" [Court Releases Road Control Journalist on Bail], Ukrainska Pravda, March 19, 2013, <http://www.pravda.com.ua/news/2013/03/19/6985900/>.

<sup>63</sup> "Міліція посягала на сервер інтернет-видання через коментарі про суддю" [Police threatened to remove server of online news outlet because of comments about a judge], Ukrainska Pravda, March 28, 2013, <http://bit.ly/16U1vAO>.

<sup>64</sup> "Судья хозяйственного суда Жанна Александровна Бернацкая своим джипом порше кайен демонстративно и нагло не дает выехать никому со двора. Как борются с такими уродами?" [Economic court judge Zhanna Aleksandrovna Bernatskaya blocks exit from yard for everyone with her Porsche Cayenne jeep. How do we fight such bastards?], Censor.net, February 12, 2013, <http://bit.ly/14rbjFe>.

<sup>65</sup> Tetyana Bohdanova, "Ukraine: Election Monitors' Websites Under DDoS Attack," Global Voices, October 28, 2012, <http://globalvoicesonline.org/2012/10/28/ukraine-election-monitors-websites-under-ddos-attack/>.

<sup>66</sup> Maksym Savanevsky, "Сайти Тимошенко, Фронту Змін, Гриценка лягли під DDoS атакою (оновлено)" [Websites of Tymoshenko, Front Zmin, Hrytsenko Down Under DDoS Attack (updated)], Watcher.com.ua, October 28, 2012, <http://watcher.com.ua/2012/10/28/sayty-tymoshenko-frontu-zmin-hrytsenka-lyahly-pid-ddos-atakoyu/>.

<sup>67</sup> "Барометр свободи слова за березень 2013 року" [Freedom of Speech Barometer for March 2013], IMI, April 3, 2013, <http://imi.org.ua/barametr/40525-barometr-svobodi-slova-za-berezen-2013-roku.html>.