

RECOMMENDATIONS FOR UKRAINE

ACTION PLAN FOR UKRAINE

(by Oleksiy Haran – for the Open Ukraine Foundation)

Reforms and alignment of Ukraine towards European standards are the best answers to Kremlin aggression and Kremlin-stimulated separatism.

Control of the government by the civil society – this is exactly the realization of Maidan's ideas. The newly established Reforms Support Centre is a coordination platform with civil society that proposed «Emergency Reforms Package».



«Emergency Reforms Package» includes key and long-awaited reforms for the country, specifically administrative, judicial, law enforcement, anticorruption and decentralization.

GENERAL CONTEXT OF REFORMS.

NEW RELATIONS: GOVERNMENT – CIVIL SOCIETY

Euromaidan demanded a radical reform of the state. It is important not to repeat the negative experience after the «Orange Revolution» of 2004, when the society failed to control politicians who came to power.

Unfortunately, the Russian aggression that started immediately after the removal of the Yanukovich regime has diverted vast resources from overcoming the regime's aftermath, and distracts the attention of society and politicians from domestic reforms. This aggression also was targeted at the obstruction of the early presidential elections of May 25th. Obviously, it's extremely difficult to conduct an election campaign in conditions of aggression and start reforms at the same time. Promptness in making decisions is highly required. However, after the return to **the 2004 constitutional reform (that was one of the main requirements of Maidan and made the political system of Ukraine more balanced)**, a change of president does not mean automatic change of government (which corresponds to the European model). **The current government draws on a coalition majority and that complies**

with the practice in most European countries. Such governments require a constant search for regular compromises. Moreover, the new (and completely legitimate!) majority has been formed with the help of deserters from the Parties of Regions, and that further complicates the decision making process.

Obviously, the present parliamentary composition does not reflect current attitudes in the country, and those members of parliament from the Party of Regions and communists that adopted the unconstitutional dictatorial laws of 16 January 2014 leading to the bloody confrontation do not have the moral right to be in parliament. That's why the country **should move towards early parliamentary elections (which are better to be held according to new election laws that formalizes open regional party lists).** In the meantime, one is bound to reckon upon a shaky existing majority in the parliament.

Under these conditions the reform process is challenging. At the same time, implementing reforms and an alignment of Ukraine towards European standards are the best answers to Kremlin aggression and Kremlin-stimulated separatism.

In supporting this process the support from the European Union is highly important. Euromaidan demonstrated that justice, liberty, dignity, and democracy are values that are important for Ukrainian society. It is unlikely that modern history knows of other examples when people died under the flag of the EU in the heart of a European capital city. **European integration may become a new national idea.**

Meanwhile, the new government has to restore the trust of citizens in the state. For this purpose it is important that the government, first, cleanses itself of corrupt representatives of the old regime. Second, the new government has to demonstrate a fundamentally different management style. The mistakes of Yushchenko and Yanukovych cannot be repeated, since they called for tightening belts by ordinary people, but facilitated corruption at the top level. Making reforms requires maximum transparency and an openness of the new government.

Despite all of the above-mentioned problems, after Maidan there emerged a much closer link along "the government-civil society" line. New tools of interaction were developed, for example, **the governmental Reforms Support Center, which is a coordinating platform with civil society and offered the «Emergency Reforms Package».**

PRACTICAL RECOMMENDATIONS CONCERNING THE DIRECTIONS OF REFORMS¹

I. ADMINISTRATION REFORM

Executive power

Ensure a transformation of the Cabinet of Ministries of Ukraine into the principal agency for building public policy.

- structure of the Cabinet of Ministers of Ukraine shall be determined after submission by the Prime Ministers (appointment and dismissal)

- establishments of the ministries shall be headed by the state secretaries, which are appointed by the Cabinet of Ministers based on the results of an election according to the legislation on public service.

- restore a institution of «governmental committees» for preliminary discussion of draft governmental decisions and ensuring transparency of activities of the Cabinet of Ministers of Ukraine;

- local state administrations shall be subordinated to the CMU (through strict observance of staffing procedures – after submission by the CMU)

Public service

The new law «On Public Service» of 2011 (the effective date was postponed twice, it is 1 January 2015 as of today), regardless of specific positive norms, has a number of systemic problems that require solutions, particularly:

- all public officials shall be forbidden to be members in political parties and publicly demonstrate their political views;

- recruitment to all positions of public service shall be made exclusively on a competitive basis (certain elements of discussion/competence control, integrity and political neutrality can be introduced even for the highest officials);

1 The author thanks to the team of «Emergency reforms package», particularly to co-coordinator Maksym Latsyba for preparing this chapter.

Administrative services

- Facilitate creation of centers of administrative services (CAS). For this purpose, it is a priority to adopt the CMU Resolution that would define the list of services of executive agencies, provided through CAS. Ensure provision through CAS of the basic administrative services, including registration of place of residence and issuing passports, registration of businesses and real estate agents, granting subsidies and providing other social, administrative services etc.

II. DECENTRALIZATION

Local elections of 2015 shall be held in an already reformed administrative-territorial system. Model: decentralized unitary state.

Main parameters of the reform:

- Communities – 1200-1500 communities (versus more than 12000 existing village, small town and town councils);
- Raions – 100-120 (versus 490 existing);

The maximum remoteness of inhabited localities, which are parts of administrative and territorial units of base level, from its administrative centre is defined, as a rule, by basic requirements for providing social services at this level, first of all: by the time period for urgent medical aid (15–20 min.), time period for a school bus transfer of pupils to a general school (15–20 min), time period for arrival of rescue workers to eliminate an emergency situation (up to 15 min.).

A raion is to be established provided that its territory is home, usually, for not less than 150,000 people.

Local state administrations shall give up their dualistic function of executive power agents and local self-governance executive authorities, and perform control functions in relation to the decisions of local self-governance authorities.

Institutional issues of reform

A committee on local self-governance reform shall be established and led by the prime-minister (or at least by a vice-prime-minister), and shall be granted with the authority to promptly approve draft decisions in certain areas.

The ministry which is primary for this reform shall be defined – the Ministry of Regional Development; each ministry assigns one person on the level of vice minister, who shall be in charge of the coordination of a ministry's activities in implementing reform.

III. JUDICIAL SYSTEM REFORM

- The reform of mechanism for setting up the Constitutional Court – candidates for a post of the court's judge have to be selected by a special commission composed of reputable professionals (particularly, by retired judges of the Constitutional Court, which did not discredit themselves)

When drafting **a new text of the Constitution** the following changes are required:

- The President and the Verkhovna Rada shall be put aside from forming the judicial establishment; all decisions on appointment, transfer or dismissal of judges shall be made by a new standing High Judicial Council, formed according to European standards (a majority in its staff has to consist of judges elected by judicatory self-administration authorities).
- Identifying a court where a judge has to work, transfer of a judge to another court has to be in power of the High Judicial Council, and this power is realized only based on competition.
- Within the staffing of the High Judicial Council a standing qualification board and disciplinary board should be established, renouncing a separate High Qualifications Commission of Judges.

IV. LAW ENFORCEMENT REFORM

- *Depolitization* implies taking the police authority out of the Ministry of Internal Affairs and depriving the Minister (as a political person) of powers regarding the police operational management.

- *Decentralisation* of the police shall take place simultaneously with administrative and territorial reform. The management of local police shall be elected by the whole community and local council. The government, in its turn, shall retain hold of ensuring security of facilities of regional and national relevance.

- *Demilitarization* has to change the status of the police and turn it from a military unit into a service to ensure security and law enforcement. Policemen shall be admitted as public servants, not military servicemen. Ranks for the police shall be different from the military ranks. Also the staffing of the ministries and territorial police agencies should involve only civilian public officials. Internal security forces should not fit in a new police system.

- *Police – for policing.* From now on the police shall not deal with registration of transport vehicles, control of trade in vehicles, tests for vehicle driving, permitting transfer of hazardous goods, licensing certain types of commercial activities, guarding security services on a paid basis.

V. ANTICORRUPTION REFORM

Strengthen integrity and accountability in public sector

- Create under the law a specialized agency for coordination of anticorruption policy (for example, National Commission for preventing corruption). The agency shall comply with international standards of independence and efficiency: autonomy from the executive agencies, transparent and competitive selection of management and key staff, relevant powers, particularly for conducting administrative investigations and applying sanctions. *Key functions:* coordinate implementation of national anticorruption strategies and action plans, anticorruption expertise of draft by-laws that are under consideration of the government and president, hold/order of

anticorruption research, anticorruption education; investigate violations of rules of the conflict of interest, gifts and pluralism, monitoring and verification of public officials declarations, protection of plaintiffs (people who report wrongdoings), consulting and supervision on developing integrity plans in every public agency etc.

- Create a single web-portal with an open access for submission and disclosure of public officials' declarations.

Ensuring transparency of party finances and political activities

- Restore a direct state financing of political parties that gained certain support of voters following the results of parliamentary elections – a necessary requirement for removing major capital influence on politics.

- Ensure transparency and accountability in funding political parties and electoral campaigns and referendums.

- online broadcasting of meetings of parliamentary committees and the Verkhovna Rada, disclosure of committee sessions' minutes, draft a cost estimate of the Verkhovna Rada of Ukraine and respective expenditure report etc.

Ensuring transparency and competitiveness in public procurement

- Required disclosure of all major procurement documentation, particularly procurement contracts.

Ensuring access to socially important information

- Ensure access (including via the Internet) to all public registers containing information on legal entities and individual entrepreneurs, information on ownership and other property rights.

- Introduce mandatory record of information about individuals – beneficial owners of legal entities at the moment of state registration and disclosure of this information.