
Reanimation
Package of Reforms
REFORMS
UNDER THE MICROSCOPE
2015

CONTENTS

ANTICORRUPTION REFORM

The Coalition Agreement of factions in the Parliament of the eighth convocation provides for a number of important and concrete steps in the field of anticorruption reform. Anticorruption measures in the Agreement are rather ambitious and are not limited to the adoption of legislation. Six out of the nine measures that involve the adoption of legislative acts by the Verkhovna Rada of Ukraine have been implemented. With regard to some measures, there is no progress whatsoever or it is insufficient. However, a number of necessary draft laws have been submitted to the Parliament, where they are awaiting consideration.

THE STATUS OF IMPLEMENTATION OF THE COALITION AGREEMENT IN THE SPHERE OF TACKLING CORRUPTION

The Parliament has passed several important laws envisaged in the Coalition Agreement:

In February 2015, Rada adopted amendments to the Law of Ukraine on the **National Anticorruption Bureau (NABU)** and other laws to eliminate their shortcomings, create the Specialized Anticorruption Prosecution Office, strengthen instruments for combating corruption and implement other provisions of the Coalition Agreement. The approved changes made it possible to start the process of creating the NABU, which is still underway.

The Coalition Agreement stipulated that the NABU should begin its operations in January 2015, but this scenario proved to be unrealistic. The work of the specialized body to investigate grand corruption has not yet begun. Although the minimum staff of the bureau has been recruited, there are no specialized anticorruption prosecutors to steer investigations of NABU detectives. The process of selection to the **Specialized Anticorruption Prosecution Office** has been tainted by a scandal regarding the members of the selection panel, which included subordinate prosecutors delegated by the Prosecutor General of Ukraine who also figured in corruption scandals and lacked public trust. Despite considerable public and international pressure, the Prosecutor General replaced only two of his delegates in the panel. This may discredit the results of the ongoing competition. In addition, in July 2015, the Verkhovna Rada amended the new Law "On the Prosecutor's Office" and *weakened the guarantees of independence of the Specialized Anticorruption Prosecution Office.* In order to partly remedy the situation, draft amendments were registered in the Parliament proposing in particular to establish that the selection panel should nominate one person to chair the Specialized Anticorruption Prosecution. This should replace the existing regulation that the Panel provides the Prosecutor General with three candidates and he is to make the choice with unlimited discretion.

In April 2015, **the Law on Open Data** was passed (amendments to the Law on Access to Public Information and other laws). This law for the first time introduced the concept of open data as information provided in a machine-readable format, and set the obligation to publish a number of government-held databases of public interest (information on public procurement, state register of legal entities, city planning documentation, etc.).

In July 2015, the Parliament approved **amendments to the laws on disclosure of ownership information.**

It extended the scope of the information to be disclosed and allowed search by the person's name in data about the owners or holders of other rights to real estate, land, and vehicles. Such information should be publicly available on the Internet. These changes will contribute to formalization and protection of property rights, help detecting corruption and illicit enrichment of public officials. However, these changes have not yet been fully implemented. In particular, referring to contradictions in the legislation, state cadastral registrars have largely been ignoring the new provisions regarding the free issuing of information on land plots belonging to citizens. Besides, the data on vehicles and their owners have yet to be made public. According to traffic police, regulations with appropriate procedures are being prepared for adoption by the Cabinet of Ministers of Ukraine; the appropriate software tools to access this information are being developed too.

In October 2015, the Parliament adopted comprehensive amendments to the legislation **to ensure transparency in the funding of political parties and election campaigns**. The Law introduces direct public funding of parties that received a certain percentage of voter support in the parliamentary elections, including parties that did not enter the Parliament. These amendments also provide for a system of transparent reporting of parties and the state control over party finances. These important changes aim at eliminating political corruption and if properly applied may entail fundamental changes in the political system of the country.

Notably, all of these laws have been prepared by experts of the civil coalition "Reanimation Package of Reforms". The RPR also played a key role in advocating relevant legislation.

In addition to these laws, during the last year the Parliament passed a number of other legislative changes that are not expressly provided for the Coalition Agreement, but in general are aimed at furthering the anticorruption reform, for example:

- The scope of asset and income declarations of public officials was expanded to cover real estate under construction and assets controlled by the public official without being its formal owner.
- The jurisdiction of the National Anticorruption Bureau was extended to include investigation of crimes related to disclosure of deliberately false information about property, income, expenses and financial obligations of senior public officials.
- Laws of Ukraine in the sphere of public procurement have been amended to bring them in line with international standards and take measures to tackle corruption.

From the measures provided for in the Coalition Agreement, the establishment of the **National Agency for the Prevention of Corruption (NAPC)** has proved to be the most problematic. It did not require any legislative changes and depended primarily on the actions of the Government. The competitive selection of the NAPC five members was launched with considerable delay – they should have been selected before the enactment of the Law on the Prevention of Corruption, i.e. by the end of April 2015, instead the selection process began only in May 2015. The selection of representatives from civil society organizations to the selection panel was held in violation of the law due to actions of officials from the Secretariat of the Cabinet of Ministers, who were charged with organization of the selection.

After significant public and international pressure, the Government was forced to change its decision and determine a new composition of the selection panel. The latter successfully implemented most of the competitive selection procedure and is soon expected to determine candidates for posts in the NAPC to be submitted for approval by the Government. However, this is but the first step in the creation of this important anticorruption

agency. The NAPC may be expected to begin its operations early next year.

The delay with the establishment of NAPC also calls into question the speedy introduction of the new system of electronic submission and disclosure of assets, income, expenses and financial obligations of public officials. The Agency itself should take a formal decision on putting the new system into operation and adopt a number of regulations.

AREAS FOR FURTHER ACTION

Draft amendments to the laws on access to public information with regard to improvement of certain provisions and determining an agency of state supervision in this area are still to be approved. Draft law №2913 of 20.05.2015 was prepared by RPR experts and submitted to the Parliament by a group of MPs. According to the Coalition Agreement, these amendments should have been adopted as far back as in the second quarter of 2015.

The law on the integrity testing of public servants has not been adopted as well. Integrity testing is an important new tool to prevent and detect of wrongdoing of public officials. Ministry of Justice has been developing relevant draft. The Coalition Agreement provides for its adoption in the second quarter of 2016.

The procedure for monitoring lifestyle of public officials has not been introduced either. It has to be approved by the NAPC. There is also no mechanism to encourage citizens' cooperation with the investigation conducted by the National Anticorruption Bureau.

The Coalition Agreement also provides for the legislative ban for authorities to demand that individuals and legal entities provide information that the government already has or that was provided by these persons earlier. There is no clear prohibition to demand such information in the law. However, in September 2015, the Cabinet of Ministers changed the order of access to and provision of information from the State Register of Rights to Immovable Property and the Unified State Register of Legal Entities and Individual Entrepreneurs. According to the Ministry of Justice, from October 1, 2015 public authorities have no right to demand from persons paper extracts, excerpts and certificates with information from these registers.

With regard to anticorruption reform, the Coalition Agreement also includes some measures that can be considered declarative and groundless. The Agreement provides for the introduction of the annual external anticorruption audit of state authorities. It is unclear who and how should carry out such "audit". The Agreement also requires the elimination of corruption schemes in the public sector. This ambitious task sounds like a pre-election slogan rather than a real anticorruption measure.

PREREQUISITES FOR THE REFORM

During the presidency of V. Yanukovych (2010–2014), there was a rollback of democratic processes and the usurpation of power by the President. On September 30, 2010, the President with the help of the dependent Constitutional Court changed the Constitution of Ukraine. Thus, the Constitutional Court decided on the unconstitutionality of the Law "On Amendments to the Constitution of Ukraine of December 8, 2004" and renewed the Constitution of Ukraine in the version of 1996[1].

The late 2013 and early 2014 was the period when the Ukrainian people implemented their right to uprising (the Revolution of Dignity). According to the Universal Declaration of Human Rights, "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law"[2]. During large-scale peaceful protests, citizens in Kyiv demanded the restoration of the democratic development of the country, the restoration of the constitutional order in Ukraine, and orientation of the foreign policy towards European integration. However, Yanukovych's regime did not want to make concessions. On January 16, 2014, the Verkhovna Rada in violation of the constitutional procedure approved laws aimed at establishing a dictatorship in Ukraine. After that, the two-month peaceful resistance escalated into a violent confrontation between the people and the government.

On February 21, 2014, the dictator President and the Ukrainian opposition signed an agreement on settling the crisis in Ukraine, which included arrangements to launch a constitutional reform that would balance the powers of the President, Government, and Parliament and to complete it by September 2014.

The agreement was certified on the part of the European Union by Foreign Ministers of Poland R. Sikorski and of Germany F.-W. Steinmeier, as well as Head of the Department of Continental Europe of the French Ministry of Foreign Affairs E. Fournier[3].

[1] The decision of the Constitutional Court of Ukraine in case on the constitutional petition of 252 people's deputies of Ukraine regarding the conformity to the Constitution of Ukraine (constitutionality) of the Law of Ukraine "On Amendments to the Constitution of Ukraine" dated December 8, 2004 No. 2222-IV (the case on the observance of the procedure for amending the Constitution of Ukraine) // http://www.ccu.gov.ua/uk/doccatalog/list?currDir=122407

[2] The Universal Declaration of Human Rights http://www.un.org/en/universal-declaration-human-rights/

[3] The opposition entered into an agreement with Yanukovych // http://www.dw.com/uk/опозиція-уклала-угоду-з-януковичем/a-17449550

On February 21, 2014, the Verkhovna Rada, fulfilling provisions of the Agreement on Settling the Crisis in Ukraine, adopted the Law of Ukraine "On the Reinstitution of Certain Provisions of the Constitution of Ukraine"[4], which was subsequently signed by the Acting Speaker of the Verkhovna Rada O. Turchynov.

On February 22, 2014, the Verkhovna Rada of Ukraine adopted a resolution "On the Text of the Constitution of Ukraine in the Version of June 28, 1996 as Amended and Supplemented by the Laws of Ukraine of December 8, 2004 No. 2222-IV, of February 1, 2011 No 2952-VI, and of September 19, 2013 No. 586-VII"[5]. Both documents were adopted by more than two thirds of the MPs of Ukraine.

These political and legal decisions of the Verkhovna Rada aimed at limiting the powers of the President and restoring the constitutional order that existed before the usurpation of power by President V. Yanukovych. The political situation in Ukraine required prompt actions to restore the constitutional order, which entailed the reasonability of transcending the constitutional procedure once more.

Thus, the victory **of the Revolution of Dignity set the objective to reform the state. The key position in the package of necessary reforms belongs to the constitutional reform.** Most citizens believe that the constitutional reform in Ukraine has to be implemented[6].

Hence, the need for the constitutional reform is due to the following:

the need to restore the legitimacy of the Constitution as a constituent power act;

the need to correct substantive shortcomings, namely improve the mechanism of state power (forms of government); create constitutional preconditions for the decentralization of power; strengthen the independence and professionalism of the judiciary; resolve the dilemmas of guaranteeing human rights and freedoms by the Constitution; strengthen the mechanisms for protection of the Constitution.

55% of the interviewed experts believe that the best form of government for Ukraine is the parliamentary-presidential republic. 73% of the experts note here that the most appropriate territorial state order for Ukraine would be the preservation of the unitary state with expanded powers of territorial communities, only 1% supported the idea of a federal state, and none of the experts supported the idea of turning Ukraine into a confederation[7]. With regard to the procedure of reform implementation, they consider that the constitutional reform should be carried out professionally, openly, transparently, with the maximum involvement of civil society at all stages. The quality of the constitutional reform will determine whether Ukraine will set out to establish the rule of law, or will launch on another circle of injustice. In addition, it is important not to allow politicians to use the constitutional reform to redistribute powers in their own interests, ignoring the mechanism of checks and balances and the European principles of constitutionalism.

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[4] The Law of Ukraine "On the Reinstitution of Certain Provisions of the Constitution of Ukraine" // http://zakon3.rada.gov.ua/laws/show/742-18

[5] Resolution of the Verkhovna Rada of Ukraine "On the Text of the Constitution of Ukraine in the Version of June 28, 1996 as Amended and Supplemented by the Laws of Ukraine of December 8, 2004 No. 2222-IV, of February 1, 2011 2952-VI, and of September 19, 2013 No. 586-VII" // http://zakon3.rada.gov.ua/laws/show/750-18

[6] The constitutional reform: what do people know and think about it? // http://pravo.org.ua/politicreformandconstitutionslaw/2011-12- 14-18-24-53/161-maxwidth/1888-konstytutsiina-reforma-shcho-pro-tse-znaiut-i-dumaiut-hromadiany.html

[7] The constitutional process in Ukraine: new realities, new challenges, new approaches // http://www.uceps.org/upload/1436517797_file.pdf

During the Revolution of Dignity, independent experts and researchers came together to work on complex constitutional changes in the public interest. Petitions[8] and suggestions concerning constitutional changes[9] were produced and delivered to the parliamentary commission.

After the Revolution of Dignity, the expert community for promoting reforms created the RPR platform, where independent experts and academics made up the group on constitutional reform.

CONSTITUTIONAL REFORM IN THE COALITION AGREEMENT

After the election of the new Verkhovna Rada in the autumn of 2014, MPs started work on the Coalition Agreement. The Coalition Agreement was concluded on November 21, 2014, by the representatives of five parties – "Petro Poroshenko Bloc", "Narodnyi Front", "Samopomich", "Radical Party of Oleh Liashko", and "Batkivshchyna".

Unfortunately, the Agreement treats the constitutional reform as a derivative of sectorial reforms rather than vice versa. The government majority agreed to carry out reforms that would require amending the Constitution of Ukraine.

The government majority declared its willingness to provide for a public and responsible process of amending the Constitution of Ukraine through the creation of the Interim Special Commission of the Verkhovna Rada of Ukraine (hereinafter the ISC) to prepare amendments to the Constitution of Ukraine as agreed by the Coalition. The ISC should operate based on the principles of openness, transparency, professionalism, scientificity, collegiality, and independence in decision-making.

However, for some reason, the preamble of the Coalition Agreement includes as a separate issue a point that is not of a top priority and should have been part of the constitutional reform: "We will cancel the parliamentary immunity and will bear full responsibility for our actions to the Ukrainian people."

However, the recorded arrangements of parliamentary factions in the Coalition Agreement remained but words.

Under these conditions, it was the newly elected President P. Poroshenko who undertook to formulate the agenda of the constitutional reform.

The President refused to implement a comprehensive constitutional reform and initiated "pinpoint changes" to the Constitution to abolish the immunity of MPs of Ukraine and limit that of judges (on January 16, 2015, the President submitted the corresponding draft law to the Verkhovna Rada)[10]. However, the Council of Europe is rather critical of the idea of abolishing the parliamentary immunity. It is advisable to limit the parliamentary immunity and secure the functional immunity for judges.

[8] Petition concerning the constitutional reform in Ukraine dated April 1, 2014 // http://pravo.org.ua/politicreformandconstitutionslaw/2011-12-14-18-24-53/1628-zvernennia-shchodo-konstytutsiinoi-reformy-v-ukraini.html

[9] Suggestions of academics and the public concerning constitutional changes dated April 18, 2004 // http://pravo.org.ua/politicreformandconstitutionslaw/2011-12-14-18-24-53/1653-propozytsii-naukovtsiv-ta-hromadskosti-shchodo-konstytutsiinykh-zmin.html

[10] Draft Law on Amendments to the Constitution of Ukraine (concerning the immunity of MPs of Ukraine and judges) // http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=53602

Before that, on June 26, 2014, President P. Poroshenko made a false start of the constitutional reform. The President introduced as urgent draft law "On Amendments to the Constitution of Ukraine" № 4178a to the Verkhovna Rada[11]. The draft law was prepared behind closed doors, without public discussion and involvement of leading national experts[12]. This was done in less than three weeks after the inauguration.

The President also initiated the process of amending the Constitution by taking three different laws in the areas of human rights, independence of the judiciary, and decentralization.

By Presidential Decree dated March 3, 2015, the Constitutional Commission was established as a special subsidiary body under the President of Ukraine[13].

The main purpose of the CC is working out three draft laws on improving the constitutional regulation of human rights, ensuring the independence of the judiciary, and decentralization.

CONSTITUTIONAL AMENDMENTS REGARDING DECENTRALIZATION OF POWER

Constitutional amendments regarding decentralization were designed by the Commission working group early in the summer of 2015. They were based on the already available projects prepared by independent experts who came to work together as early as in the spring of 2014.

On June 24, 2015, the Venice Commission provided its Opinion on draft law "On Amendments to the Constitution (regarding decentralization)" prepared by the Constitutional Commission[14]. On October 26, 2015, the draft law was given a final positive opinion by the Venice Commission[15]. The Venice Commission approved the provisions of the draft law, although with several remarks and some minor recommendations.

Then there was a non-public process of finalizing the constitutional amendments in the Presidential Administration. On July 1, 2015, the President submitted draft law No. 2217 to the Verkhovna Rada[16]. The draft law provides for the reform of the administrative and territorial structure of Ukraine and local self-government and implementation of executive powers at the local level, includes the power decentralization reform, and establishes the possibility of adopting a special law to regulate the peculiarities of local self-government in some areas of Luhansk and Donetsk regions.

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[11] Draft law "On Amendments to the Constitution of Ukraine" (concerning the powers of the state government and local authorities) // http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=51513

[12] Opinion of academics and public experts regarding the draft law "On Amendments to the Constitution of Ukraine" of 06.26.2014 № 4178 // http://bit.ly/1tsTD9E

[13] Decree of the President of Ukraine "On the Constitutional Commission" of 03.03.2015 No. 119/2015 // The Official Visnyk of Ukraine. – 2015. – № 19. – P. 7. – Art. 514.

[14] Preliminary opinion of the Venice Commission (draft of constitutional amendments was changed after the opinion had been taken into account) // http://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2015)008-e

[15] Opinion on the Proposed Amendments to the Constitution of Ukraine regarding the Territorial Structure and Local Administration as proposed by the Working Group of the Constitutional Commission in June 2015 // http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)027-e

[16] Draft law "On Amendments to the Constitution of Ukraine" (concerning the decentralization of power) // http://w1.c1.rada.gov.ua/pls/ zweb2/webproc4_1?pf3511=55812

On July 16, 2015, the draft law was previously approved by the Verkhovna Rada of Ukraine by 288 votes and sent to the Constitutional Court[17]. On July 30, 2015, the Conclusion[18] of the Constitutional Court stated the compliance of the relevant provisions of the draft law with Art. 157 and 158 of the Constitution of Ukraine. The preliminary approval of the draft law by the Verkhovna Rada on August 31, 2015 was accompanied with a rally, which resulted in clashes and fatalities. Parliamentary faction "Samopomich" excluded 5 MPs, who voted for the amendments.

After the President introduced the first draft law on decentralization, it turned out that the text after the approval of the Constitutional Commission was somewhat altered in the Presidential Administration and complemented with the paragraph about the peculiarities of local self-government in some areas of Donetsk and Luhansk regions. These innovations were not supported by some factions of the government majority. Accordingly, it reduced the likelihood of approval of the draft law on amendments to the Constitution regarding decentralization by the Verkhovna Rada, because it requires 300 votes of the MPs.

CONSTITUTIONAL AMENDMENTS REGARDING JUDICIARY

The first version of the amendments to the Constitution of Ukraine regarding judiciary was developed by the Constitutional Commission in late summer 2015. On July, 24, 2015, the Venice Commission issued a preliminary opinion on the draft law prepared by the working group of the Constitutional Commission.

On September 4, 2015, the Constitutional Commission followed some of the recommendations of the Venice Commission and sent it to the Venice Commission for final evaluation. On October 26, 2015, the draft law was given the final positive evaluation by the Venice Commission. In its opinion CDL-AD(2015)027, the Venice Commission approved the provisions of the draft law in general, as well as expressed some criticism.

On October 30, 2015, draft law "On Amendments to the Constitution of Ukraine" (regarding judiciary) was finalized by the Constitutional Commission. On November 10, 2015, the National Council of Reforms recommended the President to submit the draft law to the Parliament. On November, 25, 2015, President submitted the amendments to the Verkovna Rada.

CONSTITUTIONAL AMENDMENTS TO ENSURE HUMAN RIGHTS

As of the end of 2015, public discussions are being held concerning the constitutional amendments developed by the working group of the Commission. Constitutional amendments regarding human and civil rights, freedoms, and obligations are prepared at the slowest pace, but they are open, with due involvement of citizens in the constitutional process. Public discussions aimed at developing a consolidated version of the draft law on human rights are being held at Kyiv Mohyla Academy and in the regions.

[17] Chronology of reviewing the draft law "On Amendments to the Constitution of Ukraine" (concerning the decentralization of power) // http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?id=&pf3516=2217%E0&skl=9

[18] Conclusion of the Constitutional Court of Ukraine in the case on the request of the Verkhovna Rada of Ukraine to give an opinion concerning compliance of the draft law "On Amendments to the Constitution of Ukraine" (concerning the decentralization of power) with Articles 157 and 158 of the Constitution of Ukraine // http://zakon3.rada.gov.ua/laws/show/v002v710-15

SUMMARY: UKRAINE IS ON THE PATH FROM REVOLUTION TO THE UPGRADE OF THE CONSTITUTION

The year of 2014 was marked by two false starts of the Constitutional Reform and a loss of time, which might become a major mistake hindering the successful implementation of the constitutional reform in Ukraine.

The arrangements concerning the constitutional reform recorded in the Coalition Agreement remained but intentions of MPs.

Under such circumstances, the President undertook the function of the reform driver.

The President refused to implement a comprehensive constitutional reform and initiated the process of amending the Constitution through the adoption of various laws in the areas of human rights, independence of the judiciary, decentralization, as well as the abolition of the parliamentary immunity and limiting the judicial immunity.

Currently, to adopt the constitutional amendments regarding decentralization in the Parliament, it is necessary to have the support of two thirds of MPs (300 votes). The draft law to amend the Constitution regarding judiciary was submitted to the Parliament on November, 25, 2015. The constitutional amendments aimed at improving the constitutional securing of human and civil rights is at the stage of public discussion of the version prepared by the working group of the Constitutional Commission. The fourth direction of the constitutional reform, i.e. balancing the branches of power within the parliamentary-presidential form of government, is still to be launched.

AREAS FOR FURTHER ACTION

The successful development of Ukraine is impossible without an effective Constitution that could consolidate a power mechanism able to work efficiently for the benefit of people.

To ensure further steps of the constitutional reform, we recommend:

- speeding up and synchronizing the directions of the constitutional reform launched by the Constitutional Commission;
- holding public discussion to take into account the generated results;
- beginning a professional discussion of the constitutional reform in the Parliament, rather than just looking for compromise based on political interests. The Parliament is the subject that received from the Ukrainian people part of the rights to implement the constituent power. Therefore it is unacceptable for the Parliament to adopt constitutional amendments without professional discussion.
- The abovementioned shortcomings of the process of constitutional reform may result in its failure in the Parliament. In this case, the reform will have to be carried through the body of the constituent power of the people. At that, the Parliament has to:
- adopt a law that could establish the procedure and method of drafting a new Constitution of Ukraine;
- replace the unconstitutional Law of Ukraine “On All-Ukrainian Referendum” by drafting its new version.

DECENTRALIZATION

The reform of local self-government and decentralization of power involves overcoming current challenges, including: dependence of regions on the centre; infrastructure and financial weakness of communities; degradation of rural areas; high level of subsidy dependence of communities; low investment attractiveness of territories, etc. The direction of the local self-government reform was identified in the Concept of Reforming Local Self-Government and Territorial Government Organization in Ukraine approved by the Government on April 1, 2014. According to the approved document, local self-government and decentralization reform should stand on three pillars: the transfer of powers from the centre to the lowest possible level; the transfer of financial resources in accordance with the delegated powers; ensuring the state control over the activities of local self-government.

Since the Concept was adopted, a basic legal framework for the reform implementation has been created, specifically the Tax and Budget Codes of Ukraine have been amended (fiscal decentralization), the National Strategy of Regional Development has been approved, a new Law "On Regional Policy" has been adopted, and the process of changing the administrative-territorial system has been launched.

Specific feature of the decentralization process in Ukraine is that the reforms of local self-government, administrative and territorial structure, and the state regional policy are conducted simultaneously.

FISCAL DECENTRALIZATION

On December 28, 2014, the Verkhovna Rada of Ukraine adopted amendments to the Tax and Budget Codes of Ukraine. The introduced amendments provide for a new financial basis of local self-government bodies, establish a new distribution of national taxes and new local taxes, as well as introduce a new system of financial equalization.

After amending the tax and budget legislation, the main taxes that fill local budgets (cities of regional subordinance, districts, amalgamated local communities) include: 60% of the personal income tax, 5% of the excise tax on the sale of excisable goods, 100% of the single tax, 100% of the property tax (immovable property, land, transport), 100% of the land payment, 100% of the corporate income tax for municipal property enterprises, 100% of the fee for the provision of administrative services, and 25% of the environmental tax.

In Kyiv, the revenues from personal income tax make up 40%, additionally the budget receives 10% of the corporate income tax. Apart from that, in Kyiv there are no exemptions from the budget (reverse subsidies), and no basic subsidies.

Financing of health and education spheres was transferred to the district level and that of the cities of regional subordinance through direct subsidies from the state budget in accordance with approved standards.

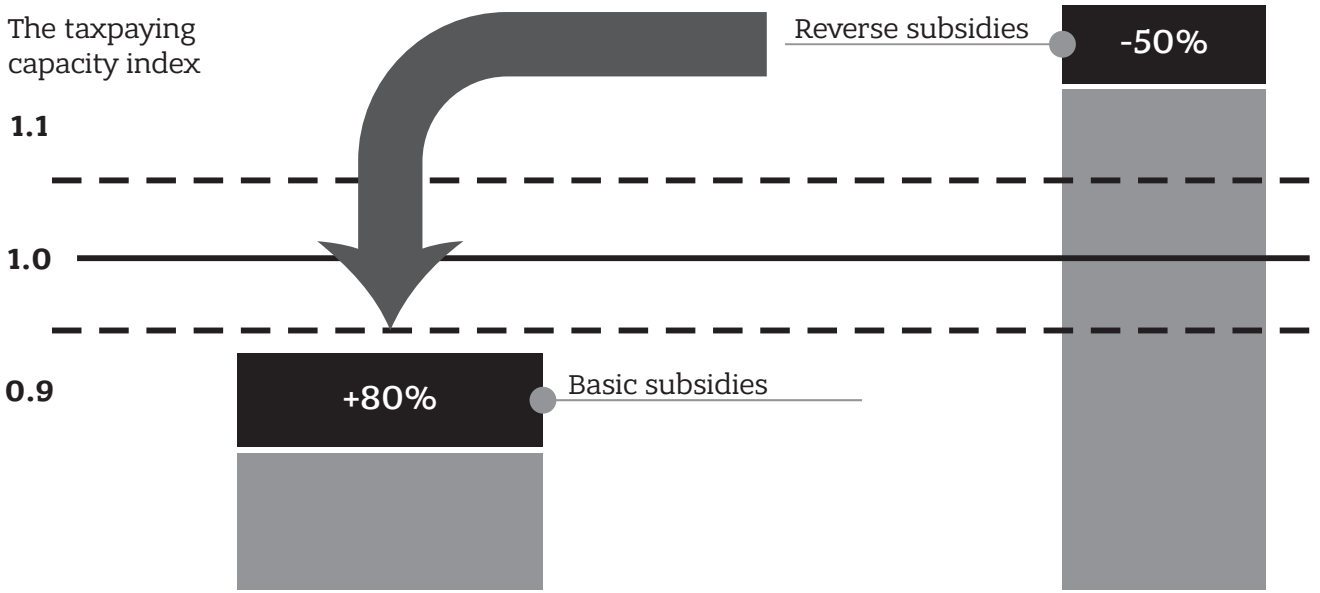
As a result, the primary responsibility for financing these sectors is borne by the Ministry of Education and the Ministry of Healthcare. Moreover, the remains of state subventions in the end of the year are not withdrawn – they remain in local budgets and can be used to upgrade the material and technical base of educational and medical institutions.

Allowances on property tax have been reduced depending on the area of the object (allowances are set immovable property with the area of up to 60m2 for apartments and 120m2 for detached houses). The property tax rate is set in the amount of up to 2% of the minimum wage per 1m2. However, the approved formula is ineffective and difficult to administer.

The rights of local governments to establish rates for and exemptions from local taxes and fees have been expanded. The savings of local budgets in the absence of state benefits has made up about UAH 1 bln.

Local self-governments bodies have received the right to maintain their own revenues of their budgetary institutions and development funds in state banks independent of the State Treasury.

The most important change is the replacement of the system of fiscal equalization of local budgets in terms of expenditures with the income equalization system. As a result, only 50% of additional earned income is withdrawn from the budgets of administrative units that earn more than spend (on condition that the taxpaying capacity index is more than 1.1). The withdrawn finance is used to provide basic subsidies. Instead, for administrative territorial units that do not earn enough to cover their expenses the basic subsidy is only 80% of the required amount (provided that the taxpaying capacity index is less than 0.9).



As a result, ***the subsidy dependence of local budgets in 2015 decreased by 22%*** and makes up 74%, compared to 96% in 2014. The new system encourages communities to increase the revenues of local budgets – the more you earn, the more you get.

However, **to overcome the challenges on the way of implementing the fiscal decentralization, the following steps should be taken:**

- Increasing the effectiveness of local taxes and dues: simplification of the administration of the property tax without setting privileges (every square meter is taxed); reinstitution of the vehicle tax.
- Approval of state social standards and regulations for each of the powers delegated by the state to the local government.
- Securing the corporate income tax for regional budgets and that of the city of Kyiv is ineffective given the extremely low predictability of tax. There is a tendency that the tax will flow to the budget of Kyiv in connection with re-registration of large enterprises in the city.
- The excise tax rate is different for different territories. Therefore, it is necessary to leave the proceeds from the excise tax to the budgets of local communities, which amalgamated in accordance with a roadmap, as well as to the regional budget.

THE REFORM OF REGIONAL POLICY

On August 6, 2014, the Cabinet of Ministers approved a new National Strategy of Regional Development for the period until 2020. In late 2014, the Verkhovna Rada amended the Budget Code, specifically Article 24 on State Fund for Regional Development. In early 2015, the Verkhovna Rada adopted Law "On the Principles of the State Regional Policy", which defines the purpose, the basic principles and priorities of the state regional policy, the principles of government bodies coordination regarding the development of regional policy, and so on. Pursuant to this law, the Cabinet of Ministers approved Decrees No. 195 and No. 196 setting the procedure for the preparation, evaluation, and selection of projects for regional development in 2015, and starting from 2016. On October 7, 2015, the Cabinet of Ministers of Ukraine approved a plan of implementation of the National Strategy of Regional Development for 2015–2017.

As a result of changes to the legislation, the reform of regional policy in Ukraine was implemented, specifically funds for regional policy were provided in the State Budget, and a transparent mechanism for financing regional development projects was set. Now, local self-government bodies can prepare and submit projects for grants from the State Fund, including financing of investment projects and programs. According to Article 24 of the Budget Code of Ukraine, the State Budget of Ukraine allots funds for the Regional Development Fund in the amount of at least 1% of the income of the general state budget fund. Accordingly, in 2015, UAH 2.9 bln have been allocated from the State Budget to the Regional Development Fund. The estimated financial support of the Regional Development Fund in 2016 will be about UAH 4.5 bln.

The mechanism for financing regional development projects has been reformed, too. In particular, it includes automatic distribution of finance from the Regional Development Fund among the regions through the following mechanism:

- a two-stage selection process for projects of regional development (pre-selection is done by regional state administrations, the final evaluation and selection is implemented by the Ministry of Regional Development, Construction, and Housing and Communal Services of Ukraine);
- financing of projects from the Regional Development Fund is implemented among the regions according to the following formula: 80% of the funds – according to the number of people living in the region (for example, if the Kharkiv region has 5% of the population, the funding will be 5% of the amount of finance of the Regional Development Fund (of those 80%), 20% of the funds – will be distributed according to GDP per capita (for regions where GDP is less than 75% of the average for Ukraine, which includes 16 regions of Ukraine as of 2015).

As a result of the reform, the State Regional Development Fund in 2015 financed 728 projects worth UAH 2,542 bln. The total number of projects submitted to the fund for finance was 1267, of which 53 projects aimed at supporting the voluntary amalgamation of communities, 39 projects pertain to the cooperation of local communities, and 1,082 projects cover the plan of measures aimed at implementation of the strategy of regional development.

The implementation of reforms has faced **the following challenges**:

Low institutional capacity of local governments in terms of preparing regional development projects. Most projects aimed at pinpoint rebuilding of infrastructure, i.e. reconstruction of first aid stations, refurbishment of hospitals, replacement of windows in schools and kindergartens, road surface maintenance, etc. However, these projects do not contribute to the implementation of the National Strategy of Regional Development and regional strategies, they do not generate added economic value and do not contribute to regional development. It is, therefore, necessary to ensure the development of the institutional capacity of local authorities to prepare projects, including the provision of expert assistance during project preparation, and training of the staff of local councils. *At the regional level, politically unacceptable projects are often gridlocked, i.e. blocked for political reasons.* It is necessary to improve the selection of projects for regional development by introducing registration on the platform of the Ministry of Regional Development for the projects developed by local authorities. In this case, the Ministry of Regional Development will be able to monitor the impartiality of the process. Regional administrations should be obliged to give clear explanations concerning rejection or support of a regional development project.

ADMINISTRATIVE-TERRITORIAL REFORM

On February 5, 2015, the Verkhovna Rada adopted the Law of Ukraine "On Voluntary Amalgamation of Territorial Communities." On April 8, 2015, the Cabinet of Ministers of Ukraine adopted Decree No. 214 "On Adopting the Framework for Creation of Capable Territorial Communities."

According to the Law "On Voluntary Amalgamation of Communities" and the adopted framework, regional state administrations have developed and regional councils have approved the roadmaps for creating capable communities in 22 regions. For political reasons, until November 2015 roadmaps for creating communities were not adopted in Ternopil and Zakarpattia regions.

Under the legislation, communities have to go through the process of voluntary amalgamation according to the

developed and approved roadmaps. As a result, as of August 15, 2015, the procedure of voluntary amalgamation was undertaken by 54 territorial communities, where regionals councils scheduled the first local election. However, after that the regional councils blocked the process of scheduling election. In this connection, the Parliament of Ukraine on September 4, 2015 passed draft law No. 3008, depriving regional councils of the function to schedule the first election and transferred this function to the Central Election Commission. As a result, the first election was scheduled in another 105 amalgamated territorial communities, which makes up a total of 159 amalgamated local communities (all in all, more than 7% of the local communities of Ukraine are now amalgamated).

However, in 31 communities that had underwent the procedure of amalgamation, the Central Election Commission did not call the election based on ambiguous arguments whereby creating amalgamated communities implies changing the boundaries of districts.

According to the legislation, amalgamated territorial communities created in accordance with a roadmap shall receive financial resources and powers on a par with cities of regional subordinance. However, it has turned out to be problematic for three reasons:

1. Lack of roadmaps in two regions. In Ternopil region, on October 25, 2015, election to the 26 amalgamated communities was held. However, the communities will not receive financial benefits and powers on a par with the cities of regional subordinance, because Ternopil Regional Council has not approved the roadmap for creating capable communities. A similar situation happened in Zakarpattia region, where election was held in 2 amalgamated territorial local communities, but no roadmap was approved.

2. Recognition of amalgamated territorial communities as capable. Of the 159 amalgamated local communities where election was held only 79 are capable and comply with the Framework for Creation of Capable Local Communities and the roadmap for the territory approved by the Cabinet of Ministers of Ukraine. Additionally, 40 amalgamated territorial communities which held the first election did not amalgamate according to the approved roadmap. However, these communities amalgamated around the centre determined in the roadmap and include a large part of the amalgamated community territory as defined in the roadmap. In this regard, 40 amalgamated communities can be recognized as capable and granted financial resources on a par with cities of regional subordinance. However, this solution requires amendments to the legislation:

- amendments to the Law of Ukraine "On Voluntary Amalgamation of Communities" to provide for the possibility of recognizing an amalgamated community as capable by a decision of the Cabinet of Ministers of Ukraine, provided this community meets certain criteria;
- amendments to the Budget Code of Ukraine to provide for the eligibility of an amalgamated community to new financial opportunities, provided it is recognized as capable by a separate decision of the Government.

3. Low capacity of some amalgamated communities. About 40 amalgamated territorial communities which held the first election do not comply with the roadmap and the Framework for Creating Capable Communities. Such amalgamated communities cannot obtain additional financial resources and powers on a par with cities of regional subordinance.

Challenges, faced in relation to the administrative-territorial reform:

Low capacity of some amalgamated communities. Part of the 159 amalgamated local communities that held the first election turned out to be incapable and do not comply with the framework for creating capable communities.

Politicization of the process of voluntary amalgamation of communities. The roadmaps for amalgamation of territorial communities are approved by regional councils, i.e. political bodies with representation of political parties. As a result, regional councils approved less than perfect roadmaps and fractionized administrative units. In Ternopil and Zakarpattia regions, roadmaps have not been approved yet, so the communities that underwent the process of voluntary amalgamation cannot obtain financial benefits and establish direct relations with the State Budget. It is, therefore, necessary to deprive regionals councils of the function of approving such roadmaps, and to transfer this function to the level of the Cabinet of Ministers of Ukraine.

Low institutional capacity of the newly established communities. Starting from January 1, 2016, the newly elected local self-government bodies of amalgamated territorial communities will receive more resources and greater responsibility that had not been available before. However, these local governments do not have sufficient expertise and ability to manage the territory of amalgamated communities, cannot utilize the new powers and financial resources, and have low human resource capacity.

Stipulation of direct State Budget subventions to support amalgamated communities. To develop the institutional capacity and infrastructure of the newly amalgamated territorial communities, it is necessary to provide for a direct subvention in the State Budget for 2016.

Amalgamation was not comprehensive - there were no changes of district boundaries – the reform was not implemented on the level of districts. Due to the fact that the reform took place only at the community level, without changing the boundaries of districts, there emerged a situation when only part of the settlements are subordinate to the district. Such districts are very weak in terms of finance and infrastructure, since most of the finance and infrastructure was transferred to the newly created amalgamated communities. In this case, there are no reasons for such districts to exist.

AREAS FOR FURTHER ACTION

Adopting roadmaps for creating capable communities in all districts: amending the approved roadmaps and approving roadmaps for creating capable communities in Ternopil and Zakarpattia regions. Revoking the function of approving roadmaps from regional councils and transferring this function to the Cabinet of Ministers of Ukraine.

Introducing a mechanism for community amalgamation. Introducing a mechanism for communities to join amalgamated territorial communities or communities recognized as capable under a simplified procedure.

Supporting newly amalgamated territorial communities. Allocation of direct state subvention for community staff training, infrastructure, etc. in the State Budget for 2016.

Amending the legislation on urban planning documentation and the Land Code of Ukraine. Introducing a new type of planning documentation, i.e. a community territory plan as an element of the master plan

that would also include land use planning outside the village. Communities have the right to manage their land resources, establishing restrictions on land use by third parties.

Approving the amendments to the Constitution of Ukraine regarding decentralization (Draft Law No. 2217a).

Approving a package of draft laws to fulfil the Constitution:

1. On prefects. The law defines the status and organization of work of prefects, the appointment and dismissal of prefects, their authority and operational procedure (including the procedure for supervision of local government, blocking their decision, etc.).

2. On local self-government. The law clearly defines the competences of the local self-government on different levels, including the authority to determine the scope of powers of a community, a district, or a region.

3. On the administrative-territorial structure. The law determines the typology of settlements (village, town, city), the typology of administrative units (community, district, region); the criteria for the creation of administrative units; decision-making procedures concerning administrative territorial units (creation, reorganization, settlement of issues concerning changes of boundaries).

4. On the interim conditions of developing a new administrative-territorial structure. The law on the procedure of implementation of the administrative-territorial structure reform determines the sequence and main stages of the reform of administrative and territorial structure.

JUDICIAL REFORM

JUDICIAL REFORM PRECONDITIONS

In terms of its content and values, the Ukrainian legislative system has little in common with the judicial systems of the developed countries in Europe and worldwide. Gallup findings testify to the fact that before the Revolution of Dignity the level of confidence in the Ukrainian courts was one of the lowest in the world (16%) and the lowest in the post-Soviet countries[19]. OECD findings of 2014 suggest that Ukraine occupies the final position as to the degree of confidence in courts (12%) compared to other member states[20]. According to the Corruption Perception Index provided by Transparency International, in 2014 Ukraine was ranked 142nd out of 175 states where the research was conducted[21].

According to the World Justice Project Rule of Law Index, 2015, out of 102 countries Ukraine was ranked the 70th according to its rule of law requirements implementation[22].

A most recent national survey (July 2015) suggests that only 5% of citizens trust the courts fully or partly, while 79 percent have no confidence in them. Confidence in the judicial branch is the lowest in comparison with other branches of power in all the regions of Ukraine. Respondents who took part in the trial at least once in the last 3 years, trust the judicial branch a little more than those who did not participate in the trials (16% and 4% respectively). Although higher than that of the judiciary, the level of confidence in the prosecutors and (old) police is also critically low, amounting to 8% only, whereas 77% of respondents do not trust prosecutors, and 75% of them do not confide in the (old) police[23].

According to the survey conducted by the Center for Political and Legal Reforms, Razumkov Center and the Democratic Initiatives Foundation named after Ilko Kucheriv, the prevalence of corruption among judges (94%), the dependence of judges upon politicians (81%) and oligarchs (80%), frame-up court rulings (77%) and the prevalence of collective responsibility in the judicial system (73%)[24] are the key issues undermining the confidence in the judicial system. According to the respondents, anticorruption (65%), court and law enforcement agencies (58%) reforms are given priority over any other much needed reforms[25].

Experts largely share the sentiments prevailing in the society. 80% of the respondents believe that the reform of the judiciary and other law enforcement agencies still remains the most daunting task for Ukraine, with the

[19] Confidence in Judicial Systems Varies Worldwide // http://www.gallup.com/poll/178757/confidence-judicial-systems-varies-worldwide.aspx?utm_source=confidence%20in%20judiciary&utm_medium=search&utm_campaign=tiles.

[20] OECD / Organization for Economic Cooperation and Development // http://on.fb.me/1e9U3vj.

[21] Corruption Perceptions Index 2014: Results // http://www.transparency.org/cpi2014/results.

[22] Rule of Law Around the World - 2015 // http://worldjusticeproject.org/rule-law-around-world.

[23] National Public Survey on Democratic, Economic and Judicial Reforms and the implementation of the law of Ukraine "On Lustration" (July, 2015) // http://www.fair.org.ua/content/library_doc/2015_FAIR_July_Public_Survey_LustrationENG.pdf.

[24] Judicial Reform: Ukrainian Public Survey (December, 2014) // http://en.pravo.org.ua/2-uncategorised/569-judicial-reform-public-opinion-poll-judges-and-experts-surveys.html.

[25] Reforms in Ukraine: Public Survey (July, 2015) // http://www.dif.org.ua/en/publications/press-relizy/reformi-v-ukselennja.htm.

same number of respondents supporting radical and urgent changes in the judicial system. Resistance of the judicial system (26%), hunger for power to directly influence the judiciary (26%), lack of professionalism and administrators corruptive nature (23%), lack of political will (20%), the war in the East and the annexation of the Crimea (3%) were considered by the experts the obstacles in the judicial reform implementation. 80% of the respondents believe that the representatives of the current legislature act as the main factors in delaying judicial reform implementation. 77% of the respondents believe that the government is unwilling to consider any public views as to the judicial system reform[26].

Investors are largely dissatisfied with the present state of the judiciary (according to 79% of the surveyed entrepreneurs) and inefficient corruption elimination (as believed by 77%). Among all of the state bodies, legislative agencies and the fiscal service are considered by the investors the most inefficient[27].

As for the judges, their restrained assessment of the current situation indicates their low preparedness for changes and demonstrates a huge gap between the expectations of the society. For instance, most of the surveyed judges do not reject the necessity for the judicial reform, however only 12% of the respondents consider it a pressing issue, whereas, 51% of the respondents believe that the reform is of high-necessity, though currently there exist more urgent issues. 16% believe that the reform is not that pressing and can be delayed, while 19% consider that there is no necessity to carry out the judicial reform at all.

Only 1.5% of the respondent judges are convinced that radical changes are of high priority and 30% expressed their approval of the need for considerable changes. However, almost 40% of the respondents approve of piecemeal reforms and 24% stress upon the fact that the judicial system does not require any reform at all. 67% of the judges disapprove of the lustration in any form, whereas 2,3% of them support the establishment of a new judicial system by amending the Constitution and appointing new judges to all the positions[28]. Survey results testify to the fact that judges, experts and citizens are unanimous only in the necessity to eradicate political influence over the judiciary.

JUDICIAL REFORM PROCESS

General overview. In the summer of 2014 president Petro Poroshenko appointed Oleksiy Filatov to the position of a Deputy Head of the Presidential Administration after which he became coordinator of the Council for the Judicial Reform established as a consultative body to the President in the autumn of the same year.

As a result, the Council passed a law "On Providing the Right to a Fair Trial" and adopted the Strategy for the judicial reform, legal proceedings and allied legal institutions for the period of 2015-2020. Draft laws on the introduction of private executives were also brought forward by the president and proposed for governmental consideration.

[26] Expert Survey Findings "The Assessment of the Judicial Reform Concept", International Centre for Advanced Research (September, 2015) // http://www.icps.com.ua/assets/uploads/images/files/sudova_reforma anal_z_derzh_r_shen.pdf.

[27] European Business Association Investment Attractiveness Indices (2 quarter, 2015) // http://www.eba.com.ua/static/indices/iai/Index_28_eng_2015.pdf.

[28] Judicial Reform: Ukrainian Public Survey (December, 2014) //ibid.

The law ***"On Providing the Right to a Fair Trial".*** Out of a general number of relevant guidelines suggested by the Council of Europe (altogether 77), only 27 were fully taken into account, 21 was considered only partially and 15 of them were not taken into account. Remaining 14 guidelines could be adopted only after the introduction of Constitutional amendments, adoption of other laws or practical change without changing the legislation[29].

The abovementioned law has following shortcomings:

- The President is granted the authority allowing him to influence the courts and judges by: the power to liquidate the courts, to put judges under oath, sign accreditations for Courts' Presidents and their deputies, despite having no right to influence their appointment procedures, horizontally transfer judges from one court to the other. Such authorities contradict the Constitution;
- The Parliament remains entitled to transfer judges, which contradicts the Constitution, and the Committee of the Parliament is entitled to consider the given issue as well as the issue of permanent appointment of judges;
- Ambiguity in defining the reasons to reject a judge in his claim for a permanent position;
- Ambiguity in substantiating the grounds for dismissal of a judge as a result of breach of oath ("acting the way in which the title of a judge is discredited or the authority of a judiciary is undermined", "disgraceful behaviour");
- Keeping intact the provisions that legalize judges' dependence upon local self-governmental agencies (providing the judges with accommodation) and Security Service (e.g. extra fees for an access to State Secret Data) etc.

Under the law "On Providing the Right to a Fair Trial" as well as under the previous one, the Chief Justice and his deputy must not occupy their positions more than twice in a row. The Council of Judges arrived at a decision that in compliance with the new law previously appointed to this position judges are to be considered as appointed for the first time. Thus, Chief Justices and their deputies remain in their positions since Yanukovych's rule and were once again offered the opportunity to reinforce their positions for another 4 years.

In order to renew the judicial corps, the given law envisages judges' qualification assessment. In the course of six months all the judges of the Supreme Court and the higher courts were to complete refresher courses. However, as of the end of September the training has not even started since the Council of Judges blocked the discussion of assessment methodology[30]. Moreover, it has initiated the appeal to the Constitutional Court in order to assert the dismissal of judges based on their assessment results as non-constitutional. Such acts may also be considered as counteracting any attempts to cleanse the judiciary.

After practical implementation, previously taken measures to cleanse the judiciary with the enforcement of a law "On the Restoration of Trust in the Judiciary" and the law "On Government Cleansing" proved inefficient. General measures to make judges assume the liabilities were not taken either. The counteraction on the part of Prosecutor's Office and judges demonstrated their firm decision not to allow any renewal. Rejecting any ideas as to the renewal of the judiciary or the judiciary reform, denying consistent problems within the judiciary and

[29] Information on the Council of Europe guidelines implementation in the law of Ukraine "On Securing the Right for a Fair Trial" of December 2, 2015 // http://eu.pravo.org.ua/uk/news/view?news_id=114

[30] Approval procedure of qualification assessment of judges has not been completed // http://vkksu.gov.ua/en/news/approval-procedure-of-qualification-assessment-of-judges-has-not-been-completed.

stiff criticism of the politicians and public figures dealing with the issues of Judicial reforms were the main ideas expressed during the 13th Congress of Judges of Ukraine held on November 12 and 13, 2015.

CONSTITUTIONAL AMENDMENTS

Formed in spring of 2015, the Constitutional Commission has elaborated a draft law on the judiciary. The project encompasses a number of European standards, such as permanent appointment of judges; limitation of the President's and the Parliament's authority to decide on judges' career; the introduction of the new High Council of Justice with judges elected by their peers constituting the majority; limitation of judicial immunity to a functional one; narrowing the prosecution function.

On July, 24, 2015 the Venice Commission issued a preliminary opinion on the draft law prepared by the working group of the Constitutional Commission[31], and on October 23, the final conclusion[32] was released. It supported restriction of the Parliament in its function to appoint judges; renunciation of a five-year probationary period for judges; elimination of "breach of oath" as a ground for dismissal of a judge; ensuring the majority of judges in the High Council of Justice elected by judges.

Following the suggestions of the Venice Commission the Constitutional Commission also removed from the President's powers to dismiss and transfer judges and pointed out that courts are established or liquidated only by law. However, the President will exercise these authorities temporarily.

Also the provisions of the draft law provide for the possibility of transition to a three-tier court system in compliance with the numerous recommendations of the Venice Commission. Meanwhile, the fragmented system of judicial agencies (the High Council of Justice, the High Qualification Commission of Judges, the Council of Judges) is temporarily preserved, though the text of the proposed constitutional amendments allows for further simplification of the system.

Moreover, the draft law was amended with the provision that allows renewal of the judiciary. In particular, judges should undergo assessment, unsatisfactory results of which will be considered as grounds for dismissal. The draft of the Constitutional amendments was also supplemented by provisions reflected in paragraph 37 of the final opinion of the Venice Commission on the possibility of appointing judges to new courts on a competitive basis. In case of reorganization of particular courts, it says, the judges concerned should have the possibility to retire or apply for a new position.

The latter resulted from the preparation of the alternative draft law amending the Constitution known as the draft law by Reanimation Package of Reforms. It proposed the establishment of a new three-tier court system with transparent competition for each judicial position in the new courts. The new judicial system provides for abolishment of the system of four cassation courts (Supreme Court and three higher specialized courts). Due to decentralization, the association of communities as well as a significant reduction in the number of cases, the

[31] The preliminary conclusion of the Venice Commission concerning the proposed amendments to the Constitution of Ukraine pertaining to justice No. 803/2015 // http://www.venice.coe.int/webforms/documents /?pdf=CDL-PI% 282015% 29016-e

[32] Opinion on the proposed Constitutional Amendments regarding the judiciary of Ukraine // http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)027-e

number of lower courts nowadays amounting to 700, would have to be reduced. The project envisaged gradual establishment of new courts.

On September 9, 2015 based on the initiative of Reanimation Package of Reforms experts the Constitutional Commission agreed to forward to the Venice Commission two draft laws: one elaborated by the Constitutional Commission, and the Transitional Provisions suggested in the draft by the RPR concerning the mechanism of judicial reappointments (open competition for all judicial positions) as an alternative mechanism for renewal of the judiciary. The revision of paragraph 37 of the Venice Commission conclusions also resulted from the visit of the RPR experts to the Venice Commission and support of their position by the Ukrainian authorities.

On October 30, 2015 the Constitutional Commission passed the document to the President as a finalized draft law on the amendment of the Constitution (regarding judiciary). It is envisaged that it will be introduced and adopted by the Parliament in the first reading by the end of 2015.

AREAS FOR FURTHER ACTION

To provide for the implementation of the Constitutional amendments a number of laws should be elaborated in compliance with the provisions of the amended text of Paragraph VIII of the Constitution. It will determine the deadline and procedure of abolition of the higher specialized courts and the Supreme Court of Ukraine and establishment of the new Supreme Court establishment. The same should apply to the courts of appeal and some local courts. The laws should set the timeframe and criteria of such reorganization, as well as the evaluation and appointment criteria of judges to all the positions in the new (reorganized) courts. The composition and procedure of forming the agencies responsible for the selection, evaluation of judges, as well as the introduction of new standards for the newly appointed judges should also be in the scope of such laws. These draft laws are being elaborated in close cooperation with the representatives of the Presidential Administration of Ukraine, the Verkhovna Rada of Ukraine and RPR experts. The law should be adopted together with the Constitutional amendments as an integral part of a comprehensive judicial reform. The content of this law will determine the success of judiciary renewal and add to the new quality of courts, thus largely impacting the very judicial reform. For further improvement of courts operation some other laws should be adopted as well. In particular, the procedural codes should be amended, mainly to unify the trial procedures. Other measures include workload reduction, the introduction of electronic trial, limiting the influence of Chief Justices on procedural activities of judges, the establishment of separate specialized courts (e.g. a new anti-corruption court that will hear the cases investigated by the National Anticorruption Bureau).

REFORM OF THE PROSECUTION SERVICE

Reform of the prosecution service remains one of the outstanding obligations of Ukraine to the Council of Europe. In 1995, Ukraine in its application for accession to the Council of Europe committed itself to transform this institution into a body, which will meet the European standards.

The Law "On the Prosecution Service" of 1991 remained in force for a long time retaining the centralized, militarized structure of post-Soviet prosecution with internal unconditional subordination of prosecutors to their superiors and striving for establishing continuous supervision over all areas of life of the citizens, society, and the country. The new Law of Ukraine "On the Prosecution Service" was passed over a year ago (October, 14, 2014), but reform of this institution is still at an early stage. The reform process is impeded by stiff resistance to radical changes on the part of "old hands" and the established bureaucratic system that has not undergone any change over the past decades.

The prosecution bodies still remain a powerful tool in the hands of political authority. Besides, the powers of prosecutors do not comply with the constitutional requirements, i.e. there are investigation units operating in the structure of the prosecutor's office.

Therefore, the reform of the prosecution system is of top priority in this area.

Great influence on the reform process is exerted by civil society. Thus, in March 2014, a public work group was established to prepare and implement a public concept of the reform of law enforcement in Ukraine. The work on the preparation and implementation of reforms is conducted within the framework of the RPR prosecution service reform group and coordinated by the Association of Ukrainian Human Rights Monitors on Law Enforcement in cooperation with the Centre of Policy and Legal Reform.

The lawmaking activities of the RPR in this area include:

- the working group prepared for the second reading the text of draft law "On the Prosecution Service" adopted on October 14, 2014;
- experts of the group (M. Havroniuk and O. Banchuk) became members of the team working on the draft law "On the State Bureau of Investigation" No. 2114 adopted by the Parliament as a whole on November 12, 2015. This draft law aims at depriving the prosecution of the function of pre-trial inquiry;
- the group prepared analytical conclusions on and corrections to the draft law No. 2667 "On Amending the Law of Ukraine "On the Prosecution Service" (with regard to improvement and specific features of application of certain provisions)". The suggested amendments were submitted and worked upon in the parliamentary committee and the committee's task force. The adoption of this draft law on July 2, 2015 made it possible to launch the implementation of the Law.

PROSECUTION SERVICE REFORM PROCESS

During the period from March 2014 to November 2015, some progress in the area has been achieved.

First of all, on October 14, 2014, the Verkhovna Rada adopted the new Law of Ukraine "On the Prosecution Service" with the provisions implementing a significant part of the requirements of the European institutions concerning the powers of the prosecution service and the status and activity of prosecutors. This is confirmed in the Comments of the Directorate General of Human Rights of the Council of Europe DGI (2014) 30 of December 5, 2014. However, at the same time, the Comments also acknowledge the problems of the Law with regard to selecting candidates for the post of Prosecutor General, expressing no-confidence to the Prosecutor General by the Parliament, the existence of a separate militarized army prosecution unit, etc.

Despite the abovementioned shortcomings, it is worth noting that there are significant practical positive results.

First of all, after the publication of the Law (October 26, 2014) **the prosecution bodies lost the supervisory powers with regard to observance of human and civil rights and freedoms,** observance of laws on these issues by executive authorities, local self-governments, their officials and officers.

Secondly, **it is intended to revoke the powers of the pre-trial inquiry from the prosecution service.** The Law "On the State Bureau of Investigation" will come into force after the Government establishes the body, but not later than on March 1, 2016. All investigation units of the prosecution service should be eliminated within the specified time. At the same time, we managed to prevent an automatic transfer of prosecution investigators to the new Bureau. The Law sets quotas for the number of prosecution investigators at the SBI at the maximum of 30%, those from other investigation bodies at not more than 19%. Consequently, more than a half of the Bureau members will be lawyers who are not associated with the corrupt investigation bodies.

The third point is introduction of **competition for the positions in the newly created local prosecutor's offices in all regions of the country**. These changes made it possible to start the competition (testing) for all prosecutors working in the district prosecution offices and willing to occupy vacant positions in the newly established local prosecution offices. At the same time, an open four-stage competition (involving "external" candidates) was launched for the posts of heads and deputy heads of local prosecution offices. The competition takes place in accordance with the Procedure for four-stage competition for the positions of heads of local prosecution offices, their first deputies, and deputies approved by the Order of the Prosecutor General's Office of Ukraine of July 20, 2015, No 98. About 11,000 candidates took part in the competition. The selection of prosecutors to local prosecution offices and heads of the offices, as well as the reform of 650 district prosecution offices to 170 local prosecution offices will have been completed by December 15, 2015. New local prosecution offices should be created on December 15, 2015.

Fourthly, in 2015, **a Reform Administration** was established within the Prosecutor General's Office. It is responsible for organizing a competitive selection for prosecution posts and introducing subsequent changes in the prosecution system. Along with the Reform Administration, the Prosecutor General's Office now includes **the Department for Investigation in Criminal Proceedings against the Prosecution Office Employees (internal inspection)**. The activities of this Department have already resulted in dozen proceedings initiated against prosecutors, including those against the leaders of the Main Investigation Department of the Prosecutor General's Office.

It is worth drawing special attention to the amendments to the Constitution of Ukraine regarding judiciary prepared by the Constitutional Commission. These amendments also apply to the prosecution system. It is suggested that the separate chapter on the prosecution office should be removed from the Constitution, while the chapter on judiciary should be supplemented with an article on prosecution. The powers of the prosecution office are narrowed to the scope of criminal justice, and beyond that prosecutors can only represent the state in court. The Parliament is denied the right to express no-confidence in the Prosecutor General. However, the purely political way of appointment and dismissal of the Prosecutor General is retained, i.e. by the President with the consent of the Parliament. Unfortunately, the draft law of the Constitutional Commission does not provide for a transparent competition for this position.

Despite these innovations, dissatisfaction of civil society is stirred by the way of implementation of the new Law, which was repeatedly postponed. In accordance with the transitional provisions of the Law, the prosecution bodies were given six months to prepare for the implementation of its innovations. However, in the allotted time the prosecution management did not conduct proper preparation for the implementation of this Law. As a result, the Parliament had to postpone the enactment of the Law from April 26 to July 15, 2015. However, on July 2, 2015, the Parliament introduced changes to the Law needed to launch the reform from July 15, 2015. The transitional period in the activity of the prosecution service will continue until April 15, 2016.

It should also be noted that the new Law of Ukraine "On the Prosecution Service" of October 14, 2014 stipulated that the Qualification and Disciplinary Commission of Prosecutors should re-select all prosecutors within six months (paragraph 10 of the Transitional Provisions). However, it did not start its operations within the prescribed time, and, consequently, the renewal of the prosecution system failed. In fact, this regulation of the law turned out to be dead.

Despite some inconsistency in the reform of the prosecution, the monitoring of the implementation of the European standards (recommendations of the Council of Europe) during the reform of the prosecution system attests to some progress – "the speedometer of reforms" from September 2014 went up from 23 to 44 points (out of the maximum of 100)[33].

Thus, such changes are generally consistent with the standards of the Council of Europe, and should the reform continue, they will contribute to the process of bringing the Ukrainian prosecution service in compliance with the international standards of functioning of judicial bodies.

AREAS FOR FURTHER ACTION

Over the last few months, the legislator has created certain prerequisites for the prosecution reform. The reform mostly takes into account the European standards and recommendations, but ignores those concerning the independence of prosecutors.

The public should assume the important task of implementing testing at the higher levels of the prosecution system, at least at the regional level. Over the next two years, the prosecution system will have to face downsizing of approximately 5,000 positions (from 15 to 10 thousand), which is provided for in Article 14 of the Law. That is, while local prosecutor's offices will retain 6,200 prosecutors, at the highest levels, i.e. in 25 regional prosecutor's

[33] The speedometer for the prosecution system reform // http://eu.pravo.org.ua/en/spheres/view?sphere_id=2.

offices and the Prosecutor General's Office, there will be only 3,800 prosecutors.

It is also important to set certain restrictions so that politicians could not be included into the selection panels for prosecution posts, as it contradicts the principle of political impartiality in the activity of prosecutors. Therefore, it is better to involve academics, experts, and NGO representatives in these panels, rather than MPs.

Starting from April 15, 2016, there will emerge an additional opportunity for the cleansing of the prosecution system, namely the Qualification and Disciplinary Commission of Prosecutors will be established, thereby introducing an open and transparent system for bringing prosecutors to disciplinary responsibility and their dismissal. The majority in this Commission shall not be composed of prosecutors. It will include one lawyer, two academics, three representatives of the Ombudsman, and five prosecutors elected at the conference of prosecutors. The Commission will accept public complaints about the work of prosecutors. Thus, the public will get additional opportunities for monitoring the work of prosecutors so far unavailable in our system.

Therefore, the key recommendations of the expert group concerning further reform of the prosecution are as follows:

- to amend the Constitution of Ukraine with regard to the competitive selection for the post of the Prosecutor General, depriving the Parliament of opportunities to express them no-confidence, and limiting the powers of prosecutors to the sphere of criminal justice;
- to complete the process of reorganization of local prosecution offices and competitive selection of local
- prosecutors;
- to test all prosecutors of regional prosecution offices and those of the Prosecutor General's Office;
- to ensure the establishment of the Council of Prosecutors and the Qualification and Disciplinary Commission of Prosecutors by April 15, 2016.

REFORM OF LAW ENFORCEMENT AGENCIES

The law enforcement system in Ukraine for a long time has not met the current challenges, the needs of society, and the international democratic standards. According to sociological research, public trust in law enforcement bodies after the Euromaidan events dropped to a critical point, namely 0.8% (according to the Institute of Sociology of the National Academy of Sciences of Ukraine).

Therefore, the circumstances necessitated an immediate and thorough reform of the law enforcement bodies.

On July 2, 2015, the Verkhovna Rada passed a new Law "On the National Police" (to replace the Law "On the Militia" of 1990), which entered into force on November 7, 2015. The law itself contains many positive innovations (de-politicization of police, consumer service nature of their work, etc.). At the same time, it has a number of significant shortcomings pointed out by both representatives of the expert community and the Council of Europe (lack of competitive selection for all positions, the presence of quasi-military ranks, etc.).

Nonetheless, the Law "On the National Police" was recognized by the Council of Europe to be a "detailed and comprehensive document, in particular with regard to personnel matters".

However, the most striking evidence of practical reform is the emergence of a new patrol service, which by its everyday work has revived the public faith in the possibility of true systemic changes.

Great influence on the implementation of the reform is exerted by civil society itself. Thus, in March 2014, an expert working group was established within the RPR to reform the law enforcement agencies. The group worked out its own plan for radical change in the system of law enforcement. The working group has implemented the following actions with regard to reforming the Ministry of Internal Affairs (hereinafter – the MIA):

1) in the field of legislative activity:

a) participation in the preparation of the Law of Ukraine "On the National Police" for the second reading;

b) preparation of analytical conclusions and a package of amendments for the second reading of the following draft laws:

- No. 2561 "On the Agencies of Internal Affairs";
- No. 2562 "On Road Safety";
- No. 2890 "On the Municipal Guard";

c) preparation of amendments to the Law "On the National Police" based on the comments of the Council of Europe Directorate General of Human Rights and Rule of Law;

2) participation in the work of the Expert Council under the MIA;

3) experts of the group (V. Pyvovarov and O. Banchuk) were delegated by the Ombudsman to the Police Commission of the National Police responsible for the competitive selection of candidates to the central police administration and setting the priorities of the police work.

On October 22, 2014, the Cabinet of Ministers approved the Strategy of Development of the Internal Affairs Agencies. The strategy sets the reform goals for the term from 2014 to 2018, as well as the priority tasks to achieve them. The directions of the system development were defined as follows: optimization of the structure of the Ministry of Internal Affairs, the rule of law, de-politicization, demilitarization, decentralization, ensuring accountability and transparency in work, introducing the model of "community policing" and professionalization of staff. Pursuant to these documents, the Law "On Amendments to Certain Legislative Acts of Ukraine on the Reform of the Internal Affairs Agencies" was drafted and approved on February 12, 2015. It provides for the elimination of veterinary police, transport police, and some organized crime units. The functions of the liquidated units shall be performed by the existing internal affairs agencies.

On May 26, 2015, the President approved the Strategy of National Security of Ukraine, which sets the following priorities for the state policy in the field of law enforcement reform: elimination of inappropriate control and licensing functions, increasing public confidence in law enforcement, its transformation into a civilian central executive body that ensures development and implements the state policy in the field of law enforcement, protection of the state border, migration activity and civil defense.

As a result of the planned reform, the MIA should transform into a central executive body of "civil" nature managing the National Police, the State Border Service, the State Migration Service, the State Emergency Service, and the National Guard that will work under the Ministry as separate agencies.

On July 2, 2015, the Verkhovna Rada adopted the new Law "On the National Police".

The major positive innovations of the Law include:

- de-politicization of police activity, namely: institutional separation of the MIA and the police. The MIA will only retain the central administration headed by a political person (the minister), whereas the police will function as a separate public authority;
- the customer service nature of the police activity. Article 2 of the Law stipulates that the police activity lies
- only in provision of police services;
- legislative settlement of issues related to the application of police measures and special equipment;
- open competitions for grassroots positions in the police. Any person who is of 18 years of age, has at least complete secondary education, satisfactory health condition, and is fluent in the Ukrainian language has the right to apply for a job in the police. Police officers are selected with the participation of the public.
- However, despite the relatively positive developments, the said Law has certain shortcomings specified in the Comments of the Council of Europe Directorate General of Human Rights of 2015:
- the existence of healthcare institutions within the MIA system (Article 95 of the Law);
- lack of separation of powers of different police divisions, i.e. criminal, patrol, security police, special
- police;
- lack of time limits for information storage in police databases;
- potential for disproportionate use of police measures (checking of documents, seizure of belongings) and
- devices (e.g., water cannons) and firearms;

- lack of competitive selection procedures for all positions in the police;
- the presence of "military" police ranks and relevant powers of the President in this area;
- lack of reform in the criminal police.
- In addition, it is necessary to acknowledge other shortcomings of the Law, namely:
- unrestricted access of the police to the information about citizens. The police will independently keep 18 databases and will have access to the databases (registers) of other authorities. That is to say, any police officer will have the right to prompt and unhindered access to all information about a person, which violates the right to respect for private and family life (Article 32 of the Constitution of Ukraine);
- Article 26 of the Law specifies that the police should compile databases (databanks) with regard to persons in relation to whom the police carry out preventive work, which is a relic of the Soviet era, when police worked with so-called "antisocial elements";
- police officers were granted the right to require that a person should provide identification documents if there are sufficient reasons to believe that the person intends to commit an offense (Article 32 of the Law). These provisions are not sufficiently clear, therefore, they actually impose an obligation on citizens to always have an identification document on them to avoid negative consequences in the form of detention;
- the police were granted the right to temporarily limit the actual possession of a thing or movement of a vehicle if there are reasonable grounds to believe that the thing or the vehicle can be used by a person with a view to infringement on his/her own lives and health, the life or health of another person or damaging property of other people (Article 37 of the Law). The very grounds for limiting these rights are spelled out so widely that they allow the police to seize things at their own discretion violating the principle of proportionality.

Along with legislative changes, the process of selection of candidates to the new patrol service is under way. It is supposed to replace the Patrol and Checkpoint Service and the State Automobile Inspection. The Patrol Police has started its work in Kyiv, Lviv, Odesa and Kharkiv; and by the end of the year, it is intended to launch the Patrol Police in most regional centres of the country.

Another important development is the adoption of Law "On Amendments to Certain Legislative Acts of Ukraine Concerning the Regulation of Relations in the Field of Road Safety" by the Verkhovna Rada of Ukraine. It introduced video and photo recording of violations of traffic rules, which will help to reduce the rate of accidents on the roads, withdraw police officers with radars from the roads, and reduce corruption in this area.

It should be noted that despite the adoption of relatively progressive legislative acts, the law enforcement reform is currently at an early stage. This is why it is important to have the public control over the incremental measures taken by the authorities to implement the provisions of the said laws.

AREAS FOR FURTHER ACTION

Although some positive legislative changes were implemented, it is fair to admit the success of only one of the elements of the reform, i.e. the introduction of Patrol Police in several cities of Ukraine. Instead, many important steps to reform have not yet started.

The main task as of today lies in the transformation of the existing repressive police model into a customer police service governed by the rule of law and strict observance of human rights and fundamental freedoms in its work aimed at prevention, suppression and solving of offenses.

In relation to the abovementioned, the expert group considers it necessary to take the following high priority steps for the further reform of the MIA:

- amend the Law "On the National Police" in order to ensure its compliance with the European standards;
- provide for the competitive selection of candidates for all police jobs;
- implement reform of the criminal police based on the principles of the patrol police reform.

PUBLIC ADMINISTRATION REFORM

The concept of public administration includes organizing the work of public authorities, the government, and the civil service. Public administration reform aims to reorganize:

- the government and ministries into the bodies able to effectively construct and implement state policy;
- a civil servant into a professional, guided by public interests, politically neutral and efficient performer striving to ensure the exercising of citizens' rights;
- administrative services into a convenient and transparent mechanism for the human rights implementation. It is also important to introduce into Ukrainian legislation quite an unfamiliar for us, but efficient in the developed countries legal institute for administrative procedures which will coordinate cooperation of public
- administration with private entities.

Besides introducing general changes to the system in the section dealing with administrative services, the RPR experts have also given priority to several most popular services. In particular, it is necessary to bring order to the system of passport documents issue, which is currently dominated by the tyranny of payment procedures that facilitates corruption on the part of officials concerned.

To fulfill all of these tasks, the RPR experts have developed and are actively promoting a number of draft laws.

THE OVERVIEW OF CHANGES INTRODUCED

The draft law **"On Civil Service"** No. 2490 of March 3, 2015 was adopted in the first reading. The adoption of the new law "On civil service" is stipulated in paragraph 2.1.1. of the Coalition Agreement. It is also stipulated by the Government Action Program and the State Building Contract for Ukraine. SIGMA Program positively evaluated the project in its conclusions. The need for such a law has repeatedly been stressed by the representatives of the international community. Legislative initiative was undertaken by the Cabinet of Ministers of Ukraine. Most of the provisions as well as the advocacy strategy were made by the experts of the RPR and the Centre of Policy and Legal Reform. The Parliamentary Committee on State Building has discussed 1308 amendments and recommended the draft law for adoption. The second reading was initially scheduled for November 24, 2015, but was postponed to December, 8, 2015.

The given draft law was elaborated in order to establish a professional, politically neutral civil service, and ensure that citizens have free access to public services and are able to fight political corruption.

The project envisages selection of appointees to literally every civil service position exclusively on a competitive basis, establishment of a new reputable institution, namely the Commission for the Establishment of Senior Civil Service, with the representatives of the public constituting one third of it, which is to carry out the selection of top officials, distinctly separate political and administrative positions, partially de-politicize the civil service, establish the position of the state secretary of ministry, and abolish the preferential pension system for civil servants.

The draft law **"On Amending Certain Laws of Ukraine on the Activity of the Cabinet of Ministers of Ukraine and Central Executive Bodies"** No. 2354a of July 15, 2015 was submitted to the Parliament. Its adoption is stipulated by the Coalition Agreement. It is being prepared for the first reading by the Verkhovna Rada Committee on Legal Policy and Justice.

The given draft law aims at dealing with transparency deficient decision-making process of the government and the lack of institutional memory in its activity, tackling the deficiency of a systemic horizontal coordination in the state policy making process, drawing a clear-cut distinction between political and administrative positions, etc. The given draft law ensures:

- enhancement of collegiality in governmental activities through the consolidation of the governmental
- committees as compulsory working bodies of the Cabinet;
- advance publication of all draft decisions of the government;
- ministries reform process involving departments' consolidation and the establishment of positions of state secretaries (chiefs of staff) in each particular ministry. The applicants will be appointed exclusively on a transparent competitive basis in line with the new civil service legislation;
- introduction of transparent procedures for elaborating and making informed decisions based on policy analysis and appropriate public consultations;
- appointment of deputy ministers by the government on the proposal of the ministers, which will facilitate the team work in the ministry;
- transformation of services, inspections and agencies into administrative bodies, which are not involved in public policy shaping, only implement the legislation.

These changes ensure consistent, predictable and transparent activity of the Cabinet of Ministers of Ukraine, allowing the public to actively control governmental actions and influence its decision-making processes. The overall efficiency and efficient activity of ministries and central executive authorities will increase.

On July 14, 2015, the draft law **"On Amending the Legislation of Ukraine on the Local Self-Governmental Bodies Authority Enhancement and Administrative Services Optimization Procedures"** No. 2984 of June 2, 2015 was adopted in the first reading to facilitate the implementation of the Coalition Agreement.

The draft law envisages delegation of authority to local self-governmental bodies to provide a number of popular administrative services, including residence registration, passport services facilitation, etc.

At present, the draft law is being prepared for adoption in the second reading by the Parliamentary Committee on State Building, Regional Policy and Local Self-Government. It aims at providing local communities with the opportunity to make use of the most popular services, which is a necessary step to transform Ukraine into a state of services that is believed to significantly reduce corruption. The draft law was introduced by the RPR experts and the Centre of Policy and Legal Reform.

Furthermore, within the frameworks of the abovementioned reform package, the Reanimation Package of Reforms expert group on public administration reform and the Centre of Policy and Legal Reform support the adoption of draft laws No. 2981, 2982, and 2983 envisaging decentralization of powers for the registration of business entities and property rights, as well as amendments to the Budget Code.

Draft law of Ukraine **"On Ukraine's Documentation for Identity Certifying and the Order of Departure from Ukraine"** No. 1632 was submitted to the Parliament. The Parliamentary Committee on Human Rights, National Minorities and International Relations recommended it for the first reading.

It stipulates:

- transparent and comprehensible procedures for passport administrative services;
- fair and transparent fees;
- adequate protection of personal data.

This draft law is considered as an important step towards the visa-free entry of the European Union and an efficient tool in preventing corruption in the sector, which every citizen faces in their everyday life. The draft law was introduced by the RPR experts and the Centre of Policy and Legal Reform.

The draft law **"On the Administrative Procedure"** has been elaborated. At present, it is being prepared for submission to the Verkhovna Rada of Ukraine by the Ministry of Justice. Its adoption is stipulated by the Coalition Agreement. SIGMA Program positively evaluated the project in its conclusions. Similar laws have already been adopted in almost all of the EU member states. The draft law was introduced by the RPR experts and the Centre of Policy and Legal Reform.

This document is to be regarded as the basis for settling citizens and businesses relations with executive authorities and local self-government bodies. It stipulates: the right of individuals for free expression before an unfavorable administrative act regarding them is passed; the duty of administrative authorities to substantiate their decisions and specify the appeal procedures; a rule providing for the administrative act to come into force from the moment it was notified about it and a procedure for such notification; grounds for appealing administrative acts by administrative procedures. These provisions will reestablish confidence in the state and significantly reduce the pressure on administrative courts.

AREAS FOR FURTHER ACTION

1. The draft law **"On Civil Service"** is critically important. The Parliamentary majority should consolidate and realize that without civil service reforms the efficiency of any other reform is questionable, since any reform is ultimately implemented by the civil servants of the relevant ministry. Moreover, the reform success is largely dependent on those very servants. After the draft law is adopted, it is vital to take steps to implement and develop required bylaw regulations, specify its application procedures, etc.

2. The Verkhovna Rada of Ukraine Committee on Legal Policy is to recommend the draft law **"On Amendments to Some Laws of Ukraine on the Cabinet of Ministers of Ukraine and Central Executive Bodies"** for adoption in the first reading. Along with the new version of the law "On Civil Service" the drafts constitute a basis for good governance and transformation of Ukraine into an efficient state. After the first reading it is necessary to conduct an extensive dialogue with all the stakeholders for the joint preparation for its adoption in full. It is also important to explain to the society the crucial importance of these changes for the future of the state.

3. The Verkhovna Rada of Ukraine Committee on State Building should support the draft law **"On Amending the Legislation of Ukraine on the Local Self-Governmental Bodies Authority Enhancement and Administrative Services Optimization Procedures"** and recommend it for the adoption in full.

4. The Verkhovna Rada of Ukraine should adopt the draft law **"On Ukraine's Documentation for Identity Certifying and the Order of Departure from Ukraine"** in the first reading to allow for its preparations for the adoption in full. It is also necessary to conduct educational work with the public to explain the importance of its provisions for every citizen of Ukraine.

5. Measures shall be taken to ensure speedy amending the draft law **"On the Administrative Procedure"** for its submission to the Verkhovna Rada of Ukraine. Also, it is necessary to conduct an extensive dialogue and the advocacy of this draft law. In fact, adoption of this law establishes a new branch of legal regulation in Ukraine that requires a thorough process of discussion and preparation.

These laws will guarantee the assessment of the governmental system and its compliance with the European standards.

MEDIA REFORM

Key priorities of the media reform is to support implementation of the Coalition Agreement, fulfill Ukraine's commitments to the Council of Europe, as well as provide for harmonization of the Ukrainian laws with the European legislation. Another goal is to prevent negative changes that restrict freedom of speech, interfere with the journalists' activity, and create explicit or implicit forms of censorship.

Over the past year, there has been a significant progress in the media sphere – the law on public television and radio broadcasting was adopted, the laws on transparency of media ownership were amended, and the commission in charge of public morality was liquidated. At the same time, adoption of the law on destatization of press and on other media issues has been delayed over the last half-year. Rehabilitation of the media market without adopting the acts in this sphere might have a chilling effect on the media space, especially its activists.

Resolution 1466(2005) of the Council of Europe Parliamentary Assembly "On honoring of obligations and commitments by Ukraine" sets a task to transform the state broadcasters into public service broadcasting channels in line with relevant Council of Europe standards; start destatization of the printed media founded by public authorities; guarantee the transparency of media ownership; create equal conditions for the functioning of all media by revising the Law on Governmental Support for the Media and Social Protection of Journalists of 1997; ratify the European Convention on Transfrontier Television; ensure that the new version of the Law "On Television and Radio Broadcasting" is in line with the Council of Europe standards and with the recommendations of its experts. The Coalition Agreement provides for a number of measures to be taken to protect the national information space; create an international broadcaster to shape a positive image of Ukraine, inform about the international cooperation, achievements of the reforms, investment and tourism opportunities, etc; launch public broadcasting television and radio channels; ensure destatization of the printed media founded by public authorities.

In this regard, the RPR experts have determined the following priorities:

1) to take measures to launch public broadcasting channels;
2) to improve the media laws;
3) to reform the state-owned and municipal press (destatization)
4) to amend the Constitution of Ukraine in part of the right to information, and to exclude the regulations contradicting the freedom of speech;
5) to guarantee the transparency of media ownership;
6) to liquidate public authorities in the sphere of media;
7) to strengthen protection of journalists' rights;
8) to adopt a new version of the law on television and radio broadcasting (on audio-visual services).

The Ukrainian media market is characterized by an excessive number of mass media and concentration of mass media in the hands of a few oligarchs. That impacts the editorial line in the periods of political conflicts – during the election or in the cases when criminal proceedings have been instituted against the representatives of particular political forces. At the same time, even public declaration of ownership might not be confirmed by the documents,

while in some cases it might even prove fraudulent.

It is only public broadcasting channels that can put an end to politically unbalanced or sometimes even paid-for materials broadcasted by the national and regional state-owned television and radio broadcasting companies. The printed press – both state-owned and municipal – keeps violating basic journalistic standards.

Establishment of clear rules on the market of audio-visual media is a keystone of media market rehabilitation, reduction of corruption risks, simplification of licensing procedures, improving the effectiveness of regulator's activity, and laying down the principles of self/co-regulation. Increasing subjectivity of mass media during the election and considerable restriction (prohibition) of certain types of political advertising are the amendments to be made into the laws on elections.

Amendments to the Constitution of Ukraine should provide a clearer definition of the right to freedom of speech in line with the European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as liquidate the invalid authorities in the sphere of media. Apart from that, it is necessary to strengthen the right of access to information and formalize the right of access to the Internet.

REVIEW OF CHANGES

Public broadcasting

A framework Law of Ukraine "On Public Television and Radio Broadcasting of Ukraine" (Reg. No. 1227-VII) was adopted in April 2014 with the support of the RPR. The law was adopted to replace the previous law of 1997 that had never come into effect. This law laid out the principles of the public broadcasting, but the version submitted to the Parliament needed to be amended in order to determine the legal status, introduce the mechanisms of transferring licenses and property, lay down the procedures of transformation of state-owned establishments, and determine the procedure of nominating candidates to the supervisory board of the National Public Television and Radio Broadcaster. As a result of cooperation of all stakeholders, a draft law (Reg. No. 4224a) was developed, although it was not considered due to parliamentary elections. After a new subject Committee was formed, it was possible to draft amendments to the law. In December 2014, the draft law (Reg. No. 1357) was registered, adopted on March 19, 2015 and signed by the President on April 7, 2015. After the law was signed, its implementation was launched: key measures were discussed, and documents to be prepared were determined. The Statute of the National Public Broadcaster, the regulation on the Supervisory Board, the Editorial Statute, and the regulation on election of the chairman of the board were considered as key ones. These documents are being developed. Transformation of the system of state-owned television and radio broadcasters should be completed by the first quarter of 2016.

Liquidation of the National Expert Commission on the Protection of Public Morality

The National Expert Commission on the Protection of Public Morality (NEC) was set up in line with the Law of Ukraine "On the protection of public morality."

A redundant, non-expert from the view of the procedural laws, and an utterly ineffective body, NEC was a burden for the state budget. Over the past few years, the media community tried to stop wasting the taxpayers' money, and in February 2015, the Parliament adopted amendments to the law that have de jure liquidated NEC.

On May 27, 2015, the Government adopted a resolution to liquidate NEC, which should take approximately a half-year.

Transparency of media ownership

The draft law (Reg. No. 1831) on amendments to the laws of Ukraine so as to guarantee transparency of media ownership and implement the principles of state policy in the field of television and radio broadcasting was registered in the Parliament in the end of January 2015. According to the draft law, television and radio broadcasters and providers of program services shall disclose, publish, and inform the regulator about their beneficiaries. The failure to provide such information or provision of the false information is a ground for the National Council to impose sanctions in line with this Law.

After a great number of amendments had been submitted and a large-scale advocacy campaign had been held, the draft law was adopted on September 3, while on October 1, 2015, it came into force. By December 31, the National Council of Ukraine on Television and Radio Broadcasting shall adopt a regulation on the procedure whereby the television and radio broadcasters and providers of program services shall provide the information about the structure of ownership and the corresponding documents. The transparency of media ownership shall be established by April 1, 2016.

Destatization of the printed media

Destatization of the printed media founded by the state-owned and/or municipal media is one of the top-priority reforms. The draft law "On the reform of the state-owned and municipal printed media" was registered in the Parliament in December 2014 and was endorsed by the subject committee.

The draft law formalizes four forms of transformation of such media – privatization by the employees' association or in accordance with the usual procedure, transformation into a normative acts bulletin, or liquidation. The transformed media shall be entitled to a number of privileges that should help them to adapt in the market.

In May 2015, the draft law was reviewed by the Council of Europe experts who provided their feedback regarding the draft law that is to be taken into account. However, although the draft law was regularly put on the parliamentary agenda, the MPs often had no time to consider it. The RPR held a few high-profile advocacy campaigns to support the draft. For example, each MP received a sample of a fake periodical "Soviet Meridian" that consisted of the materials taken from such media. The draft law was finally adopted in full on November, 24, 2015.

AREAS FOR FURTHER ACTION

A law on audio-visual services and the draft laws on transition from analog to digital broadcasting will be prepared in 2016. On the one hand, the draft law shall liberalize the procedure of registration of non-air media, and on the other hand, make the regulator's work more effective and balanced. The draft law has been prepared for three years and is expected to be one of the most debated drafts during the parliamentary consideration. It is also critical to settle the issue of digital broadcast monopolist and emerge from the crisis that originated back in the times of presidency of Yanukovych.

Regulation of media activities during the elections is another complicated issue. The negative practice of

amending laws on the eve of every election creates different requirements during different elections, which complicates the activity of media. At the same time, the relevant laws consider media as objects – and that should be changed. Thus, media should be allowed to hold debates at their own initiative. It is also important to regulate prohibition (considerable restriction) of political advertising in the audio-visual media. The existing system fails to support the voters' right to be informed, as it is being used to play on the needs, problems, and feelings of the voters.

Another area for further action is correction of inaccuracies and mistakes in the Constitution of Ukraine, especially in part of the amendments regarding the State Television and Radio Broadcasting Committee which were introduced orally on the night the Constitution was adopted. The experts prepared a set of amendments which have been submitted to the Constitutional Commission.

PUBLIC FINANCES REFORM

Public finances reform envisages introduction of new guidelines aimed at enhancing financial transparency and accountability of the governmental bodies, implementation of international standards into the assessment system, and the reform of state financial control bodies and approaches to local budgets planning.

In compliance with the Coalition Agreement, to implement a comprehensive reform, MPs had to adopt a number of laws to enhance the transparency and accountability of budget funds, strengthen control over the use of public funds, improve monitoring methods as well as budget and public programs evaluation, adjust accounting system to international standards, ensure the State Treasury independence, improve external financial control by the Accounting Chamber, strengthen the internal financial control over authorities, and implement fiscal decentralization.

Unfortunately, most of the measures were not taken and some are currently being implemented out-of-time. In most areas the progress is either deficient or insufficient. Moreover, it should be noted that the measures outlined in the Coalition Agreement are rather ambitious and not limited to adoption of the legislation.

Only 2 out of 14 measures envisaged in the Coalition Agreement were implemented. Throughout the year, the MPs were able only to adopt the Law of Ukraine "On Public Funds Open Use" (February 11, 2015 No. 183-VIII) and the Law of Ukraine "On the Accounting Chamber" (July 2, 2015 No. 576-VIII). At the same time, a number of draft laws were submitted to the Parliament and are still to be considered (in particular, the draft law of Ukraine "On Internal Audit" No. 2308a submitted on July 7, 2015).

KEY CHANGES AND STATUS OF THEIR IMPLEMENTATION

The Law of Ukraine **"On Public Funds Open Use"** provides for establishment of public funds single web portal providing information on the use of public funds by government agencies, state, and public utilities. A number of regulatory legal acts were adopted to facilitate the enforcement of the abovementioned law. These acts established legal environment to facilitate portal operation.

On September 15, 2015, the Ministry of Finance of Ukraine launched the first stage of a single portal operation (www.e-data.gov.ua), namely, the daily publication of transactions conducted by the State Treasury of Ukraine from a single state treasury account (transaction marked as "Confidential information", "Confidential" or "For restricted use" will not be published. The same applies to the transactions conducted in compliance with the law on military units' formation and law enforcement agencies to ensure the defence of the country in times of crisis or during anti-terrorist operations).

In November, public finances administrators and recipients are to accomplish the publication of the quarterly report on public finances use, as well as the data on concluded agreements and the status of their implementation.

In compliance with paragraph 2.6.10 of the Coalition Agreement, envisaging the implementation of "The Transparent Budget" comprehensive information analysis system, the Ministry of Finance has developed a draft concept paper and introduced it to the central executive body for approval. It is expected that the Government will have adopted it by the end of November. "The Transparent Budget" system is being introduced simultaneously and in compliance with the Law of Ukraine "On Public Funds Open Use."

The second law passed by the Verkhovna Rada of Ukraine in 2015 is the Law of Ukraine **"On the Accounting Chamber"**. The law contains a number of qualitative changes to support the reform of the Accounting Chamber, namely:

- consolidation of organizational, functional, and financial independence of the Chamber, demands for self-scheduling of its activities;
- the Accounting Chamber activities are not to be interfered with;
- introduction of competitive selection procedures for Chamber membership candidates;
- the provision that International Standards of Supreme Audit Institutions (ISSAI) are applied by the Chamber;
- specified procedures for responding to Chamber reports, which are to enhance government audits and other efficiency control measures;
- external audit of the Accounting Chamber and external assessment of its activities, which is to ensure public confidence in its activity.

In total, the Accounting Chamber is to become more transparent and open to the public, and the effectiveness of its control activities has to improve significantly.

However, the law contains a number of shortcomings, namely:

- Audit compliance is not mentioned among the forms of control measures on the list of Chamber powers, which should be conducted by the supreme body for state audit acting in compliance with ISSAI standards. Legislators have erroneously combined compliance audit with the financial audit, although this contradicts the existing standards and practice.
- Limiting the subject of audit by operations with financial implications for the state budget. Other socially significant operations with other resources remained outside the focus of the country's senior supervisory body.

Notably, both of the abovementioned draft laws were prepared by the RPR experts and the Center for Political Studies and Analysis which also played a key role in advocating the need for their adoption.

However, the majority of other key measures envisaged by the Coalition Agreement are not fulfilled. In particular, medium-term budget planning and strategic planning system have not been introduced, which was to some extent preconditioned by the introduction of a three-year budget declaration and ministries strategic plans implementation.

As a result of the lack of **medium-term budget and strategic planning**, there are a number of documents regulating strategic course of Ukraine's development (for more details, see Figure 1), namely:

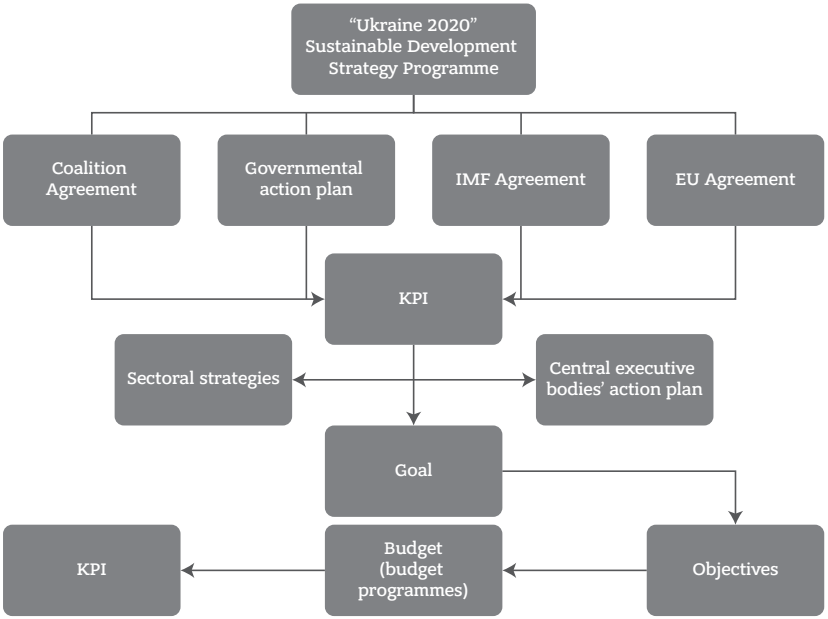
- "Ukraine 2020" Sustainable Development Strategy approved by the presidential decree of January 12, 2015 No. 5/2015;
- "The European Ukraine" Coalition Agreement approved by the Verkhovna Rada of Ukraine of November 27, 2014;
- The Action Plan of the Cabinet of Ministers of Ukraine and "Ukraine 2020" Sustainable Development Strategy Program Implementation in 2015 approved by the decree of the Cabinet of Ministers of Ukraine on March 4, 2015 No. 213-p;
- Memorandum of Economic and Financial Policies between Ukraine and the International Monetary Fund within the "Extended Fund Facility Arrangement";
- Finance Agreements (State Building Contract for Ukraine) between Ukraine and the European Union;
- Regional Development Strategies or their projects (e.g. the Energy Strategy of Ukraine by 2035, Agriculture Development Program by 2020).

The abovementioned documents stipulate major areas of reforms and their **Key Performance Indicators (KPI)**.

The figure shows the reciprocity of state development strategic documents and the KPI in Ukraine. The areas for reform and individual KPIs were identified in a strategic state policy regulating document. Various ministries and departments are to undertake the implementation of the given reforms. These agencies copy their task lists and objectives from the previously adopted strategic documents and, consequently, approve their annual plans, detailing the process of changes implementation. They determine the goals to achieve a certain result. To fulfill these objectives, budget costs are allocated (distributed) by central executive bodies.

Simultaneous existence of several abovementioned documents does not constitute a huge problem, if they complement each other and have common goals and KPIs. However, it should be noted that in Ukraine these documents are not always consistent with each other and, consequently, the central executive bodies perform certain tasks which are quite often inconsistent.

In order to systematize and unify all the goals and objectives, budget formation inclusive, an effective system of medium-term budget planning is to be introduced. The existing system of annual state budget approval in Ukraine and development of three-year budget requests undertaken by the central authorities (governmental agencies plan their spending for three years ahead in budget requests) is not effective, taking view of the fact that no system of priorities for expenditures has yet been developed. With one-year planning system the agencies are interested in maximizing budget financing for this year, since in the following year there may be no budget financing at all. Alongside with the introduction of a strategic planning system, the Coalition Agreement envisages the development of a comprehensive planning system and state budget performance monitoring of the results (e.g. the introduction of a comprehensive KPI system, efficient indicators of public services provision in particular) on the basis of state planning and forecasting system.



To implement the Coalition Agreement, the Ministry of Finance of Ukraine has amended the present procedure of budget requests preparation. Amendments have been approved by the Cabinet of Ministers of Ukraine that introduced the regulation "On Budget Requests Preparation Amendment" of June 15, 2015 No.554. Thus, the given objective can theoretically be regarded as fulfilled, however, the analysis of budget programs for the period of 2012-2014 on the basis of five central executive bodies (the Ministry of Economic Development, the Ministry of the Youth and Sport, the Ministry of Energy and Coal Industry, the Ministry of Ecology and Natural Resources, and the Sanitary and Epidemiological Inspection Service) indicates the deficiency of KPIs monitoring on the part of the Ministry of Finance and the central executive bodies. Only 18% of all KPIs were supported with relevant data (for more details, see Table 1).

KPI deflection, %	A number of KPI groups	%	Average KPI in one group of passport budgetary programme
0	66	18	3
1-25	146	40	11
25-50	82	23	14
50-100	56	15	9
Over 100	13	4	7
In total	**363**		**10**

Only one in five planned indicators is achieved. There exists some discrepancy between the actual and the planned values. Thus, 42% of all the KPI values have deflections of more than 25% from the planned value, testifying to the poor quality of planning on the part of CEBs and the Ministry of Finance.

KPI specificity lies in the fact that over 90% of all indicators are focused on the process rather than the outcome, as stipulated in the Budget Code and the orders of the Ministry of Finance regulating the procedure of drafting budget requests and budget passports programs.

AREAS FOR FURTHER ACTION

Strict budget guidelines are not stipulated in the legislation, not to mention those applying to exceptional cases of budget regulation in the course of one year. The draft law on the introduction of internal control and audit system complying with the EU standards envisages that the corresponding departments of relevant executive bodies are to assess their strategic and operational plans implementation, as well as their strategic objectives achievement.

Since the constitutional reform is hampered, new approaches to local budgets planning have not yet been fully implemented. The principles of transfer policy and the facilitation of intergovernmental relations have not been determined. On the legislative level, the Parliament does not ensure compliance with the "structural beacons" envisaged in the Memorandum of Economic and Financial Policies between Ukraine and the IMF concerning the general government deficit (according to the IMF methodology).

The main objective for the Government and MPs for the nearest future will be introduction of strategic planning, medium-term budget forecasting and strategic plans of the Ministries. The abovementioned documents must be interdependent and based on the same principles developed by the Ministry of Economic Development and the Ministry of Finance.

The introduction of efficient planning will result in public spending reduction at the expense of non-core spending and transfer of certain expenditures for the future.

Simultaneously, it is necessary to implement a new system of KPIs determination, as well as central executive bodies' objectives for targeting and achieving the result without focusing on the process. With the introduction of new KPIs, the present KPI monitoring system has to be revised, primarily through the involvement of the CSOs.

REFORMS REQUIRED TO LAUNCH A FREE TRADE ZONE BETWEEN UKRAINE AND THE EU

The Agreement on Association between Ukraine and the European Union is, first of all, an 'economic' document mostly dedicated to the description of branch and sectoral reforms concerning almost all the spheres of economic activity, including the issues of domestic and foreign trade. Establishment of a free trade zone (FTZ) is a key element of the Association Agreement (Title IV of the Agreement), taking into account the scope and complexity of tasks set before Ukraine and their importance for the integration of the Ukrainian economy into the European economic space. Apart from the trade issues (the schedule of mutual reduction of customs duties and establishment of rules for taking other measures to protect the trade), Title IV of the Association Agreement covers a number of important reforms aimed at unifying the standards of product quality and establishing business regulations in line with the European norms. Their implementation will give a chance to remove all other (or non- tariff) barriers to trade between Ukraine and the EU, which will allow to open the EU markets for Ukraine and provide for free movement of goods, services, capital, and professionals between the countries.

Starting from November 1, 2014, FTZ has been used in a temporary unilateral mode on the part of the EU, while from January 1, 2016, FTZ shall become fully functional. Still, a temporary mode has demonstrated that reduction of customs tariffs only (even radical one) does not guarantee free access of the Ukrainian goods to the EU market with its strict requirements for the quality of products and their safety for the end consumers. It creates a demand for a number of domestic reforms in Ukraine necessary to overhaul the entire system of state business regulation in line with the European standards so as to shape a truly competitive business environment in Ukraine, eliminate outdated norms in the sphere of sanitary and phytosanitary control, and technical regulation, secure effective protection of consumers in the market, and establish transparent and clear rules of doing business. After these reforms the Ukrainian companies should find themselves in equal conditions with the European firms, which will allow them to compete in the EU market.

Thus, even though implementation of the Free trade zone has been put off until the end of 2015, the Association Agreement is an effective tool for implementing comprehensive economic reforms in line with the European norms, requirements, and standards, as well as best practices of the European integration of other countries.

After the temporary mode of FTZ was launched, the RPR and the information campaign "Stronger Together!" started an advocacy campaign to promote the legislative initiatives required to reform the sphere of sanitary and phytosanitary measures, to bring the field of technical regulation in line with the EU norms, and to reform the customs and the antimonopoly law.

1. Reform in the sphere of quality and safety of food products

This reform is necessary for further adaptation of the Ukrainian law on sanitary and phytosanitary measures, which should improve quality and safety of food products sold in the domestic market of Ukraine, as well as increase the volume of mutual trade in crop and livestock production between Ukraine and the EU.

A draft law "**On safety and hygiene of feeding stuffs**" (Reg. No. 2845) was prepared and registered at the Verkhovna Rada in May 2015. It is one of the three draft laws that will make it possible to build a modern system of control over the safety of food products 'from farm to table' in Ukraine. Adoption of this draft law is problematic, as the international corporations producing feeding stuffs for pets fiercely oppose introduction of the European standards.

The Parliament should have adopted the law "**On informing the consumers about the characteristics of food products**" back in 2015. Today, the issue of labeling food products is regulated by a set of bylaw acts, which leads to legal collisions and company losses. However, new rules for labeling food products became effective in the EU in December 2014 and have to be considered during the preparation of a corresponding draft law in Ukraine. A draft law that would be agreed upon by the authorities, experts, and market players, has yet to be submitted to the Parliament.

2. Reform of the antimonopoly laws

This reform lays down the principles to improve the transparency of activity of the Antimonopoly Committee of Ukraine (AMCU), reduce the possibilities of the AMCU officials to pressurize the companies by imposing fines and issuing permits for concentration, as well as change the non-transparent decision-making mechanism within the AMCU. The reform is also important for economic deregulation, as it strengthens the mechanisms of market self-regulation.

It is important to adopt the methodology of imposing fines for the violation of economic competition in order to establish transparent game rules and clear and predictable sanctions for the violation of the antimonopoly laws by the economic entities. For a long time Ukraine has lacked a normative-legal act to establish the methodology of calculating the amount of fines for the violation of the laws on protection of economic competition. There were cases when one company had to pay several hundred thousand UAH as a fine, while other companies had to pay millions for a similar infringement.

Another priority issue is changing the system of issuing permits for concentration. Today, most transactions in the world that have absolutely no impact on the competition in Ukraine have to be preliminarily authorized by the Antimonopoly Committee of Ukraine. It takes a long time to prepare and consider an application, which is a reason why the parties delay completion of the transaction until the permit is received, though concentration bears no impact on the competition in Ukraine. If the procedure of issuing permits for such concentrations by the AMCU is streamlined, applications for concentration permits will be considered in a more expedient manner, while the Antimonopoly Committee of Ukraine will have more free resources to consider the cases which bear a significant impact on the competition in Ukraine.

Although relevant legislative initiatives were prepared and registered back in spring 2015, the Verkhovna Rada considered them only in November 2015. It should be noted that in summer 2015 the Antimonopoly Committee of Ukraine initiated, prepared, and published an internal document – Recommendatory explanatory statement regarding the rules of imposing fines. Still, the experts doubt the effectiveness of this document, as it has not been granted a status of a normative-legal act, which might make it problematic to use this document in the process of legal proceedings in the cases concerning violation of competition.

On November 12, the Verkhovna Rada took an important step towards the reform of the antimonopoly law, having adopted the following draft laws in the first reading: No. 2431 (on methodology of calculating fines), No. 2168a (regarding new rules of issuing concentration permits), and having adopted the draft law No. 2102 as a whole (regarding requirements for the publication of the AMCU resolutions). Thus, the draft law No. 2431 **"On amendments to the laws of Ukraine regarding introduction of the procedure for determining the amount of fines for violations of Ukrainian laws on competition"**, among other things, restricts the possibility of abuse on part of the AMCU, prevents violations, and, most importantly, entitles the courts to review the amount of fines. The draft law No. 2168a **"On amendments to the law of Ukraine "On protection of economic competition" (as to consideration of applications for concentration permits under a simplified procedure)** provides for development of an effective system of state control over the concentrations based on the economic principles, raises threshold indicators to obtain an AMCU concentration permit, and streamlines the procedure of getting a preliminary concentration permit.

Once these draft laws are adopted and implemented, the activity of the regulator will become more transparent and predictable, and will preclude the possibility of corruptive pressure on the businesses due to ambiguous powers of the AMCU.

At the same time, adoption of the draft law No. 2431 is a 'risk zone' of this reform. The draft will validate the AMCU methodology of imposing fines and launch a mechanism of revision and protesting against the AMCU decisions in courts, so this innovation will need changes on the level of the judiciary.

3. Reform of the technical regulation sphere

This reform is important for removing non-tariff barriers in trade between Ukraine and the EU, so that the Ukrainian industrial products would gain access to the European market. Adoption of the relevant laws allowed to eliminate the Soviet standards and introduce, instead, the European technical regulations covering basic requirements for product safety. In case the European regulations and standards are adopted, and a respective agreement with the EU is signed, the process of mutual acknowledgement of industrial production conformity certificates will take place: the EU will acknowledge the Ukrainian products, while Ukraine will acknowledge the European goods without extra certification.

All major laws in this sphere were adopted in 2014-2015: the Law of Ukraine "On Standardization", the Law of Ukraine "On Metrology and Metrological Activity", and the Law of Ukraine "On Technical Regulations and Conformity Assessment." The key task is to prepare and adopt subordinate legislation to support functioning of the new laws, as well as technical regulations on the basis of the EU laws and European standards.

4. Customs reform

Harmonization of the customs laws and procedures with the EU practices is important for creating favorable conditions for the international trade, doing business, and stimulation of investments.

The experts demanded that in 2015 the Verkhovna Rada adopted at least two key laws within this reform – the draft laws **"On implementation of EU regulations provided for by the Association Agreement"** and **"On implementation of the concept of a 'single window'."** The first draft law streamlined the procedure of customs clearance of goods in line with the EU norms, established a single transit procedure during the cross-border movement of goods, improved the regulations on the protection of intellectual property rights during the movement of goods, and brought the system of privileges for payment of customs dues in line with the EU practices. If a concept of a 'single window' had been implemented, it would have reduced a regulatory load on the economic operators, abolished redundant types of state control, and introduced a risk-oriented approach to the identification of control objects and a principle of tacit agreement during the issue of permits.

None of the abovementioned draft laws has been submitted to the Parliament yet.

AREAS FOR FURTHER ACTION

A set of reforms connected with enactment of the FTZ regulations, especially those on provision of access of domestic producers to the EU markets, is one of the top-priority economic aspects of the implementation of the Association Agreement. It should include the following steps:

1. **Further adaptation of the Ukrainian laws in part of sanitary and phytosanitary measures** to increase the volume of mutual trade in livestock food products between Ukraine and the EU, esp. continuing the advocacy campaign concerning adoption of the draft laws No.2845 "On safety and hygiene of feeding stuffs" and "On labeling, presentation, and packaging of feeding stuffs", and a legislative act "On state registration of feed additives."

It is no less important to work on the legislative acts on informing the consumers about the characteristics of the food products, general requirements for the objects and materials in contact with the food products, specificity of regulating the innovative food products, and the procedure of performing veterinary checks on the border.

2. **Further improvement of the national antimonopoly law** in line with the European practices. It is necessary to adopt as a whole the draft laws No. 2431 (regarding methodology of calculating the amount of fine) and No. 2168a (regarding regulating the rules of issuing concentration permits), and to review distribution of functions between the AMCU and the central executive body in charge of protection of consumer rights, as well as control implementation of the AMCU Recommendatory explanatory statement regarding the rules of imposing fines.

3. **Further improvement of the customs' activity to boost bilateral international trade** demands that, apart from the draft laws "On implementation of EU regulations provided for by the Association Agreement" and "On implementation of the concept of a 'single window'" being adopted, systemic measures should be taken to establish an institute of an authorized economic operator in line with the EU standards, as well as provide legislative support of observance of global and European practices of customs value determination.

Considering the fact that the preparatory preferential stage will finish in the end of 2015, Ukraine should urgently boost its activity in the abovementioned areas, as it concerns not only removal of customs barriers to the access of the Ukrainian goods to the EU markets, as well as a number of important institutional reforms, but also the fact that after a gradual mutual opening of the markets, the Ukrainian companies should be ready to compete

with the European businesses on equal terms not only in the EU market, but also in the domestic Ukrainian market, which needs urgent adaptation to the European rules of doing business. The process of integration of the Ukrainian and EU markets should be comprehensive, starting from creation of a relevant normative and legal field with the rules and incentives for introducing in Ukraine the best European standards of quality, competition, and trade.

REFORMS IN THE ENERGY SECTOR

Energy sector reform is one of the top priorities for Ukraine. Energy independence of the entire country, as well as family budgets of tens of millions of Ukrainian citizens, depends on it. When regulations of the Coalition Agreement were being formulated, the experts of the RPR group "Energy Sector Reform" actively participated in consulting the members of the coalition about the chapters dealing with the energy sector: Chapter XII. Reform of energy sector and energy independence; Chapter XIV. Provision of public utility services and housing policy reform.

Chapter XIV of the Coalition Agreement is critical for the energy sector reform, as a large amount of primary energy resources is consumed by the sector of public utilities. This sector is non-transparent and corrupted, and lacks market mechanisms, which causes tens of billions UAH of losses for the national economy. Suffice it to mention UAH 160 billion of "extra capitalization" of the Naftogaz NJSC in 2014 and subsidies for the total of UAH 24 billion in 2015.

It is worth noting that the representatives of the international institutions have also taken part in the formulation of the Coalition Agreement provisions. Therefore, a large number of its provisions aim at implementing the relevant norms of the European legislation in Ukraine, including those implemented within the commitments undertaken by Ukraine upon joining the Energy Community.

Speaking about implementation of the Coalition Agreement by the acting Government in part of energy sector, it should be said that despite some success (such as a new law on gas market and diversification of gas supply), many reforms in the energy sector are either delayed or sabotaged. The results of delay or non-adoption of important decisions in the energy sector are as follows:

- extremely low level of investments in the sphere of energy efficiency due to their negative economic
- appeal and complication of realization in view of normative inconsistencies;
- lack of investments aimed at restructuring and rebuilding of the energy sector;
- decrease of domestic gas production;
- public dissatisfaction with the increase of prices for gas and heat energy, as this increase is not accompanied by effective measures taken to encourage and promote effective energy use;
- existence of monopolies in all the energy markets, which impedes restructuring of the branch and leads to losses;
- existence of factors making the energy sector non-transparent and corrupted;
- lack of a clear and balanced strategy of sectoral development which is the reason why there are no economic signals for the members of the branch, potential investors, and consumers.

The majority of reforms in the energy sphere and public utilities sector which had been planned by the Government have not been implemented yet. The RPR experts believe that the issues with their implementation are connected with the following main factors:

1) Key 'big' players of the sector are not interested in going against their own interests, so they do everything possible to impede the reforms, using their influence on the 'presidential' and 'prime-ministerial' parts of the Government and the Verkhovna Rada. Delayed coordination of draft laws on the National Commission for State Regulation in Energy and Utilities and the energy effectiveness in buildings is a vivid example of this confrontation which puts Ukraine under risk of sanctions of the Energy Community.

2) The Government and the governmental agencies often lack competence and necessary knowledge.

3) Working on particular governmental resolutions and draft laws, the RPR experts have often noticed unwillingness of the government officials to work upon those documents. At the same time, cooperation with the MPs, esp. members of the Committee on Fuel and Energy Complex and Nuclear Safety, is much more constructive.

KEY CHANGES AND THE STATUS OF THEIR IMPLEMENTATION

So far, the Government and the Verkhovna Rada have taken several measures to implement the Coalition Agreement that can be considered as quite successful.

- A basic Law of Ukraine "On the natural gas market" No. 329-VIII was adopted on April 9, 2015. It meets the basic requirements of the Energy Community. A number of subordinate bylaw acts are being developed to fully implement the law.
- First steps have been taken to liquidate cross-subsidization in the electric energy industry by narrowing the gap between the industrial and residential consumers. In 2013, industrial consumers and businesses paid up around UAH 30 billion for the 'low prices' for residential consumers.
- Agreements with the European gas suppliers allowed to diversify gas supply and radically cut down on the amount of the Russian gas consumed. In the first quarter of 2015, the share of the Russian gas in the Ukrainian import totaled 38%, while in 2013 it was more than 60%. It allowed Ukraine to take a more principled stand during negotiations with Russia as regards the gas price, and secured a lower price of gas for Ukraine (it decreased from $337 for 1 thousand cubic meters in the first quarter of 2015 to $227 in the fourth quarter of 2015).
- Agreements signed with the non-Russian suppliers of fuel compositions for the nuclear power stations (Westinghouse LLC). The agreements formalize the obligation to increase supply in the event of force majeure (in case fuel compositions are no longer supplied from Russia). It guarantees a higher level of Ukraine's energy independence of Russia.
- An agreement with the Russian Federation concerning construction of additional blocks on Khmelnytskyi
- nuclear power plant has been denounced;
- The Law of Ukraine "On amendments to several legislative acts so as to ensure transparency in the extractive industries" No. 521-VIII was adopted on June 16, 2015. The first report on transparency in the extractive industries is being prepared.
- A scheme of refunding of the principal amount of a loan (30-40%) granted for the measures to ensure energy efficiency of private houses and multi-apartment buildings with associations of co-owners has

- been developed. Despite considerable and reasonable criticism on the part of experts, this program is the only national campaign to support energy efficiency in Ukraine. Still, its future remains undecided – the Government has yet to confirm that the program will be financed in 2016. Until now, the program has been financed at the expense of the targeted aid of the European Union.
- The laws on large-scale energy modernization (i.e. energy service) have been adopted. They allow to attract private capital for the thermal modernization of the municipal funds (realization of the 'performance contracting' scheme). Subordinate legislation is being developed.
- The National Action Plan on energy efficiency by 2020 has been approved;
- 'Green rate' standards have been revised, which provided a possibility to balance these rates, reduce overstated rates for solar electric power, and raise promotional rates for production of energy from biomass (para. 12-8.1).

However, **a range of regulations of the Coalition Agreement are still promises, while the decision-making process contradicts the Coalition Agreement**:

There are no incentives for increasing domestic gas extraction. *Multiple increase of rent for gas extraction enterprises yields opposite results – the volume of domestic gas extraction is being reduced*.

There is no 100-per-cent metering of the energy resources consumed. The Government has not prepared relevant draft laws and is not dealing with this problem, which makes it impossible to increase energy efficiency in the municipal economy and housing sector.

Basic laws on energy efficiency and the law on energy efficiency in buildings, which are covered by Ukraine's commitments to the Energy Community, have not been adopted.

Despite its European rhetoric, the draft law "On electricity market" leaves the electricity market non-transparent and corrupted, denying access of new players to this market and ruling out the possibilities of energy self-sufficiency, and throttling small electricity producers.

The Law of Ukraine "On the National Commission for State Regulation in Energy and Utilities" has not been adopted yet. It is a key law that shall regulate the activity of the National Commission for State Regulation in Energy and Utilities and guarantee transparency of its activities and decision-making, since the Commission is a body that lays down the game rules and sets the rates in the energy markets. This law is of critical importance not only in view of Ukraine's commitments to the Energy Community – it is a required prerequisite of the next tranche of macrofinancial aid. It is critically important to establish civilized rules of work in the energy markets and to restrict the influence of monopoly structures.

The adopted system of subsidizing the disadvantaged groups of population is ineffective and non-transparent – the money is directed not to the citizens (a targeted aid), but to the monopolists.

Another issue is increase of rates for heat supply and gas. Although formalized in the Coalition Agreement, it was done in a non-transparent manner, while the lack of any communication with regard to the new rates has heightened social tension and public distrust to the Government's energy policy. At the same time, transparent formation of rates is impossible, unless a law regulating the activity of the National Commission for State Regulation in Energy and Utilities is adopted.

Thus, the Government has not created conditions necessary to boost energy efficiency of all the economic sectors, conduct demonopolization, and increase energy efficiency of the Ukrainian energy sector in a systemic manner.

Despite the fact that foreign investors and international financial organizations are interested in financing energy efficiency in Ukraine, the conditions in the energy sector are such that it is utterly complicated to attract any investments. Shell's announcement about termination of its gas extraction business in Ukraine is more than a wake-up call for the whole sector.

AREAS FOR FURTHER ACTION

To reform the energy sector, it is necessary to implement systemic measures considering complexity and all-pervading character of the energy sector. It needs pooling the efforts of the Government, the Parliament, and the President, and involving the best sectoral experts. The following changes are most important:

1. To develop and approve a new "Energy Strategy of Ukraine 2050", involving consumers' representatives;
2. To develop and adopt a new law "On the National Commission for State Regulation in Energy and Utilities";
3. To prepare and adopt a new law "On Electricity Market", involving representatives of consumers, and to amend the law "On Heat Supply."
4. To support restructuring of the relevant sectors of the energy sphere in line with commitments assumed upon joining the Energy Community, esp. those of the NJSC 'Naftogaz Ukrainy' and the State Enterprise NPC 'Ukrenergo', as well as to reform the system of management of state-owned energy enterprises, and to adopt relevant normative-legal acts aimed at corporatization of the National Nuclear Energy Generating Company of Ukraine 'Energoatom' and the State Enterprise NPC 'Ukrenergo.'
5. To make energy sector more transparent, particularly to make the activities of the Ministry of Energy and Coal Industry, the National Commission for State Regulation in Energy and Utilities, the Ministry of Economic Development, and the State Statistics Committee more transparent and accountable in line with the EU requirements (Regulation No. 1099/2008/EU, Directive 2008/92/EU, Regulation on submission and publication of data in electricity markets and amending Annex I to Regulation No. 714/2009/EU);
6. To adopt the law "On Energy Efficiency of Buildings";
7. To prepare and adopt the law "On Utility Services";
8. To prepare and adopt the law "On Commercial Metering in the Sphere of Utility Services";
9. To prepare bylaw acts to implement the law on large-scale energy modernization (i.e. energy service).

TAX REFORM

The tax system of Ukraine is characterized by the following negative features:

1. A complicated system of administration (average time spent for preparation and submission of reports and payment of taxes in Ukraine totals 350 hours, while in Europe and Central Asia the average is 232,7 hours, in the countries-members of the Organization for Economic Cooperation and Development – 176,6 hours)[34].
2. Corruption in tax agencies (26,7% of enterprises faced corruption in the tax agencies)[35].
3. High tax load (in Ukraine it totals 52,2%, in Europe and Central Asia – 35,8%, in the countries-members of the Organization for Economic Cooperation and Development – 41,2%).

The main objective of the reform should be to create initial conditions for economic growth through liberating the entrepreneurship potential of the Ukrainian nation and boosting the use of competitive advantages of the country (especially, in part of using human capital to speed up the development of knowledge-based sectors). On the structural level, the reform should boost quick economic revival by speeding up development of new companies and sectors, as well as dieback of the outdated ones. To this end, the key targets of the reform are as follows:

1. to make game rules in the sphere of taxation equal, transparent, and non-arbitrary;
2. to reduce the burden on the conscientious taxpayers by redistributing the tax load more evenly;
3. to abolish the practice of imposing the incomings plans;
4. to cut down the overall expenditures (of the Government and the companies) on administration, as well as other social losses;
5. to considerably lower the level of corruption in the field of taxation.

When the President's Strategy 2020 was being developed in December 2014, the RPR experts had finalized the chapter "Taxes" in line with the group's reform concept. The experts of the RPR were members of the Targeted Reforms Team of the Tax Reform Group under the National Council of Reforms and were involved in the Group of Legislative Support of Reforms under the Verkhovna Rada of Ukraine. Proposals of the RPR experts have been partially implemented in a number of laws adopted: No.71-19 of 28.12.2014, No. 77-19 of 28.12.2014, No.655-19 of 17.07.2015, No. 219-19 of 02.03.2015, etc.

KEY CHANGES AND THE STATUS OF THEIR IMPLEMENTATION

The goals to be implemented during the tax reform have been determined by the Coalition Agreement, the Action Plan of the Cabinet of Ministers, and the Strategy 2020. Experts of the Reanimation Package of Reforms have taken part in the development of these documents. The status of their implementation is as follows:

[34] Favorability of business conditions in Ukraine –Doing Business - 2015 // russian.doingbusiness.org/data/exploreeconomies/ukraine/#paying-taxes

[35] Level of corruption as perceived by businesses// www.corruption-index.org.ua

1. **The tax system should consist of nine taxes matching their economic substance**.

Implemented partially: most taxes have been combined in a far-fetched manner, extra taxes (military duty, customs duty) have been introduced.

2. **Cutting down time and money expenses of the taxpayers** for calculation and payment of taxes by reducing the amount and volume of tax reports and providing possibilities of online reporting and payment (electronic services).

Implemented partially (electronic VAT administration was introduced); not implemented in part of reducing the amount and volume of tax reports; taxpayers' e-cabinet has not been launched.

3.Ensuring transparency and predictability of the tax system.

Implemented in part of transferring a consulting function to the Ministry of Finances and creating a public database of tax consultations. Not implemented in part of financial mediation and appeal.

4. **Bringing the procedures of control over transfer pricing in line with the principles of the Organization for Economic Cooperation and Development.**

Implemented.

5. **Refusal from the punitive model of tax control.**

Tax compromise has been implemented; penalties in case of payment upon receipt of a tax notification have been abolished; a system of using cash registers has been simplified. Personal responsibility of the officials of controlling agencies has not been established.

6. Reducing fiscal load on the salary fund: lowering the rate of a single social fee to 18% with the safeguard in the form of obligatory preservation of the amount of charges and deductions for private entrepreneurs over the year and gradual redistribution of fiscal load on private entrepreneurs between an employer and an employee.

Implemented.

7. **Modernization of the income tax**–income tax base to be determined in accordance with the financial result stated in the financial report in line with the IFRS and Regulations (Standard) of Tax Reporting.

Implemented.

8. **VAT reform** (Law of Ukraine No. 71-19 of 28.12.2014)

Implemented in part of reforming the system of tax invoices; not implemented in part of timely and full refund.

At the same time, **the following important clauses of the Coalition Agreement have not been implemented yet**:

3.2.Cutting down time and money expenses of the taxpayers for calculation and payment of taxes by reducing the amount and volume of tax reports and providing possibilities of online reporting and payment (electronic services).

3.3.5. Eliminating the risk of corruption during administration of taxes, including all types of land plots fees and the environmental tax.

3.5.1. Doubling (from 1,000 to 2,000 non-taxable incomes) the amount of taxes, duties, single social fee, and retirement insurance fees not paid to the budget which are used to identify the constituent elements of criminal offences covered by Articles 212 and 2121 of the Criminal Code of Ukraine.

3.5.3. Excluding incomings from fines and penalties from the state budget revenue.

3.5.4. Providing a possibility of reaching a tax compromise (tax agreement) in 2014 and announcing tax amnesty

of capitals after the tax system reform through one-off voluntary declaration starting from January 1, 2016.

3.5.7. Establishing personal financial responsibility of the officials of tax and customs agencies for their illegal actions or inaction that inflicted losses to the entrepreneurs.

3.5.9. Extending the scope of the Law of Ukraine "On fundamentals of state supervision (control) in the sphere of economic activity" on the tax agencies.

3.6. Initiating conclusion of agreements on elimination of dual taxation, especially with the offshore banking countries.

3.8. Establishing a rule whereby income tax shall be paid exclusively to the center where an employee is located.

3.9. Downsizing the State Fiscal Service.

3.11.1. Guaranteeing that taxpayers' rights are observed while VAT is being administered; securing timely VAT refund.

3.11.2. Establishing guarantees of VAT refund, esp. deadlines of refund and responsibility of the tax agencies for missing the deadline.

3.12. Introducing legislative conditions and incentives concerning 'de-offshorization' of the Ukrainian economy.

AREAS FOR FURTHER ACTION

The RPR experts are working on implementation of the conceptual amendments most of which have been introduced to the draft law No. 3357, namely:

1. Simplification of administration: taxation of distributed profit; taxpayers' e-cabinet.
2. Tackling corruption: formation of transparent mechanisms of VAT refund, divesting the State Fiscal Service of the control functions, prohibiting the controlling agency to annul the tax credit amounts due to formal signs; liquidation of the tax police.
3. Reduction of the tax load: reducing the tax load on wages; lowering the profit tax.

However, according to our estimates, changes in the tax rates models suggested by this draft law might create a fiscal gap amounting to UAH 140-150 billion. We suggest closing this gap at the expense of cutting down the budgetary expenditures as provided for by the Cabinet of Ministers Action Plan (Article 4. New Economic Policy: reducing the share of public sector losses in the structure of the gross domestic product by 10 per cent (2015-2016).

As for revenue, we suggest partially compensating for the potential losses by increasing and improving corporate property taxation.

The draft law No. 3357 deals with most of these issues.

The most important updates and suggestions the RPR experts plan to work on concerning the draft law No. 3357 (Tax Liberalization) are the following:

- according to our estimates, if the VAT rate is reduced to 15%, the state budget income might decrease by UAH 50 billion. At the same time, it is necessary to cut direct, not indirect taxes, as it is possible to reduce the tax burden so as to boost economic growth and competitive ability of domestic producers;

- introduction of temporary extra overdraft (the limit of tax invoices to be registered in the Unified Register of Tax Invoices without cash security) in the amount of average monthly registered, yet not fulfilled tax obligations for 2015 – as this regulation might lead to formation of fraudulent tax shelters;
- incorporation of a single social contribution into the individual income tax would streamline administration and facilitate rehabilitation of the pension system;
- the issue of reforming the simplified taxation system should be considered only after a full-fledged implementation of a liberal tax reform. A corresponding chapter in the draft law No. 3357 should be amended.

Draft amendments to the Tax Code prepared by the Ministry of Finance will be registered shortly.

We call on the Ministry of Finance to voice its proposals as to cutting down the State budget expenditures and developing a common approach to the reform so as to successfully implement the tax reform that would, on the one hand, shape conditions necessary for Ukraine to emerge from the economic crisis, and on the other hand, balance the state and the local budgets, as well as the Pension Fund. We think that achievement of mutual understanding regarding liberalization of the tax system combined with fiscal responsibility shall guarantee that the State Budget is balanced, as well as help the economy emerge from a deep crisis.

PENSION REFORM

The pension system in Ukraine represented by two levels – a pay-as-you-go pension scheme and a voluntary savings scheme – in fact is in crisis. The share of pension expenses in the structure of expenditures for social security and welfare payments accounts for more than 94% of the total amount of expenditures in this domain. By absolute indexes (UAH 80,8 billion in 2015), this area of expenditures exceeds the amount of the State budget deficit (UAH 76 billion). On the whole, considering the intramural revenue of the Pension Fund of Ukraine (UAH 172,5 billion), the government will spend more than UAH 253 billion for pension provision, which is the highest rate in the world from the point of view of the share of these expenditures in relation to GDP. However, such huge sums would not improve life standards of the pensioners, as the average pension of a Ukrainian pensioner equals UAH 1,692, which is several dozen times lower than the average pension in the countries with highly developed pension systems.

It is obvious that if the effective laws are not amended, these liabilities will be growing over the years in view of objective factors (demographic ones – life expectancy in Ukraine is increasing against the background of falling birth rates) and subjective factors (pre-election populism, paternalistic trends).

Another major issue of the present-day pension system is that it is rapidly losing its insurance characteristics, as approximately 65% of the pensioners receive a minimum pension, as they get supplemental payments in compliance with the law, since the rate of a minimum pension shall not be lower than a living wage established for persons incapable of work. Thus, the present-day employees have no incentives to pay fees to the pay-as-you-go pension scheme and receive an officially declared salary, as they would still receive a low pension upon retirement.

Therefore, working on the Coalition Agreement, the MPs set the following goal for 2015: "*Establish uniform rules of pension allocation in Ukraine. Gradually introduce a savings level of the pension system. Develop non-governmental pension insurance. Prepare a new version of the law "On mandatory state pension insurance*." These tasks should resolve the current financial problems and lay down the foundation for an adequate pension provision in Ukraine.

KEY CHANGES AND THE STATUS OF THEIR IMPLEMENTATION

On April 30, 2015, the Cabinet of Ministers of Ukraine submitted to the Parliament the draft law (Reg. No. 2767) "On amending several legislative acts of Ukraine so as to introduce a savings pension scheme of the mandatory state pension insurance, as well as the uniform rules of pension allocation" which takes into account most regulations covered by the Coalition Agreement. Almost all the interested parties – the legislative and executive branches of power, representatives of the international organizations and the public, and members of the RPR, namely leading expert of the Pension Reform group Halyna Tretiakova, group manager Marianna Onufryk, and experts Pavlo Kukhta and Yuriy Hanushchak, took part in the preparation of the draft law.

Key legislative initiatives as to reforming the pension provision system in Ukraine, stipulated by the draft law No. 2767, are as follows:

1. Improving the functioning of the pay-as-you-go pension system:

- Determining the amount of all supplemental payments, increments, and extra payments to pensions in a single law – starting from January 1, 2016, pensions of government officials and persons with a similar status (judges, prosecutors, and MPs) shall be allocated in accordance with the usual procedure.
- Excluding non-relevant payments from the pay-as-you-go pension scheme (UAH 6 billion).
- Resolving the issue concerning payment of pensions to the citizens who are permanently living abroad in
- the countries which have not concluded international agreements with Ukraine.

2. Introducing a mandatory savings scheme (basic parameters):

- To be introduced starting from January 1, 2017;
- Mandatory fees for persons under 35; voluntary contributions for persons aged 36-55;
- Fee rate: min 2 per cent in 2017 increased annually by 1 per cent to reach 7 per cent in 2022 and to stay from then on in the same amount.
- To set up a Savings pension fund.

3. Introducing professional pensions programs for particular categories of workers starting from January 1, 2016.

The draft law No. 2767 takes into account the provisions of the Coalition Agreement from the chapter "Social and humanitarian reform" regarding gradual redistribution of the single social fee rate between an employer and an employee.

In its opinion regarding the draft law No. 2767, the Verkhovna Rada of Ukraine Committee on social policy, employment, and pension provision recommended sending the draft law for repeated first reading, which has actually impeded implementation of the reform. The reform of the pension provision system has been put off for an indefinite term: the voting for the draft law No. 2767, which had been put on the agenda of the Verkhovna Rada, was postponed several times.

It is worth noting that the variant of the pension reform suggested by the Government was supported by the European and American business associations, academics, experts, and financial professionals. Introduction of a savings scheme is a structural marker set by the International Monetary Fund, i.e. a requirement to be fulfilled for the sake of further positive relations with the organization that is one of the biggest donors of Ukraine. In his annual address to the Verkhovna Rada of Ukraine on June 4, 2015, President of Ukraine Petro Poroshenko called for introducing a mandatory savings system, while Chairman of the Verkhovna Rada of Ukraine Volodymyr Groysman included the draft law No. 2767 into the Reforms Legislative Support Action Plan.

Thus, all major stakeholders, except for the MPs – members of the Verkhovna Rada of Ukraine Committee on social policy, employment, and pension provision – acknowledge the need of urgently reforming the pension provision system.

Still, having violated the law-making procedure, the deputies managed to adopt the law No. 213 on March 2, 2015 "On amending several legislative acts of Ukraine regarding pension provision" to abolish preferential pensions starting from June 1, 2015. Nevertheless, the amendments concerning abolition of these pensions have not been introduced to the Ukrainian laws, and, as a result, a legal collision has arisen.

On the whole, the topic of pensions is popular among the law-makers: as of November 12, 2015, 100 draft laws amending the pension laws have been registered. Nine of them have been prepared by the Cabinet of Ministers of Ukraine.

AREAS FOR FURTHER ACTION

The public and the experts still hope that the Verkhovna Rada will keep its promises and endorse the draft law No. 2767 in the first reading as soon as possible. The Reanimation Package of Reforms has already prepared the amendments for the second reading that should considerably improve the available draft in part of economic and social effects and prevention of mistakes. We demand that the following measures are taken while finalizing the draft law No. 2767 for the second reading:

1) to formalize that the terms of participation in the savings scheme of the mandatory state pension insurance shall be equal for all age categories (according to the draft law, the savings system is mandatory only for persons who will have reached 35 years of age by January 1, 2017; while for persons aged 36-55 it will be voluntary);
2) to exclude the provisions regarding the state Savings pension fund;
3) preferential and long-service pensions, as well as supplemental pensions shall be paid out of the State budget as a welfare aid for the underprivileged;
4) to change the design of level II of the pension system: to give the insured persons a possibility to choose the investment aggressiveness, as well as formalize in law that the savings can be partially used in case of critical illnesses, to cover the mortgage interest, or to pay for children's education.

Moreover, we call for providing incentives to boost the development of non-state pension provision within the reform of the tax system of Ukraine, namely:

- to revise the mechanism of getting a tax benefit and amend the laws to improve the mechanism of its
- allocation;
- to revise the amount of a tax benefit and amend the laws to increase it;
- to amend the laws so as to create equal conditions of taxation of pension payments on the first and third levels of the pension provision system.

The draft law on amendments to the Tax Code has already been prepared by the experts of the Pension Reform group of the Reanimation Package of Reforms and has been publicly discussed.

HEALTHCARE SYSTEM REFORM

The healthcare system in Ukraine has not changed since the country became independent in 1991. The authorities have not been interested or motivated to change the situation in this sphere. Today, Ukraine has an extensive network of medical establishments that needs considerable financial support. Outdated infrastructure, low wages, and financing on leftovers resulted in a critical state of the medical sphere in Ukraine.

All patients and medical workers know that the reform is absolutely necessary. The key tasks formulated by the specialized parliamentary Healthcare Committee and the Ministry of Healthcare of Ukraine are based on a common goal – high quality and accessibility of medical aid. Although the goal is absolutely clear, the ways to attain it are rather obscure and do not involve two largest groups in the medical sphere – health professionals and patients.

It is of critical importance to change the healthcare system and introduce the mechanisms of effective resource use, but all the branches of power are acting in an obscure and inconsistent manner. A lack of coordination between the legislative and executive branches of power is a chief obstacle to successful transformations. Public participation in the decision-making processes in the healthcare sector was rather insular, but after the Revolution of Dignity the situation tends to improve.

The Healthcare reform group of the Reanimation Package of Reforms is a communication platform whose goal is to prepare draft laws, discuss the available drafts, and change the healthcare system in the structural and organizational, administrative and managerial, and financial and economic respects.

KEY CHANGES AND THE STATUS OF THEIR IMPLEMENTATION

According to *Chapter XVI. Healthcare Reform* of the Coalition Agreement, actions shall be taken in five areas.

1. Structural reorganization of the health service system.

The changes stipulated by the Coalition Agreement have not been made. The Ministry still performs non-relevant functions, such as public procurement or management of medical education establishments, despite the fact that the law of Ukraine "On higher education" has been adopted.

The Ukrainian Government permitted the Ministry of Healthcare to set up a public agency "Center of Public Health" (decree of 02.09.2015 No. 909-p). As a result, the decree No. 604 "On setting up a public agency "Center of Public Health of the Ministry of Healthcare of Ukraine"" was issued on September 18, 2015. Reorganization is in progress.

In October 2015, the Prime Minister announced establishment of the National Procurement Agency for Drugs and Medical Supplies, but no documents or acts regulating the activity of this agency have been adopted yet. This resolution matches the provisions of the Coalition Agreement as to reorganization of the Ministry of Healthcare in line with the European norms and principles and divesting it of non-relevant functions, including procurement.

The draft law No. 3054 of 09.09.2015 "On pharmaceutical self-government" was registered in the Parliament. It might become a pilot project to introduce professional self-government in the healthcare sector in Ukraine. However, the draft law does not specify the powers and the procedure of establishment of a self-governing organization that shall be formed and act in a different manner than traditional non-governmental organizations.

2. High-quality and accessible medical services.

For a half-year, the Ministry of Healthcare has been developing new licensing terms for the healthcare establishments which were submitted for the public discussion in November. Although the suggested licensing terms are quite progressive, the Coalition Agreement has suggested licensing doctors instead of establishments.

Apart from that, a decree of the Cabinet of Ministers on relinquishment of referential prices was passed on July 2, 2015, although the Coalition Agreement provides for formation of medical drugs registers with referential prices indicated.

One of the projects of the World Bank being implemented in the healthcare sector provides for development and introduction of a financing scheme on the basis of a capitation financial ratio of healthcare services and completed case of medical treatment on the basis of *the system of diagnostic groups*. However, it is still on the stage of preparation, and no awareness campaign is being held as to realization of this commitment in accordance with the Coalition Agreement.

Autonomy of healthcare establishments was the key issue that the Government, the Ministry, and the subject parliamentary committee has been dealing with over the whole year. Autonomization of healthcare establishments means that responsibility for organization, management, personnel policy, and search of investments is shifted onto the management of a healthcare establishment under the supervision of its owner. It is a package consisting of three draft laws prepared by the Ministry of Healthcare with expert support and pro bono assistance of Ernst & Young company. These draft laws have been approved by all the ministries and were submitted to the Verkhovna Rada of Ukraine on July 7, 2015 (No 2309a, No 2310a, No 2311a).

In June 2015, the parliamentary committee held a round table discussion, the participants of which endorsed the idea of introducing autonomization of healthcare establishments in Ukraine. However, after the Government had submitted the relevant draft laws, the parliamentary committee issued its opinion as late as 16.09.2015, saying that the committee did not endorse the governmental draft law. It also returned the alternative draft for finalization and, thus, as of the middle of November, has not submitted any draft for parliamentary consideration.

3. Formation of provision and healthcare quality support systems.

No information about development of medical aid standards by the Ministry of Healthcare or introduction of a healthcare quality support system has been provided to the healthcare professionals or the public. No resolutions have been adopted, which means that there have been no significant changes in this area.

4. Implementation of rational pharmaceutical policy on macro- and micro-level.

As of mid-November, there have been no significant changes in the formation of an effective pharmaceutical policy. However, there has been some progress, as in September 2015, the Cabinet of Ministers of Ukraine prepared a draft resolution whereby within one month the Ministry of Healthcare shall approve the Regulation about the National register of medical drugs and the procedure of selection of drugs to be included into it.

To make basic medicines accessible and affordable, since 2014 the Government has been preparing a pilot project concerning introduction of the state regulation of prices for diabetes medications that starts on December 1,

2015. Turnover of diabetes medications, in particular the refund of their cost at the expense of the local budgets, shall be made at the referential prices in accordance with the register of referential prices[36].

The proposal to transfer the functions related to procurement of medications to the international organizations has been formalized in the law adopted on 19.03.2015[37]. It took quite a while to adopt the subordinate legislation, as this law does not set basic regulations determining how these functions shall be transferred, by whom, and on which terms. Still, the Government adopted resolution No. 622[38] as late as July 22, 2015, and resolution No.787[39] on October 8, 2015, whereby the Ministry of Healthcare transferred twelve state procurement programs for the sum total of more than 2,197 billion UAH to three international organizations – the United Nations Children's Fund (UNICEF), the United Nations Development Program, and the British procurement development agency Crown Agents.

It is expected that by the end of 2015, the abovementioned organizations will have taken specific measures as to medications procurement.

5. Healthy lifestyle and public health.

Since, according to the Ukraine-EU Association Agreement, Ukraine has made a commitment to implement the Principle of Health in All Policies, the draft laws on amending the law on tobacco (Reg. No. 2820) and energy drinks (Reg. No. 2470) should draw attention of the MPs. However, the subject committee has not endorsed these drafts and, correspondingly, has not submitted them for parliamentary consideration.

AREAS FOR FURTHER ACTION

No country in the world has an ideal healthcare system comfortable for everybody. Having started medical reforms once, all countries keep on improving their healthcare systems, as new methods of medical treatment are developed, new medications appear, the incidence of diseases changes, and new demands for medical services arise.

The reform shall have several key objectives:

- to improve the quality of medical care;
- to make medical care more accessible;
- to make state financing more effective;
- to introduce incentives to improve the public health and promote a healthy lifestyle.

[36] Resolution of the Cabinet of Ministers of Ukraine of 05.03.2014 No. 73 "The issues concerning implementation of the pilot project as to introduction of the state regulation of prices for diabetes medications"

[37] Law of Ukraine "On amendments to several legislative acts of Ukraine (re provision of timely access of the patients to the necessary medications through public procurement with the participation of the international procurement organizations)"

[38] Resolution of the Cabinet of Ministers of Ukraine of 22.07.2015 No. 622 "On some issues concerning procurement of medications and medical supplies with the participation of the international procurement organizations"

[39] Resolution of the Cabinet of Ministers of Ukraine of 08.10.2015 No. 787 "On ratifying the register of medications and medical supplies procured on the basis of written agreements on procurement with the specialized procurement organizations"

Judging by the international experience, it would be effective to introduce professional self-government. Self-government will improve the status of healthcare professionals and the image of this occupation in the society, as well as regulate the issue of protection of healthcare professionals' rights. Considering a complicated organizational work related to organization and unionizing of all medical staff, it would be reasonable to introduce self-government on a step-by-step basis, by introducing separate self-governing organizations for the traditionally independent medical professions, such as dentists or pharmacists, and to start with an experimental level of family doctors.

If necessary resolutions regarding autonomization of healthcare establishments, most of which are in municipal ownership, are adopted, the personnel of these establishments will be able to influence the decisions of the management, the public will have a possibility to control the financial transactions, while the management will have less reports to prepare. It would be the first step to change the tasks and working conditions of the healthcare establishments and to provide for effective use of resources. It is also necessary to approve the methodologies of calculating the prices of medical services (the Ministry of Healthcare has submitted them for public discussion) and to formalize in law the guaranteed level of medical care to prevent allegations that the Constitution of Ukraine is violated. It would also be more convenient to use the opportunities provided by the Law of Ukraine "On state-private partnership", after healthcare establishments become autonomous.

It is necessary to implement an action plan on economic activity deregulation[40] as regards submission of documents in an electronic form; to introduce a declarative approach to particular licensing procedures; to liquidate and reorganize controlling agencies and their functions, etc.

It is also required to take an inventory of and downsize almost two hundred establishments and enterprises subordinate to the Ministry of Healthcare in order to divest them of non-relevant functions and optimize financial and human resources. Heads of the ministerial departments and high-ranking officials shall be appointed only through an open competition and transparent selection.

Although a large number of functions and contacts with the authorities are shifted into an online mode, it should be stressed that in the healthcare system confidential information is used, so it is obligatory to provide a proper level of hardware and software security.

The reforms of first aid shall be completed, as a dispatch service has not been set up after a respective law was adopted. The approach to personnel policy and training of emergency aid specialists shall also be revised.

[40] Decree of the Ministry of Healthcare of Ukraine of 05.06.2015 No. 324 "On ratifying an action plan on economic activity deregulation till the end of 2015"

REFORMS IN EDUCATION AND SCIENCE

According to the effective legislation, education in Ukraine is considered to be the basis for the intellectual, cultural, spiritual, social, and economic development of the society and the state and is based on the principles of humanism, democracy, national consciousness, and mutual respect of nations and peoples. Development of science and technology is a determinant factor of a society's progress, the welfare of its members, their spiritual and intellectual growth, the source of economic advances, and an inseparable part of national culture and education. However, due to a permanent crisis of its economy and social institutions, Ukraine's education and science have lost their grounds over the last 25 years. The quality of education and research does not meet the needs of the society. The system of central administration, which appeared in the Soviet times, is becoming ever more contradicting to both main trends in Ukrainian reforms (decentralization, deregulation, reform of public service, extension of the role of the public in society development, etc.), and real possibilities of public bodies to govern effectively because of lack of the necessary funding, staff, information, and other resources. Therefore, of great importance are the issues of redistribution of powers and responsibilities of the bodies of power and local self-government bodies, the real autonomy of educational and research establishments, academic freedoms of the participants of the educational and research process, the democratization of administration, creation of effective mechanisms of education and research quality control. There is no doubt that reforms in education and science are necessary and relevant. Attempts at reformation have been made for the last 10 years, and it is only after the Revolution of Dignity that the society finally came to realize the urgency of these reforms. The term area of academic interest was offered in 2005 to stimulate the process of reintegrating research into the educational process in higher educational institutions. Since that time, education and science have been going hand in hand in all conceptual and strategic documents concerning these two fields that had been artificially divided for decades. The coalition agreement also contains clause 2 in chapter XV *Quality Education. Modern Science and Innovations*.

OVERVIEW OF THE IMPLEMENTED CHANGES

The society needs an update of all laws governing education. The RPR has been involved into the reformation of education since the very beginning. Particularly, RPR promoted the adoption of the Law "On Higher Education" on 1 July 2014. Today, the RPR experts on education actively take part in the preparation of the framework Law of Ukraine "On Education", Education Reform Roadmap, Strategy of Higher Education Reformation, and elaboration of the regulatory basis necessary for the implementation of the new Laws.

Nowadays, the primary result of education reform is the Law "**On Higher Education**". It extended the autonomy and responsibility of higher educational institutions significantly, decreased the load of teachers and students, changed the procedures for the election of administration of higher educational institutions, and introduced limitations of their tenure. Much attention is paid in the new law to the establishment of effective mechanisms for ensuring higher education quality. Particularly, it stipulates transfer of powers of licensing review of majors and

accreditation of academic programs to the newly established National Agency for Higher Education Quality, the introduction of standards of higher education and standards of educational activity for each major at each level of higher education, mandatory external independent testing of school-leavers. Unlike previous state and industry standards of higher education, the new generation of standards does not envisage determination of pre-requisite subjects (whose part used to amount to 70-80% or even more of the bachelor and master curricula) for all higher educational institutions. Standards will determine only a certain set of required competencies of graduates of each major. On their basis, the universities can create their own academic programs and determine the subjects for each of them. Electives constitute not less than 25% of subjects of an academic program.

After adoption of the law on higher education, the Cabinet of Ministers of Ukraine and the Ministry of Education and Science canceled a great number of outdated regulations that did not correspond to the law and prevented the reform implementation. They include the Provision on the organization of the teaching process at higher educational establishments, which contradicted to the previous law on higher education of 2002 in many aspects, but its norms, in fact, were of greater importance than the law. Within the framework of the implementation of the law on higher education, a new, considerably shortened, list of majors and branches of education was adopted and harmonized with the International Standard Classification of Education. At present, regulatory documents regarding the adoption of this list are being registered at the Ministry of Justice. New admission conditions to higher educational establishments have been introduced minimizing the possibilities to use corruption schemes. As an experiment, the state final examination of school-leavers in the Ukrainian language was held in the form of the external independent testing this year, which provides for more trustworthy and objective results of the examination.

Unfortunately, implementation of the new law on higher education is advancing quite slowly. To a great extent, it is connected to the necessity to elaborate new regulatory documents envisaged by it. However, the Ministry of Education and Science of Ukraine does not have enough staff to develop these documents on their own. On the other hand, there are some obstacles for the involvement of civic organizations and experts to their development. As a result, a large portion of drafts was withdrawn or sent for improvement after public discussion of the prepared drafts. The procedures of regulatory document approval within the Ministry of Education and Science, as well as other bodies with which it should be coordinated, are unjustifiably bureaucratic and long-lasting. There is some opposition to implementation of separate provisions within the Ministry of Education and Science (the law curtails the powers of the Ministry), on the part of administrations of higher educational institutions (the law increases their responsibility in conditions of lack of resources and permanent economic crisis), and a great number of educators, who have already felt the aggravation of their conditions due to cut of budgetary expenses on education, and have not felt the positive results of the reform yet.

The law on higher education was adopted by the previous composition of the Verkhovna Rada of Ukraine and to a great extent is a compromise between its main political powers. It is also a compromise between different groups of influential stakeholders. Not all compromises proved to be viable. One of the main drawbacks of this law is that it, as many other Ukrainian laws, determines the authorities of the bodies of power and higher educational institutions, but does not determine their responsibility. For example, they envisage existence of many bodies that control the quality of higher education at different levels. However, nobody is responsible for the final result. Therefore, we can hardly expect a significant improvement of quality without amendment

of the law. Contrary to article 19 of the Constitution of Ukraine, the law does not determine the grounds and ways in which the state bodies and their officials (even the powers of the latter are not determined) have to act. The law provides the Ministry of Education and Science with powers of implementing the state policy in higher education and the powers of a founder of some higher educational establishments which constitutes a conflict of interests. Extension of higher educational institution autonomy is not accompanied by adequate redistribution of administrative powers within these institutions. Because of that, people speak ever more often the manifestations of "feudal system" at higher educational establishments.

The National Agency for Higher Education Quality was intended as a body constituting a certain counterbalance to the Ministry of Education and Science. However, when the composition of the National Agency, elected according to the law, did not satisfy the senior staff of the Ministry of Education and Science, its work was practically blocked. This happened, in part, due to the fact that some provisions of the Agency's Charter approved by the Cabinet of Ministers are not in line with the law on higher education. To some extent, it is connected with shortcomings of the law itself in the part pertaining to the procedures of Agency member election, lack of qualification requirements to them, and the status of a collective body performing certain public functions but not being a body of power or a public institution, which is not understandable for Ukrainian legislation. Therefore, it is not clear how to finance its activity, how to control spending of budgetary funds, etc.

These and some other problems that appeared in the process of implementing the law on higher education should be taken into account while elaborating and adopting other laws, primarily the law on education, which has been recently submitted by the government for consideration of the Verkhovna Rada. Its first version was put to public discussion in June this year, and the discussion of many conceptual principles started even earlier. The Reanimation Package of Reforms was an active participant of all stages of elaboration and discussion of the draft, and representatives of the RPR group of educational reform Volodymyr Bakhrushyn and Svitlana Oleksiuk were members of a working group at the Ministry of Education and Science for the preparation of the final draft. Over this time, the draft was significantly improved, several dozen proposals of the RPR were taken into account. Nevertheless, there still remain some conceptual and technical remarks to the draft. The Cabinet of Ministers of Ukraine expects the law to be adopted by the end of this year. However, much is still to be done to bring it into conformance with the Constitution, ensure its performability, the maximum balance of interests of main education stakeholders, and the creation of stimuli and possibilities for development of all types and forms of education required by the society.

After adoption of the Law of Ukraine "On Higher Education", which contains a number of reformist articles aimed at the development of full-fledged research at universities on the basis of their autonomy and more flexible HR, administrative and financial decisions, a Science. Technology. Innovations group headed by the chief expert Natalia Shulha has been working on the RPR platform since September 2014. They look after preparation of a number of draft laws concerning research and its results. From the beginning, the group included representatives of all major stakeholders, main experts, specialized civic organizations, and organizations of young researchers. The Law of Ukraine "On research and technical activity" was, in fact, transformed into a new law based on principles of decentralization of management decision-making, demonopolization of funding in the research area, and integration of Ukrainian scholars and national research institutions into the European and global educational space. These principles were at the heart of the draft law that was presented by the Cabinet of Ministers under No.

2244a. After processing and supplementation by all elaborations of RPR group and other proposals from three alternative draft laws, this draft law was supported by almost a constitutional majority of votes in the first reading along with the Resolution of the Verkhovna Rada on abbreviated adoption of this law on 10 November 2015. The law can be expected to be adopted in the end of November 2015. During discussion and voting at the Committee of the Verkhovna Rada on Science and Education, the leading role of RPR experts in subject matter issues and in harmonization of the text of the draft law 2244a which resulted in selection of the best proposals from all draft laws registered was emphasized.

This law contains articles that lay the foundation for: a transparent and objective system of state performance review of research institutions; improvement of the register of state educational institutions; bringing the basic budgetary funding of state research institutions into conformance with the results of their activity based on research quality; establishment of a network of key state laboratories according to priority lines of fundamental research and centers of applied research; and introduction of mechanisms of financial support to their development for a long term. It stipulates the establishment of the National Council for Development of Science and Technologies and the National Research Fund for grant funding of different forms of research and special support programs for young researchers and promotion of research.

The spirit and letter of the new law aim at recovery of the research field, elimination of barriers to the creative fulfillment of potential of both individual researchers and research teams, flexible management and financial guarantees of performance of the decisions taken to ensure the role of science in increasing knowledge content and innovativeness of the economy. Using a flexible funding mechanism, the new law will facilitate technological development for burning needs of the economy, including technological support of defense capabilities and ensuring national security.

The law will facilitate the creation of an effective mechanism of development of research and technical basis for higher educational establishments and research institutions and tax exemption of grant funds for research and interaction of universities and state academies in the process of research and preparation of highly qualified young specialists. The law contains a component presupposing social security of researchers and stimulation of research and innovative activity of the youth.

Two important agreements concerning research activity were ratified in 2015. These are: the Agreement between Ukraine and EU on Scientific and Technological Cooperation and the Agreement for the Association of Ukraine to Horizon 2020, which open for Ukrainian researchers access not only to individual mobility, but also to the processes of establishment and coordination of international consortia for high-level research. The text of the law has been brought into conformance with the international agreements ratified. Despite the fact that the law is of compromise character, it gives the green light to modernization and development of research sphere, lays the foundations of a gradual increase in the portion of competitive funding of research projects, the involvement of extra-budgetary funds for development of applied research and engagement of international expertise.

AREAS FOR FURTHER ACTION

Implementation of the new law on research and technical activity will require preparation of a number of resolutions, provisions, and other regulatory documents, on which the RPR experts proceed their work together with the responsible persons from the respective ministries, state academies, and leading universities. They also participate in the preparation of draft laws concerning innovative activity and protection of intellectual property. The process will also require amendment of the existing laws and a new approach to the determination of the budget allocated to research.

The new law on education will be a framework law. It will determine principles and norms pertaining to different levels of education. After its adoption, we will have a lot of work to elaborate a great number of regulatory documents, as well as special laws that govern different levels of education in more details. Its complication is caused not only by the scope of work but also by the fact that the search for compromises concerning many issues, which could not be resolved in the law on education, will have to be done during the work on specialized laws and regulatory basis. Unfortunately, there are still some contradictions concerning several matters of principle. First of all, this concerns the legal status of educational establishments, the procedure of appointing their heads, mechanisms for coordination of educational content, correlation between the powers of state bodies, local self- government, and public in issues connected with education management, etc. The draft law on vocational education was registered at the Verkhovna Rada. However, due to significant changes introduced over the last months to the draft law on education, the Committee of the Verkhovna Rada on Education and Science recommended to withdraw this draft law and improve it. The concepts of new laws are being elaborated for other levels of education.

The success of education and science reformation will be one of the indicators of society's maturity and decisiveness on its way to transforming the country towards European integration.

REFORMS UNDER THE MICROSCOPE
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Reanimation Package of Reforms

is a civic platform that unites leading NGOs and experts from all over Ukraine and serves as a coordination centre of development and implementation of key reforms in Ukraine.

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