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The Government Policy

A comprehensive judicial reform requires amendments to the Constitution, prosecution reform and the transformation of the High Council of Justice into a genuinely independent body. Despite the fact that the High Council of Justice plays a leading role in the quality of justice and can protect judges' careers from political influence, thus guaranteeing their independence, the body has not operated for over a year. A number of meetings to elect representatives to the High Council of Justice will be held soon, but an analysis of the candidates reveals the incumbent and previous governments' aspiration to include their supporters in this body.

The Constitutional Commission, which is responsible for the prompt introduction of amendments to the Constitution, began its work this month. The profound influence of the presidential administration on the Commission is evident, and the composition of the Commission is neither

geographically nor politically representative of the Ukrainian electorate.

A wide-ranging public discussion with representatives from all regions or elections to the Constitution Assembly, which would become a full-fledged body with the authority to draft a new Constitution, could provide the social legitimacy for a new Constitution. However, the Ukrainian government has opted to bring about quick cosmetic changes under the supervision of the Presidential Administration, aiming to demonstrate the fulfilment of its obligations under the second Minsk agreements. In order to turn the Constitution into an instrument of social unification and use it as a means to counteract Russian aspirations, it is essential to make the preparation process of constitutional changes both transparent and inclusive. Doing so will ensure support for these changes among the Ukrainian public and restore trust in the government.

The obstacles to judicial reform



Ukraine's judicial reform has been hampered by the unwillingness of the key political players to concede influence over the judiciary, the judges' interest in maintaining the existing judicial sys-

Politicians are not willing to lose their influence on courts

tem and the basic inability to carry out this reform without issuing corresponding amendments to the Constitution. The quality of justice in the last year has not improved due to the lack of a comprehensive prosecution reform and obstacles to the working of the High Council of Justice, which has not

functioned since the adoption of the law “On restoring confidence in the judiciary in Ukraine” on April 8, 2014.

At the end of March 2015, the law “On the right to a fair trial”, which is considered to be the key result of the judicial reform, entered into force. However, experts criticize the legislation for the inconsistency of certain provisions regarding the norms of the Constitution, the preservation of existing mechanisms to influence judges’ careers by the executive branch -- namely by the President -- and political pressure on judges through the requirement to pass a qualifying exam. Further, the law ignored the recommendation to increase the High Council of Justice’s level of independence, which can be guaranteed if the majority of the body is made up of judges elected by their peers.

A key law within the scope of judicial reform has been fiercely criticized by experts

The mandatory qualification certification of all judges raises a few questions. First and foremost, there are currently 9,850 judges in Ukraine, and therefore their certification, which includes tests and detailed study of each judicial dossier, will take years to complete. Secondly, the Constitution does not necessitate the dismissal of a judge because of a failed certification. Thus, failed qualification tests will cause only reputational losses but not actual dismissals. In case a judge is dismissed on these grounds, it will be possible to appeal, and the state thereby risks suffering financial losses due to the ensuing compensation required. In addition, a large judicial dossier required for testing makes the certification process excessively bureaucratic and increases the risk of corruption.

Judges complain that the investigation of crimes against the activists of the Maidan have left only them accountable, while the role of law enforcement officers and prosecutors in these cases is overlooked. Law enforcement officers themselves falsified the documents upon which the decisions were made and charges were laid out.

The role of law enforcement officers and prosecutors in cases against Maidan activists is overlooked

Changes in the judiciary are not feasible without a full prosecution reform. Close cooperation

between judges and prosecutors does not adequately meet the competition principle in the Ukrainian courts, and, in addition, it is a powerful factor of corruption. The new Law on Prosecution was adopted in October 2014, but its entry into force has been systematically postponed. Further, this law was a key requirement of the EU during the negotiations on the Association Agreement in 2013.

The President is afraid of undermining the authority of the Prosecutor General’s Office given that the Prosecutor General provides a powerful weapon for Poroshenko to yield that can be used in negotiations with other political players as well as to demonstrate concrete results to the public. Although the Law on Prosecution should have come into force in April 2015, this next step was postponed for another three months because of the presidential faction stand.

The Prosecutor General with his powers is a potent weapon in Poroshenko’s hands

The High Council of Justice, which has the right to dismiss and appoint judges as well as exercise disciplinary proceedings against them, has not worked for over a year. Out of a total of 20 members, three are appointed by the President, the Verkhovna Rada and the Congress of lawyers, judges and representatives of law educational institutions, and two members are appointed by the Conference of prosecutors. However, the results of these conventions were challenged last year

The Congress of attorneys will take place on April 24-25, 2015, the Conference of prosecutors will be held on April 27, 2015, and the Congress of representatives of law universities and research institutions will be on April 28, 2015. In total, there are 48 candidates for 14 vacant seats, many of whom owe their career success to members of the former government, including influential individuals such as Andriy Portnov and Serhii Kivalov. Some candidates’ expenditures exceed their income, while others have clear conflicts of interest and thus issue intentionally unjust decisions. On the positive side, community activists had an opportunity to thoroughly examine the potential candidates for the High Council of Justice.

If the congresses are organized properly and do not lead to the lodging of an appeal, this will become a major step towards the restoration of the authority of the High Council of Justice. If not, the changes in the judiciary will continue to be blocked: judges will

The congresses next week may restore the High Council of Justice work

not be dismissed and appointed, and the state will pay huge sums to judges who do not fulfil their duties.

The independence of Ukrainian judges and an improvement in the quality of justice are not possible without the High Council of Justice, whereas its return to proper functioning may begin only after constitutional changes that will prevent political influence over the body.

Will the Constitutional Commission encourage constitutional reform?

The new Constitution can restart another state mechanism by creating an effective system of checks and balances between branches of government and support for the rule of law. In addition, the Constitution's entirely transparent and inclusive drafting may serve as a tool of reconciliation for the whole society at a time when a foreign aggressor is trying to provoke hostility among different regions and social groups.

The new Constitution has to become a reconciliation tool for the whole society

The efficient use of this tool will increase the subjectivity of Ukrainian authorities and allow them to champion their own initiatives rather than solely reacting to scenarios imposed from the outside. On the other hand, an approach to the preparation of the new Constitution that is solely a formality will shake public confidence in effective reform and the authorities' desire to change the existing system.

Despite the critical importance of this reform, the issue of constitutional reform was delayed for eight months after Petro Poroshenko's presentation of hastily prepared amendments to the Constitution in June 2014 (most amendments related to decentralization and the division of powers between the President and the Parliament). Only in February 2015 was the issue of reform brought back up during the second Minsk agreements, according to which the Ukrainian authorities committed to carrying out a constitutional reform by the end of 2015.

On March 31, 2015, Petro Poroshenko formed a Constitutional Commission (CC) as a special subsidiary body to the President. The commission was

made up of 72 people, including 13 experts from international organizations. However, the President's decree did not discuss the formation principles of this body or the number of its members. The objectives of the CC have not been defined clearly, and its tasks are extremely vague. In addition, there are no terms of reference for how to work on its regulations.

The Commission members do not accurately represent the Ukrainian society either geographically or politically. Most members are unknown to the general public, and some members, including three former presidents, are not the opinion leaders.

The Constitutional Commission does not represent the Ukrainian society

The Commission does not represent the entire political spectrum in Ukraine or even the part represented in the Parliament. The new body includes 13 current MPs, five of whom represent "Bloc of Petro Poroshenko", three – "Samopomich", two – "People's Front" and one – "Opposition bloc".

The majority of the Commission are lawyers, academics and representatives of law universities (one positive aspect is that two Commission members represent universities in Mariupol and Donetsk). At the same time, there are too few civil society representatives who could have reported on the activities of the CC to the public. The comprehensiveness of the body could be enhanced by the inclusion of more representatives from Donbas and Crimea, for instance, through the involvement of IDPs from those regions.

It is significant that the Commission was formed specially for Volodymyr Hroysman. When the poli-

tician served as Vice Prime Minister, the CC was intended to be created at the Cabinet of Ministers. After the close ally of Petro Poroshenko became Chair-

man of the Verkhovna Rada, the CC was created by the President, and his chairmanship in this body is aimed at showing the unity of the President and the Parliament on the issue of constitutional reform.

The first two meetings of the CC were held on April 6 and 15, 2015. Three working groups, which clearly emphasized the priorities of the Presidential Administration regarding constitutional reform, have been established thus far.

The largest group – engaged in decentralization reform – is headed by Volodymyr Hroysman. Taking into account the previous experience, the Speaker of the Parliament states that a basic decentralization project will be presented on May 13, 2015, and all amendments may be prepared by mid-July 2015.

The second group will be engaged on the issue of judicial reform. It is headed by a representative of the Presidential Administration, Oleksiy Filatov, who oversees presidential legislative initiatives related to the judiciary. Filatov in particular pushed through the law “On ensuring the right to a fair trial”. Many provisions of the law and the mechanism of its adoption were sharply criticized by experts.

The third group, which is led by Volodymyr Butkevych, a former judge of the European Court of

The new body was formed specially to be headed by Volodymyr Hroysman

Human Rights, will be in charge of the protection of human rights to be included in the Basic Law.

It is noteworthy that the Commission will be focusing only on these three areas, given that since 1997 international experts have insisted that almost every section of the Ukrainian Constitution needs to be changed. Such a comprehensive approach is even more important given Poroshenko’s declarations on the need to implement more than 60 reforms within the “Strategy 2020”.

The current Constitutional Commission is only the most recent of five similar bodies established in Ukraine over the past 15 years. The activities of the previous institutions did not yield any results, and they were initiated by the authorities during periods of power struggle. Many of their members were scholars and representatives of the opposition who should have increased the visibility of social involvement, whereas, in fact, the bodies were entirely controlled by the Presidential Administration.

Thus, members of the new body should learn from the experience of their predecessors and ensure a real, not ceremonial constitutional reform that will be supported by the whole society and will allow for the rebooting of the entire system of government in Ukraine.

Three areas of the Commission’s work do not cover the entire spectrum of changes, necessary for reform

Economic situation

At the beginning of April 2015, the Cabinet of Ministers presented the concept of the 2016 budget policy to the Verkhovna Rada of Ukraine. In view of the absence of strategic planning in Ukraine, there are certain problems with the economic mid-term outlook, with the budget resolution becoming more

disconnected from the budget to be approved by the Verkhovna Rada of Ukraine.

Moscow employs the tactics of psychological pressure on Ukraine and the EU, resorting to “geopolitical pressure” through its threats to suspend gas transit through Ukraine.

Budget resolution: plans for 2016



A budget resolution is a guide for the state bodies of how the state budget should be made. It is an effective instrument for fixing the main budget indicators at the optimal level, which precludes individual government officials from managing the budget. The budget resolution should meet certain requirements as regards its core concept and the main budget indicators. However, every year, the Ukrainian budget resolution is becoming more and more disconnected from the budget indicators at the final stages of the budget process.

The main directions of the budget policy for 2016 are optimistic. In particular, the budget policy is based on economic growth, while real GDP growth is expected at 2%, inflation at 9% and the FX rate at 22.5 UAH/USD. According to the document, 2016 will be a year of economic recovery,

Budget resolution is optimistic

the eradication of poverty, sustainable development, the allocation of budget funds to the defense sector and structural reforms in the main economic sectors.

The main changes under the budget resolution are as follows:

1. The preservation of the share of GDP distribution through the aggregated budget of Ukraine in compliance with tax legislation at the level not exceeding the 2015 budget figures. In the 2015 state budget, the share of aggregated budget revenues in GDP is 32.4%. These are very important indications, and the state should further decrease the GDP distribution through the aggregated budget. If the distribution level is below the psychologically significant 30% level, taxpayers are then considered to be in a state of economic free-

The tax burden will remain high

- dom. In case this level is exceeded, businesses start to optimize taxation including through the use of shadowy schemes. As a result, the system of state finances becomes misbalanced, while the size of the shadow economy expands. In addition, the government does not offer any innovative changes in the tax system in view of the negative experience with the last reform it carried out -- changes which would create a favorable entrepreneurial climate both for domestic businesses and foreign investors.
2. The decrease in the tax burden on the economy, primarily due to international financing (mainly refinancing) and the management of debts, is a positive step. However, its implementation will be extremely difficult due to Ukraine's liabilities. First and foremost, it is important to bring this indicator down to 60% by the end of 2016 and further decrease it by creating an effective debt management policy and ensuring debt sustainability. **It is expected that the debt burden will decrease**
 3. Envisaged changes will mostly deal with enterprises working in the coal and agricultural sectors. In particular, there are plans to privatize all coal mines and shut down those that will not be privatized. There are also plans to optimize prices for coal to ensure the loss-free activity of mines. The liquidation of mines will lead to a rise in the unemployment rate among miners. For this purpose, a sound state policy aimed at providing financial compensation to workers laid off is necessary. If such decisions are not adopted, miners' strikes, which have become frequent in 2015, will continue. According to the budget resolution, taxed agricultural firms will pay VAT taxes under general rules, implying that they will receive less state subsidies. At the same time, the budget resolution provides for state financial support for small and medium-sized agricultural companies by making loans and insurance installments less expensive. However, this is unlikely to compensate for the losses suffered by relevant companies in question as a result of tax innovations.
 4. There are plans to increase government spending for social guarantees according to the current economic situation, which is not synonymous with actually improving the economic situation of the vulnerable social groups. Most budget categories will be subject to big changes, including pension insurance, health care, education and science, culture and municipal engineering -- all of which are rather ambitious goals. In the first place, the implementation of these goals will depend on the economic situation and the ability and willingness of the state bodies to carry out real reforms. **It is expected that most budget categories of spending will be reformed**
 5. Ensuring the allocation of funding to the defense and law enforcement structures is a top priority task for 2015. Another important issue is the restoration of infrastructure in eastern Ukrainian regions through attracting donor funding for territories damaged as a result of anti-terrorist operations. The fulfilment of this task is contingent not only upon the availability of donors funding, but also the elaboration of a relevant state strategy. However, the budget resolution does not touch upon this. **Without strategic planning and evaluation of the real economic indicators, feasible budgets are impossible**
- Thus, as in previous budget resolutions, this budget resolution does not explain the assumptions behind the macroeconomic indicators, which does not allow for assessing their feasibility and thus creating a budget that would accurately correspond to the current economic situation. The budget resolution does not provide positive indications for businesses as regards the improvement of the business climate. On the contrary, the tax burden may actually increase. Without strategic planning, the mid-term budget outlook and a budget resolution that takes into account the real economic conditions, the feasible budget will be impossible to elaborate even in 2016.

Russia's «transit» blackmail

On April 15, 2015, the head of “Gazprom”, Aleksei Miller, announced that by the end of 2019, Russian gas will no longer be transported to Europe through Ukraine. This position shows that Moscow is preparing for the next “transit crisis” for winter 2015-2016. Further, the Kremlin seeks to eliminate the strategic importance of the Ukrainian gas transportation system and gas storage. It is no coincidence that Moscow made such statements simultaneously alongside the adoption of the law on the natural gas market in Ukraine. The latter concerns the formation of a national gas market, similar to the European market, which may enable the Ukrainian energy sector to be quickly and successfully integrated into the European market. The pro-European structure of Ukraine's gas market outlined in the law makes it clear for foreign investors that there is an additional motive for investment in the national gas transmission system and capacity of hydrocarbons storage.

The Kremlin threatens to block gas transit through Ukraine by 2019

However, if Russia refuses to transport natural gas through Ukraine, the national pipeline will lose investment appeal and strategic importance. Moreover, regular conflicts provoked by Russia around the national gas infrastructure hinder the access of foreign investors to the Ukrainian energy market. It is important to understand that at the moment it is technically impossible for Kyiv to upgrade and bring its gas infrastructure to the European standards without foreign investment.

“Gazprom” wants the current rules of the European gas market to remain

There is also a possibility that if the project on the construction of the “Turkish (South) Stream” is implemented, “Gazprom” will make a proposal to purchase the Ukrainian pipeline at a “ridiculous” price. Further, for several times now the Kremlin's monopolist has tried to get control over Ukraine's gas

transportation infrastructure, offering to purchase it in exchange for Ukraine's “gas debts”.

The Kremlin's threats to stop gas transit through Ukraine are also directed at Eastern European countries, primarily Slovakia, Poland and the Czech Republic. The Slovak company EUstream invested their own funds in the amount of about EUR 400 mln to upgrade the gas transportation system of high pressure. It has also become the gas pipeline operator which connects Ukraine, Slovakia, the Czech Republic and Austria. Today, the technical modernization makes it possible for EUstream to ensure daily reverse supplies of 40 mcm of natural gas to Ukraine. If Russia suspends gas transit through Ukraine, the company will incur serious losses. The ongoing project, worth USD 245 mln., on construction of the Polish-Ukrainian Interconnector with an annual transportation capacity of 10 bcm, would thus lose its strategic importance and financial attractiveness as well. In this context, it is necessary to talk about reducing the burden on the Czech gas transmission system operated by the company Net4Gas and the losses that may be incurred by the latter.

The construction of a high pressure gas pipeline of over 1000 km in length in 4 years (from 2015 to 2019) is problematic from a technical viewpoint. At least 6-7 years will actually be needed for such a project. In financial terms, as reported by Russian experts, the Kremlin is about to invest EUR 8-10 bln. in “Turkish Stream”. However, in summer 2014, the Russian government used reserve funds to refinance “Gazprom”, having failed to find alternative sources.

Therefore, threats to terminate Russian gas transit through Ukraine to Europe appear to be a political bluff and an instrument to exert psychological pressure. Ukraine and Europe should collaborate while preparing for a new round of “gas war” with Russia, focusing on preventive measures and jointly building strategic defense against gas attacks of the Kremlin

Russia's transit blackmail is nothing but political bluff

Political Competition

Maintaining the current coalition is a major issue on the political agenda. While the conflict between the President and the Prime Minister escalates, the US and Ukraine's Western partners will not allow this alliance to break up. Public confrontation between high officials threatens further international financial support, which is crucial for the survival of Ukraine's economy. Therefore, neither of the two major parliamentary factions will take responsibility for the coalition's collapse.

Instead, the destructive role may be played by the Radical party, which moves closer to Ihor Koloimoyskiy. Oleh Lyashko is interested in access to "1+1" media resources, while the Dnipropetrovsk oligarch strives for maximum political influence on the eve of local elections. Further rapprochement of former opponents may result in parliamentary instability and

changes in the government. If at least one party leaves the coalition, it would create the conditions for the creation of a new coalition and a new government, respectively. If the new coalition is not formed within 30 days, parliamentary elections will take place simultaneously alongside local elections.

The upcoming local elections made regional party structures more active, especially those of "Samo-pomich". The party MPs take regional business trips and meet activists, volunteers and local officials. Since the party does not have strong regional structures, the party building process follows a path that is not conventional for other Ukrainian parties (initiative group – NGO – party branch). "Samo-pomich" local organizations position themselves as associations of citizens who solve social, ecological and energy-saving issues.

Political rapprochement of Oleh Lyashko and Ihor Kolomoyskiy



Both parties are interested in political reconciliation. For Oleh Lyashko, it is important to gain access to "1+1", one of the most influential TV channels in Ukraine, owned by the Dnipropetrovsk oligarch. As the target audience of the TV channel is concentrated in the western and central regions of Ukraine,

the intentional absence of negative information on the politician will allow him mobilize his electorate. Until recently, "1+1" showed Oleh Lyashko in a

"1+1" target audience correlates with Oleh Lyashko's electorate

negative light due to his ties with Serhiy Lyovochkin. As a result of the long-lasting media war, the Radical party suffered from heavy PR losses, which led to considerable drop of the party's ratings at the 2014 parliamentary elections.

Ihor Kolomoisky's motives are understandable – he wants to create a pool of party projects for participation in the local and potential parliamentary elections. It is no wonder that the Radical party brand seems attractive for the Dnipropetrovsk oligarch. The rapprochement between Ihor Kolomoisky and Oleh Lyashko took place in light of a common anti-presidential stance (the conflict between Ihor Kolomoisky and the Ukrainian government around “Ukrnafta” and the conflict between Oleh Lyashko and Petro Poroshenko who allegedly threatened the “chief radical”). After Ihor Kolomoisky resigned from the position of governor of Dnipropetrovsk, Oleh Lyashko supported Kolomoisky's team at the rally in Dnipropetrovsk. Since March 2015, the information on Oleh Lyashko and his party has much improved on the “1+1” TV

Ihor Kolomoisky wants to create a pool of party projects

channel. In their turn, representatives of the Radical party started to criticize Dmytro Firtash and demanded the creation of a temporary investigation commission on corruption cases in the government, revealed by Mykola Hordiyenko, former head of State Financial Inspection.

Oleh Lyashko harshly criticizes the coalition partners for not following the coalition agreement. Therefore, it is possible that the Radical party will leave the coalition. The non-fulfillment of the coalition agreement and government corruption may serve as the formal pretext. Oleh Lyashko's withdrawal from the coalition may be accompanied by increased anti-presidential rhetoric and accusations that the government betrayed the values and ideas expressed by the Euromaidan. Such statements are necessary for the electorate's mobilization and support of Oleh Lyashko's image as a radical politician. As for Ihor Kolomoisky, the parliamentary instability may serve as a response to the government's actions in the “Ukrnafta” case and related financial losses of the “Privat” group.

Non-fulfillment of the coalition agreement as a pretext to leave the coalition

“Samopomich” is getting ready for local elections

“Samopomich” is intensively preparing for the local elections and is building up its party organizations. Andriy Sadovyi needs to enhance his standing at the regional level and prove that his party has an ideology, network and support and that it is not a mere result of efficient advertising and political technologies.

“Samopomich” actively develops its regional network

In case the local elections are successful and the party earns an even support in most regions, Andriy Sadovyi may gain the status of a national level politician. Deputy factions in regions and districts will considerably increase the political weight of Andriy Sadovyi. In the long run, strong starting positions will even allow the mayor of Lviv to run for the position of President.

Unlike large parties, which develop their organizations under territorial or company-based

principles, “Samopomich” has chosen a party-building strategy based on small initiative groups and NGOs. Such a grassroots method is innovative in Ukraine (similar approaches are used by “Democratic alliance” and “Power of people”). Taking into account the limited timeframe, the party will foster the quick legalization of primary party structures, which will be then transformed into territorial electoral campaign offices.

“Samopomich” initiative groups are joined by the most involved civil activists and volunteers. At present, “Samopomich” has over 300 initiative groups in the regions that provide free consultations of lawyers and psychologists. The electoral rhetoric of the “Samopomich” regional organizations is different from the party statements at the central level, where it promotes reforms. At the local level, the key issues raised by party activ-

ists are energy efficiency, ecology and social party projects.

“Samopomich” actively develops its regional network

“Samopomich” activists have recently presented a project on energy saving in 600 apartment blocks in Odesa. Its implementation will provide for more efficient energy use and energy saving. The project is supervised by Lev Pidlisetskyi, “Samopomich” MP and a member of the fuel and energy committee. In Kharkiv and Dnipropetrovsk regions, the party activists assist in the adaptation of demobilized and wounded soldiers. Social party projects are also

implemented in Vinnytsia region, where computer classes and dance parties are organized for the elderly people. The preparations are also going on in other regions. The activists are getting ready for party conferences, where heads and councils of party organizations will be elected.

Thus, “Samopomich” tries to employ innovative strategies in their work with voters. At the same time, institutionalization and party building have just begun in most regions.

“Samopomich” is innovative in their work with electorate

The aim of the publication is to provide objective information on current political events in Ukraine and thorough analysis of major tendencies in domestic politics. Such analysis will assist in setting priorities in the process of implementing reforms in Ukraine and in evaluating quality of state decisions from the viewpoint of their impact and sustainability. Special attention is paid to evaluation of political competition in Ukraine and ability of key political players to address challenges.

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